

LEGAL AID (SCOTLAND) ACT 1986

THE CIVIL LEGAL AID FOR DEFAMATION OR VERBAL INJURY PROCEEDINGS (SCOTLAND) DIRECTION 2008

The Scottish Ministers give the Scottish Legal Aid Board the following Direction in exercise of the powers conferred by section 14(1C) and (1D) of the Legal Aid (Scotland) Act 1986(a) and revoke the Civil Legal Aid for Defamation or Verbal Injury Proceedings (Scotland) Direction 2007(b):

Citation and commencement

1. This Direction may be cited as the Civil Legal Aid for Defamation or Verbal Injury Proceedings (Scotland) Direction 2008 and shall come into force on 4 July 2008.

Interpretation

2. In this Direction-

“the Act” means the Legal Aid (Scotland) Act 1986;

“the Board” means the Scottish Legal Aid Board;

“overwhelming importance to the person” means a case which has exceptional importance to the person in question, beyond the monetary value (if any) of the claim, as regards, for example, the life, liberty or physical safety of the person or his or her family, or a roof over their heads; and

“wider public interest” means the potential of the proceedings to produce real benefits for individuals other than the client (other than the benefits to the public at large which normally flow from proceedings of the type in question).

Availability of civil legal aid in defamation or verbal injury proceedings

3.—(1) In making civil legal aid available to a person in proceedings which are wholly or partly concerned with defamation or verbal injury the Board must be satisfied, in addition to the requirements in section 14(1) and 15 of the Act being met, that-

- (a) (i) there is significant wider public interest in the resolution of the case and funded representation will contribute to it; or
- (ii) the case is of overwhelming importance to the person; and
- (b) there is something exceptional about the person or the case such that without public funding for representation it would be practically

(a) 1986 c.47. Subsections 14(1C) and (1D) were inserted by section 71 of the Legal Profession and Legal Aid (Scotland) Act 2007 asp 5.

(b) Which was signed on and came into force on 17 August 2007.

impossible for the person to bring or defend the proceedings and the lack of public funding would lead to obvious unfairness in the proceedings.

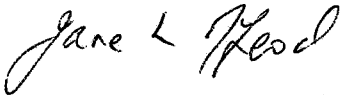
(2) In determining whether for the purposes of paragraph 3(1)(b) there is something exceptional about the person or the case the Board must be satisfied that the degree of exceptionality is the same as, or is approximately the same as, in the facts found in the case of *Steel and Morris v United Kingdom*(a).

Availability of civil legal aid in cross border disputes

4. In making civil legal aid available in cross border disputes involving defamation or verbal injury the Board must also ensure that such legal aid is made available where required by Article 3(3) or 6(3) of Council Directive 2003/8/EC of 27 January 2003.(b)

Revocation

5. The Civil Legal Aid for Defamation or Verbal Injury Proceedings (Scotland) Direction 2007 is revoked.



A member of the staff of the Scottish Ministers
4 July 2008

(a) [2005] ECHR 103
(b) Official Journal L 026, 31/01/2003 P. 0041 0047