



Legal Aid (Scotland) Act 1986

1986 CHAPTER 47

[^{F1} PART IVA

CRIMINAL LEGAL ASSISTANCE]

^{F1}Code of practice

Textual Amendments

- F1** Pt. IVA (ss. 25A-25F) inserted (1.10.1997 for specified purposes, 1.4.1998 for further specified purposes and otherwise 1.10.1998) by [1997 c. 48, s.49](#); [S.I. 1997/2323, art. 6 Sch.3](#)

^{F2}25B Code of practice in relation to criminal legal assistance.

- (1) The Board shall prepare a draft code of practice in relation to the carrying out by solicitors of their functions with regard to the provision of criminal legal assistance and, without prejudice to the generality of the foregoing, the code may include provision as to—
- (a) the conditions to be complied with in order to qualify for registration, including—
 - (i) the attendance by the solicitor at a sufficient number of specified courses relevant to the provision of criminal legal assistance, including courses in criminal law, evidence and pleading and professional ethics;
 - (ii) the keeping of records in a particular format;
 - (b) the standards of conduct expected of a solicitor providing or proposing to provide criminal legal assistance;
 - (c) the manner in which a solicitor should conduct a case and represent his client, including—
 - (i) the passage of timeous and accurate information to the client in relation to his case;

Changes to legislation: *Legal Aid (Scotland) Act 1986, Cross Heading: Code of practice is up to date with all changes known to be in force on or before 28 May 2024. 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*

- (ii) the frequency of meetings with the client;
 - (iii) the giving of advice to the client as to the consequences of any decision made by the client in relation to his defence;
 - (iv) the taking of such precognitions as may be necessary;
 - (v) the conduct of relations with the prosecution;
 - (d) the manner in which applications for criminal legal assistance are to be presented;
 - (e) the monitoring of a solicitor's performance with a view to a decision by the Board as to whether he should continue to be registered, including—
 - (i) periodic review of his handling of particular cases by other solicitors or by the Board;
 - (ii) the extent to which he attends courses relevant to the provision of criminal legal assistance, including courses in criminal law, evidence and pleading and professional ethics;
 - (f) the manner in which records are kept, including—
 - (i) maintaining books of account, and presentation of accounts to the Board, in a specified format;
 - (ii) office procedures;
 - (iii) time recording systems;
 - (iv) instructions given to the staff,
 and any other matter relating to the organisation of or accounting for criminal legal assistance which appears to the Board to be relevant.
- (2) The code may make different provision in relation to firms and solicitors including [^{F3}in relation to solicitors employed by the Board under sections 26 and 27 of this Act to provide criminal legal assistance, different provision to reflect the fact that they are so employed and including], in relation to solicitors employed by the Board by virtue of section 28A of this Act, different provision to reflect the fact that they are so employed.
- (3) The Board shall—
- (a) send a copy of the draft code prepared by it under subsection (1) above to the Law Society and to such other persons and bodies as it considers appropriate, inviting their comments on the draft within such period, being not less than 8 weeks from the date on which the draft is sent, as it may specify; and
 - (b) consider any such comments timeously received by it,
- but, where it amends the draft code in the light of any such comments, it shall not be required to re-intimate the amended code to any of those who were invited to comment.
- (4) After carrying out the consultation mentioned in subsection (3) above the Board shall submit the draft code to the Secretary of State for his approval.
- (5) The Secretary of State may approve the draft code, with or without modifications.
- (6) When the Secretary of State has approved the draft code under subsection (5) above he shall—
- (a) return the draft to the Board; and
 - (b) specify the date upon which it is to come into force and how the Board is to publish it.
- (7) The Board—

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- (a) shall make and publish the code by the date and in the manner specified by the Secretary of State under subsection (6) above; and
 - (b) may make a copy of the code available to any person requesting one, on payment of such sum, if any, towards the cost of preparation, publication and, where relevant, postage, as it considers appropriate.
- (8) The Board shall keep under review the code prepared under this section and may from time to time revise it, and the provisions of this section shall apply in relation to any revision of the code as they apply in relation to the version originally prepared.

Textual Amendments

- F2** Pt. IVA (ss. 25A-25F) inserted (1.10.1997 for specified purposes, 1.4.1998 for further specified purposes and otherwise 1.10.1998) by [1997 c. 48, s. 49](#); [S.I. 1997/2323, art. 6 Sch. 3](#)
- F3** Words in s. 25B(2) inserted (6.7.2001) by [2001 asp 7, ss. 9\(5\), 15\(3\)](#)

^{F4}**25C Supervision of registered solicitors and firms.**

- (1) Solicitors and firms whose names appear on the Register (“registered solicitors” and “registered firms”) shall comply with the requirements of the code.
- (2) The Board shall monitor the carrying out by registered solicitors and firms of their duty under subsection (1) above.
- (3) For the purpose of carrying out its duty under subsection (2) above the Board may use the powers conferred on it by sections 35A and 35B of this Act.

Textual Amendments

- F4** Pt. IVA (ss. 25A-25F) inserted (1.10.1997 for specified purposes, 1.4.1998 for further specified purposes and otherwise 1.10.1998) by [1997 c. 48, s.49](#); [S.I. 1997/2323, art. 6 Sch.3](#)

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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](#)