



# Crime and Punishment (Scotland) Act 1997

## 1997 CHAPTER 48

### PART V

#### CRIMINAL LEGAL ASSISTANCE

##### *Fixed payments for criminal legal assistance*

#### **51 Fixed payments**

In section 33 of the 1986 Act (fees and outlays of counsel and solicitors), after subsection (3) there shall be inserted the following subsections—

“(3A) The Secretary of State may by regulations under this section prescribe fixed payments to be made to a solicitor in respect of—

- (a) his professional services in providing criminal legal assistance; and
- (b) such outlays as may be so prescribed.

(3B) A solicitor who provides any criminal legal assistance in respect of which a fixed payment has been prescribed in regulations made under subsection (3A) above shall not be entitled to any other payment out of the Fund in respect of the professional services and outlays mentioned in that subsection, but shall be entitled to reimbursement of any other outlays which he has properly incurred.”.

#### **52 Contracts for the provision of criminal legal assistance**

After section 33 of the 1986 Act there shall be inserted the following section—

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*Status: This is the original version (as it was originally enacted).*

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*“Contracts for the provision of criminal legal assistance*

**33A Contracts for the provision of criminal legal assistance**

- (1) The Secretary of State may by regulations made under this section empower the Board to enter into contracts with registered firms for the provision by registered solicitors connected with those firms of criminal legal assistance.
- (2) Regulations under this section may prescribe—
  - (a) the procedures to be followed by the Board in awarding any such contract; and
  - (b) subject to subsection (3) below, any terms and conditions which are to be included in any such contract.
- (3) Regulations under this section shall provide that any contract entered into by virtue of this section shall include a provision that, in the event of the termination of the contract, or a breach of it by the registered firm concerned, the Board may—
  - (a) withhold payments under the contract; and
  - (b) require the firm to secure the transfer of—
    - (i) any work currently being undertaken by any solicitor connected with them for any client by way of criminal legal assistance; and
    - (ii) notwithstanding any lien to which any such solicitor might otherwise be entitled, any documents connected with any such work,  
to a registered solicitor.
- (4) Regulations under this section may provide that where the Board has by virtue of this section entered into contracts with any registered firms for the provision of criminal legal assistance in any area, then, unless it seems to the Board to be inappropriate in a particular case, any person seeking such assistance in that area shall be required to instruct a registered solicitor connected with one of those firms.
- (5) Any money due to a firm under a contract made by virtue of this section shall be paid to the firm—
  - (a) firstly, out of any amount payable by the client in accordance with section 11(2) of this Act;
  - (b) secondly, in priority to all other debts, out of any expenses which by virtue of an order of a criminal court are payable to that client by any other person in respect of the matter in connection with which the criminal legal assistance was given; and
  - (c) thirdly, by the Board out of the Fund.
- (6) For the purposes of sections 32 and 33 of this Act, the money paid to a firm, as provided in subsection (5) above, in respect of a contract made by virtue of this section shall be taken to be a payment made in accordance with this Act, and no solicitor connected with such a firm shall be entitled to any other payment out of the Fund in respect of any work done by him by virtue of such a contract.”.