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CABINET

INTERIM PAYMENTS FOR CIVIL LEGAL AID WORK

Memorandum by the Secretary of State for the Home Department

1. At their meeting on 16 December, the Cabinet invited me to arrange for the Home and Social Affairs Committee (H) to consider further the Solicitor General's proposals for an interim scheme to reduce the arrears of payments owed to barristers and solicitors under the civil legal aid scheme. The Cabinet thought that about £20 million might be made available for an interim scheme in 1982-83, provided that it was linked to a review of the costs and fees in civil legal aid cases, and to progress towards improved control of costs (CC(82) 53rd Conclusions, Minute 5).
2. H Committee have now reached agreement on revised proposals put forward by the Solicitor General, under which about £30 million would be made available in 1982-83 to meet some 10 per cent of the outstanding fees for civil legal aid work. £20 million of this total would represent a net addition to public expenditure in the current year, and the remaining £10 million would be financed from the Lord Chancellor's existing allocation for 1982-83.
3. Only claims made before 18 February 1983 for work done under civil legal aid certificates issued on or before 31 March 1981 will be considered under the interim scheme. Barristers will be able to claim 30 per cent of outstanding fees, while solicitors will be eligible for flat rate payments of £150 for each county court or matrimonial case, and £300 for each High Court case. Adjustments will be made as necessary once the final bills have been assessed or taxed.
4. Progress towards a more permanent scheme will depend on the achievement of improved control over civil legal aid costs. To this end, officials have been instructed to undertake an urgent examination of the reasonableness of payments to lawyers in legal aid cases, while the Lord Chancellor has agreed to press ahead as quickly as possible with his consultations with the judiciary and the profession on improvements in civil litigation procedures. The Solicitor General will, subject to the Lord Chancellor's overall responsibility for the legal aid system, take personal charge of negotiations with the profession on a number of issues, including greater standardisation in payments in civil cases, transfer of the responsibility for fixing fees in civil cases from the Rule Committees to the Lord Chancellor, improved procedures in matrimonial cases, and a review of the Green Form scheme. The Solicitor General will report back to H Committee no later than July 1983 on the outcome of these negotiations.

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5. H Committee agreed in principle that arrangements similar to those proposed by the Solicitor General for England and Wales might be introduced in Scotland, subject to agreement on a satisfactory scheme being reached with the Chief Secretary, Treasury.

6. Subject to the approval of the Cabinet, the Solicitor General will announce the interim scheme by means of an early reply to an arranged Parliamentary Question. This will be a low-key announcement, which, while acknowledging the need for a supplementary estimate in due course, will not refer in terms to the additional expenditure of £30 million in 1982-83.

7. The Committee concluded that the Solicitor General's revised proposals discharged the remit given by the Cabinet on 16 December, and I now invite colleagues:

a. to endorse the proposed interim scheme and the associated consultation with the profession; and

b. to agree to an early announcement on the lines proposed in paragraph 6 above.

W W

Home Office

18 January 1983