



Legal Aid (Scotland) Act 1986

1986 CHAPTER 47

^{F1}^{F1}PART 5B

CHILDREN'S LEGAL ASSISTANCE

Textual Amendments

F1 Pts. 5A, 5B inserted (31.1.2012 for s. 28B(2), s. 28M(7) for specified purposes and s. 28N) by Children's Hearings (Scotland) Act 2011 (asp 1), ss. 191, 206(2) (with s. 186); S.S.I. 2012/1, art. 2(1), sch.

28M Register of solicitors and firms eligible to provide children's legal assistance

- (1) The Board must establish and maintain a register of—
 - (a) solicitors who are eligible to provide children's legal assistance, and
 - (b) the firms with which such solicitors are connected.
- (2) A sole solicitor who wishes to provide children's legal assistance must be included in the register maintained under this section both as a solicitor and as a firm.
- (3) Only those solicitors who are included in the register maintained under this section may provide children's legal assistance.
- (4) Subject to subsection (5), a solicitor may provide children's legal assistance only when working in the course of a connection with a firm included in the register maintained under this section.
- (5) Where the Board employs a solicitor under sections 26 and 27 to provide children's legal assistance—
 - (a) the Board may only employ a solicitor who is included in the register maintained under this section,
 - (b) the entry in the register relating to the solicitor's name must include a note that the solicitor is so employed,

Changes to legislation: Legal Aid (Scotland) Act 1986, Part 5B is up to date with all changes known to be in force on or before 22 February 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (c) the Board is not to be regarded as a firm for the purposes of this section and is not required to be included in the register.
- (6) The Scottish Ministers may by regulations make provision about qualifications to be held by persons who may be included in the register maintained under this section.
- (7) Subsections (5) to (15) of section 25A apply in relation to the register maintained under this section as they apply in relation to the Register subject to the modifications mentioned in subsection (8).
- (8) Those modifications are—
 - (a) subsections (8) and (9) are to be read as if references to the code were references to the code of practice under section 28N for the time being in force, and
 - (b) subsection (9) is to be read as if the reference to criminal legal assistance were a reference to children's legal assistance.

28N Code of practice

- (1) The Board must prepare a draft code of practice in relation to the carrying out by solicitors of their functions with regard to the provision of children's legal assistance.
- (2) Different provision may be made for different cases or classes of case.
- (3) Subsections (3) to (8) of section 25B apply in relation to a draft code prepared under subsection (1) above as they apply in relation to a draft code prepared under subsection (1) of that section.

28P Duty to comply with code of practice

- (1) Solicitors and firms included in the register maintained under section 28M(1) must comply with the requirements of the code of practice under section 28N for the time being in force.
- (2) The Board must monitor the carrying out by those solicitors and firms of their duty under subsection (1).
- (3) For the purpose of carrying out its duty under subsection (2) the Board may use the powers conferred on it by sections 35A and 35B.

28Q Non-compliance with code of practice

- (1) Section 25D applies in relation to a solicitor or firm included in the register maintained under section 28M(1) and the code of practice under section 28N for the time being in force as it applies in relation to a registered solicitor or registered firm and the code subject to the modifications mentioned in subsection (2).
- (2) Those modifications are—
 - (a) references to the Register are to be read as if they were references to the register maintained under section 28M(1),
 - (b) subsection (6) is to be read as if the references to criminal legal assistance were references to children's legal assistance.

Changes to legislation: *Legal Aid (Scotland) Act 1986, Part 5B is up to date with all changes known to be in force on or before 22 February 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

28R Further provision as to removal of name from register

- (1) Subsection (2) applies where the Board is satisfied (whether on being informed by the solicitor concerned or otherwise) that a solicitor who is included in the register maintained under section 28M(1)—
 - (a) has become connected with a firm whose name is not included in that register, and
 - (b) is no longer connected with a firm whose name is included in that register.
- (2) The Board must remove the solicitor's name from the register.
- (3) Subsections (6) to (9) of section 25D (as applied by section 28Q) apply in relation to a solicitor whose name is removed from the register under subsection (2) above as they apply in relation to a solicitor whose name is removed from the register under subsection (4) of that section (as applied by section 28Q).

28S Publication of register etc.

Section 25F applies in relation to the register maintained under section 28M(1) as it applies in relation to the Register.]

Changes to legislation:

Legal Aid (Scotland) Act 1986, Part 5B is up to date with all changes known to be in force on or before 22 February 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

[View outstanding changes](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 4(2)(aba)(abb) inserted by [2007 asp 5 s. 75\(2\)](#)
- s. 4(2)(aba) word substituted by [S.S.I. 2011/235 art. 5\(2\)\(a\)](#) (This amendment comes into force immediately after the commencement of the Legal Profession and Legal Aid (Scotland) Act 2007 (asp 5), s. 75, see art. 2(2). That provision is still prospective.)
- s. 4(2)(abb) word substituted by [S.S.I. 2011/235 art. 5\(2\)\(b\)](#) (This amendment comes into force immediately after the commencement of the Legal Profession and Legal Aid (Scotland) Act 2007 (asp 5), s. 75, see art. 2(2). That provision is still prospective.)
- s. 4(2)(ba) inserted by [2007 asp 5 s. 70\(1\)](#)
- s. 4(3)(ca)(cb) inserted by [2007 asp 5 s. 75\(3\)](#)
- s. 9A9B inserted by [2013 asp 3 s. 18\(2\)](#)
- s. 10(1A)(1B) inserted by [2007 asp 5 s. 69\(3\)](#)
- s. 12C and cross-heading inserted by [2007 asp 5 s. 70\(2\)](#)
- s. 17(2C)-(2I) inserted by [2007 asp 5 s. 75\(4\)](#)
- s. 17(2DA)(2DB) s. 17(2C)(2D) renumbered as s. 17(2DA)(2DB) by [S.S.I. 2011/235 art. 5\(3\)](#) (This amendment comes into force immediately after the commencement of the Legal Profession and Legal Aid (Scotland) Act 2007 (asp 5), s. 75, see art. 2(2). That provision is still prospective.)
- s. 25AA(5)-(9) inserted by [2013 asp 3 s. 21](#)
- s. 25AC25AD inserted by [2013 asp 3 s. 20](#)