



# Legal Profession and Legal Aid (Scotland) Act 2007

2007 asp 5

## LEGAL PROFESSION AND LEGAL AID (SCOTLAND) ACT 2007

### PART 1

#### THE SCOTTISH LEGAL COMPLAINTS COMMISSION

##### *Establishment*

1 The Scottish Legal Complaints Commission

##### *Conduct or services complaints against practitioners*

- 2 Receipt of complaints: preliminary steps
- 3 Existence of specified regulatory scheme
- 4 Complaint not made timeously or made prematurely
- 5 Determining nature of complaint
- 6 Complaint determined to be conduct complaint
- 7 Services complaint: notice
- 8 Services complaint: local resolution or mediation
- 9 Services complaint: Commission's duty to investigate and determine
- 9A Services complaint: further provision
- 10 Commission upholds services complaint
- 11 Fair and reasonable: matters to be taken into account by Commission
- 12 Services complaint: notice where not upheld or upheld
- 13 Services complaint: reports
- 14 Determination under section 9(1) or taking of steps under section 10(2): effect in relation to proceedings
- 15 Complaint appears during mediation or investigation to fall within different category
- 16 Power to monitor compliance with directions under section 10(2)
- 17 Power to examine documents and demand explanations in connection with conduct or services complaints
- 18 Power of Commission to recover certain expenses

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- 19 Documents and information from third parties
- 20 Enforcement of Commission direction under section 10(2)

#### *Appeals*

- 21 Appeal against Commission decisions
- 22 Appeal: supplementary provision

#### *Handling by relevant professional organisations of conduct complaints*

- 23 Handling by relevant professional organisations of conduct complaints: investigation by Commission
- 24 Investigation under section 23: final report and recommendations
- 25 Failure to comply with recommendation
- 26 Abolition of Scottish legal services ombudsman

#### *Finance*

- 27 Annual general levy
- 28 Complaints levy
- 29 Amount of levies and consultation
- 30 Grants or loans by the Scottish Ministers
- 31 Guarantees

#### *Rules as to Commission's practice and procedure*

- 32 Duty of Commission to make rules as to practice and procedure

#### *Forwarding complaints, advice, monitoring etc.*

- 33 Duty of relevant professional organisations to forward complaints to Commission
- 34 Commission's duty to provide advice
- 35 Services complaints: monitoring, reports, protocols and information sharing
- 36 Conduct complaints: monitoring, reports, guidance and recommendations
- 37 Obtaining of information from relevant professional organisations
- 38 Efficient and effective working
- 39 Monitoring effectiveness of guarantee funds etc.
- 40 How practitioners deal with complaints: best practice notes

#### *Miscellaneous*

- 41 Power by regulations to amend duties and powers of Commission
- 42 Reports: privilege
- 43 Restriction upon disclosure of information: Commission
- 44 Exemption from liability in damages
- 45 Giving of notices etc. under Part 1
- 46 Interpretation of Part 1

### **PART 2**

#### CONDUCT AND SERVICES COMPLAINTS ETC.: OTHER MATTERS

- 47 Conduct complaints: duty of relevant professional organisations to investigate etc.

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- 48 Conduct complaints and reviews: power of relevant professional organisations to examine documents and demand explanations
- 49 Conduct complaints: financial impropriety
- 50 Power of relevant professional organisations to recover certain expenses
- 51 Powers in relation to documents and information from third parties
- 52 Restriction upon disclosure of information: relevant professional organisations
- 53 Unsatisfactory professional conduct: solicitors
- 54 Unsatisfactory professional conduct: conveyancing or executry practitioners
- 55 Report by Commission to Council under section 10(2)(e)
- 56 Powers to fine and award compensation for professional misconduct etc.
- 57 Review of and appeal against decisions on remitted conduct complaints: cases other than unsatisfactory professional conduct

## **PART 2A**

### SPECIAL PROVISION FOR LICENSED PROVIDERS

- 57A Complaints about licensed providers
- 57B Regulatory complaints
- 57C Levy, advice and guidance
- 57D Recovery of levy
- 57E Handling complaints
- 57F Effectiveness of compensation fund
- 57G Interpretation of Part 2A

## **PART 2B**

### SPECIAL PROVISION FOR CONFIRMATION AGENTS AND WILL WRITERS

- 57H Complaints about agents and writers
- 57I Handling complaints
- 57J Levy payable
- 57K Recovery of levy
- 57L Interpretation of Part 2B

## **PART 3**

### LEGAL PROFESSION: OTHER MATTERS

- 58 Constitution of Scottish Solicitors' Discipline Tribunal
- 59 Scottish Solicitors Guarantee Fund: borrowing limit
- 60 Safeguarding interests of clients
- 61 Offence for unqualified persons to prepare certain documents
- 62 Notaries public to be practising solicitors
- 63 Regulation of notaries public

