

SCHEDULE 4 JUSTICE

PART 9

LEGAL AID

Recovery of overpayment of interim fees or outlays paid to firms

- 22 (1) The Legal Aid (Scotland) Act 1986 applies in accordance with the modification in this paragraph.
- (2) Section 33 (fees and outlays of solicitors and counsel) has effect as if after subsection (9) (inserted by paragraph 21) there were inserted—
- “(10) Subsection (11) applies where—
- (a) a sum is paid out of the Fund after the day on which paragraph 22 of schedule 4 of the Coronavirus (Scotland) Act 2020 comes into force (the “interim payment”) in respect of fees or outlays incurred by a solicitor in connection with—
 - (i) the provision of legal aid by the solicitor prior to the completion of the proceedings for which the legal aid was granted, or
 - (ii) the provision of advice and assistance by the solicitor to a person while the advice and assistance is being provided by the solicitor to the person,
 - (b) on the instruction of the solicitor, the interim payment is paid by the Board to the firm of the solicitor, and
 - (c) on the completion of the proceedings for which the legal aid was granted (or, as the case may be, on the cessation of the advice and assistance by the solicitor to the person), the Board determines that the interim payment exceeds the sum payable out of the Fund to the solicitor under subsection (1) in connection with the provision of the legal aid (or the advice and assistance) by the solicitor.
- (11) The firm of the solicitor is jointly and severally liable with the solicitor for the repayment to the Fund of the excess mentioned in subsection (10)(c).
- (12) Subsection (13) applies where—
- (a) a firm is jointly and severally liable for the repayment of a sum to the Fund under subsection (11) (the “repayment amount”),
 - (b) the repayment amount has not been repaid to the Fund,
 - (c) a separate sum is due to be paid out of the Fund to any solicitor of the firm (the “amount payable”), and
 - (d) the solicitor has instructed the Board to pay the amount payable to the firm.
- (13) The Board may deduct all or part of the repayment amount from the amount payable.”.