

*These notes relate to the Legal Profession and Legal Aid  
(Scotland) Act (asp 5) which received Royal Assent on 19 January  
2007 (asp 5) which received Royal Assent on 19 January 2007*

# **LEGAL PROFESSION AND LEGAL AID (SCOTLAND) ACT (ASP 5) WHICH RECEIVED ROYAL ASSENT ON 19 JANUARY 2007**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### **Part 2 – Conduct Complaints: Other Matters**

##### ***Section 55: Report by Commission to Council under section 10(2)(e)***

143. **Section 10(2)(e)** of the Act provides a power for the Commission when upholding a services complaint to make a report to the relevant professional organisation where it considers the practitioner concerned lacks competence in an area of law or legal practice. In view of the responsibility of the professional bodies for legal education and training, the decision on whether or not remedial education or training is actually required rests with the professional organisation.
144. **Section 55** inserts provisions into the 1980 Act and the 1990 Act to provide powers for the Council to deal with reports from the Commission indicating that a solicitor or a conveyancing or executry practitioner does not have sufficient competence in relation to any aspect of the law or legal practice.

##### **Sections 42ZC of the 1980 Act and 20ZD of the 1990 Act**

145. Where the Council receives such a report about a solicitor, it may direct the solicitor to undertake such education or training as regards the law or legal practice as it considers appropriate in the circumstances. In the case of conveyancing or executry practitioners, the Council's direction would relate to education or training as regards conveyancing law or legal practice or, as the case may be, executry law or legal practice.
146. The Council must intimate such a direction to the solicitor or the conveyancing or executry practitioner by notice in writing and require the solicitor or conveyancing or executry practitioner to give an explanation within 21 days of the steps taken to comply with the direction. The notice ceases to have effect pending the outcome of any appeal against the direction.

##### **Sections 42ZD of the 1980 Act and 20ZE of the 1990 Act**

147. Solicitors or conveyancing or executry practitioners have a right of appeal within 21 days to the Scottish Solicitors' Discipline Tribunal against such a direction. The Tribunal may quash, confirm or vary the direction. The solicitor or conveyancing or executry practitioner will be able to appeal to the Court of Session against the Tribunal's decision. The Court will be able to give such directions in the matter as it thinks fit and its decision will be final.