## **PART 4**

### LEGAL AID

- 64 Criminal legal aid in solemn proceedings
- 65 Criminal legal aid: conditions and reviews
- 66 Criminal Legal Assistance Register: removal of name following failure to comply with code
- 67 Register of advice organisations: advice and assistance

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- 68 Scottish Legal Aid Board: grants for certain purposes
- 69 Financial limit: advice and assistance
- 70 Further provision in relation to the Fund: advice and assistance
- 71 Availability of civil legal aid for defamation or verbal injury
- 72 Civil legal aid: conditions and reviews
- 73 Availability of legal aid: Judicial Committee of the Privy Council
- 74 Solicitors employed by the Scottish Legal Aid Board
- 75 Contributions, and payments out of property recovered
- 76 Regulations under section 36 of the 1986 Act

## PART 5

### GENERAL

- 77 Advice, services or activities to which Act does not apply
- 78 Ancillary provision
- 79 Regulations or orders
- 80 Interpretation
- 81 Minor and consequential modifications
- 82 Short title and commencement

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## SCHEDULE 1 — The Scottish Legal Complaints Commission

### *Status*

- 1 (1) The Commission is a body corporate.

### *Membership of the Commission*

- 2 (1) The Commission is to consist of the following members—...

### *Terms of appointment etc.*

- 3 (1) Subject to sub-paragraph (2), each member is to be...
- 4 In appointing members, the Scottish Ministers are to have regard...

### *Removal of members*

- 5 (1) Subject to sub-paragraph (2), the chairing member may, by...

### *Disqualification from membership*

- 6 (1) A person is disqualified from appointment, and from holding...

### *Remuneration, allowances and pensions for members*

- 7 (1) The Commission is to pay to its members such...

### *Chief executive and other employees*

- 8 (1) The Commission is to employ a chief executive.

### *Accountable officer*

- 9 (1) The chief executive is the accountable officer for the...

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### *Procedure*

- 10 (1) Subject to sub-paragraph (2)— (a) any quorum of the...

### *Committees*

- 11 (1) The Commission— (a) must establish one or more determination...  
11A (1) The Commission must establish an independent advisory panel.

### *General powers*

- 12 (1) The Commission may do anything which appears to it...

### *Delegation of functions*

- 13 (1) The Commission may, subject to sub-paragraphs (2), (3) and...

### *Location of office*

- 14 (1) Subject to sub-paragraph (2), the Commission's determination of the...

### *Accounts*

- 15 (1) The Commission must— (a) keep proper accounts and accounting...

### *Reports*

- 16 (1) As soon as practicable after the end of each...

#### SCHEDULE 2 — Further powers of Commission under section 17 or 37

- 1 Where the Commission— (a) gives notice under subsection (1) of...  
2 Where the Commission takes possession of any such documents or...  
3 Before the expiry of the period of 14 days after...  
4 If no application is made to the court under paragraph...

#### SCHEDULE 3 — Rules as to Commission's practice and procedure

##### *Provision which must be included*

- 1 The rules as to the Commission's practice and procedure made...

##### *Provision which may in particular be included*

- 2 The rules as to the Commission's practice and procedure made...  
3 In this schedule— “lawyer member” has the meaning given by...

#### SCHEDULE 4 — Further powers of relevant professional organisations under section 48

- 1 Where a relevant professional organisation gives notice—  
2 Where a relevant professional organisation takes possession of any such...  
3 Before the expiry of the period of 14 days after...  
4 If no application is made to the court under paragraph...

#### SCHEDULE 5 — Minor and consequential modifications

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*Solicitors (Scotland) Act 1980 (c. 46)*

- 1 (1) The 1980 Act is amended as follows.

*Legal Aid (Scotland) Act 1986 (c. 47)*

- 2 (1) The 1986 Act is amended as follows.

*Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40)*

- 3 (1) The 1990 Act is amended as follows.

*Ethical Standards in Public Life etc. (Scotland) Act 2000 (asp 7)*

- 4 In the Ethical Standards in Public Life etc. (Scotland) Act...

*Freedom of Information (Scotland) Act 2002 (asp 13)*

- 5 In the Freedom of Information (Scotland) Act 2002, in schedule...

*Public Appointments and Public Bodies etc. (Scotland) Act 2003 (asp 4)*

- 6 In the Public Appointments and Public Bodies etc. (Scotland) Act...

**Changes to legislation:**

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**Changes and effects yet to be applied to :**

- s. 23(1) word substituted by [S.S.I. 2014/232 reg. 2\(11\)](#) (Amendment not needed - s. 23(1) substituted on same date)

**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. 2(2)(b)(va) inserted by [2018 asp 10 sch. para. 6](#)
- Sch. 1 para. 2(6)(ba) inserted by [2010 asp 16 s. 118\(4\)](#)