



# Legal Profession and Legal Aid (Scotland) Act 2007

2007 asp 5

## PART 1

### THE SCOTTISH LEGAL COMPLAINTS COMMISSION

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

#### **23 Handling by relevant professional organisations of conduct complaints: investigation by Commission**

- (1) The Commission may, subject to subsection (4), carry out such investigation as appears to it to be appropriate of any complaint made to it by or on behalf of any person which relates to the manner in which a conduct complaint made by or on behalf of that person and remitted to a relevant professional organisation under section 6(a) or 15(5)(a) has been dealt with by the organisation (such a complaint being referred to in this Act as a “handling complaint”).
- (2) The Commission may decide—
  - (a) not to investigate a handling complaint;
  - (b) to discontinue the investigation of a handling complaint.
- (3) If the Commission decides not to investigate, or to discontinue the investigation of, a handling complaint it must give notice in writing to—
  - (a) the person who made the handling complaint;
  - (b) the relevant professional organisation;
  - (c) the practitioner concerned in the conduct complaint to which the handling complaint relates,by sending to each of them a copy of the decision and specifying the reasons for the decision.
- (4) The Commission must not investigate a handling complaint where either—
  - (a) the relevant professional organisation has not completed its investigation of the conduct complaint to which the handling complaint relates; or

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*Status: This is the original version (as it was originally enacted).*

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- (b) the handling complaint is made after the expiry of the period of 6 months after such date as the Scottish Ministers may specify by order,  
but paragraph (a) does not apply in any of the circumstances mentioned in subsection (5).
- (5) The circumstances are that—
- (a) the handling complaint is that the relevant professional organisation—
    - (i) has acted unreasonably in failing to start an investigation into the complaint; or
    - (ii) having started such an investigation, has failed to complete it within a reasonable time; or
  - (b) the Commission considers that, even though the complaint is being investigated by the organisation, an investigation by the Commission is justified.
- (6) Where the Commission decides that subsection (4)(a) does not prevent it investigating a handling complaint because any of the circumstances referred to in subsection (5) apply, it must give notice in writing to—
- (a) the person who made the handling complaint;
  - (b) the relevant professional organisation;
  - (c) the practitioner concerned in the conduct complaint to which the handling complaint relates,
- by sending to each of them a copy of the decision and specifying the reasons for the decision.
- (7) An order under subsection (4)(b) may specify different dates for different purposes.
- (8) Where the Commission is conducting an investigation under this section, it may at any time make a written interim report in relation to the investigation and must send a copy of any such report to—
- (a) the person who made the handling complaint;
  - (b) the relevant professional organisation;
  - (c) the practitioner concerned in the conduct complaint to which the handling complaint relates.
- (9) The Scottish Ministers may by order amend the period of time referred to in subsection (4)(b).