



# Council of the Law Society of Scotland Act 2003

2003 asp 14

**The Bill for this Act of the Scottish Parliament was passed by the Parliament on 26th March 2003 and received Royal Assent on 1st May 2003**

An Act of the Scottish Parliament to make provision about the discharge of functions of the Council of the Law Society of Scotland and the appointment and constitution of committees and sub-committees of that Council.

## **1 Discharge of functions of the Council of the Law Society of Scotland**

After section 3 (establishment and functions of Council of the Law Society of Scotland) of the Solicitors (Scotland) Act 1980 (c. 46) (“the 1980 Act”), insert—

### **“3A Discharge of functions of Council of the Law Society**

- (1) The Council may arrange for any of their functions (other than excepted functions) to be discharged on their behalf by—
  - (a) a committee of the Council;
  - (b) a sub-committee of such a committee; or
  - (c) an individual (whether or not a member of the Society’s staff).
- (2) Where, under subsection (1)(a), the Council have arranged for any of their functions to be discharged by a committee, the committee may, with the approval of the Council, arrange for that function to be discharged on behalf of the Council by—
  - (a) a sub-committee of the committee; or
  - (b) an individual (whether or not a member of the Society’s staff).
- (3) Where, under subsection (1) or (2), the Council or a committee have arranged for any of the Council’s functions to be discharged by a sub-committee, the sub-committee may, with the approval of the Council, arrange for that function to be discharged on behalf of the Council by a member of the Society’s staff.
- (4) A power given by subsection (1), (2) or (3) may be exercised so as to impose restrictions or conditions on the body or person by whom the function concerned is to be discharged.

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*Status: This is the original version (as it was originally enacted).*

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- (5) Any arrangement made under this section shall not arrange for any of the following functions of the Council to be discharged by an individual—
- (a) under section 42A(1) or (2), or under section 33(1) of the 1990 Act, the functions of determining—
    - (i) whether to uphold or dismiss a conduct complaint (within the meaning of the said section 33(1)); and
    - (ii) what action to take in the matter; and
  - (b) under section 20(1) or (2) of the 1990 Act, the functions of determining—
    - (i) whether any of paragraphs (a) to (d) of the said section 20(1) apply to the practitioner; and
    - (ii) what action to take in the matter.
- (6) An arrangement made under this section may identify an individual by name or by reference to an office or post which the individual holds.
- (7) An arrangement under this section for the discharge of any of the functions of the Council may extend to any of the functions of the Society which is exercisable by the Council.
- (8) Where any arrangement is made under this section for the discharge of any of the functions of the Council by a body or person, the function shall be exercised by that body or person in the name of the Council, except that, where the function in question is a function of the Society which is exercisable by the Council, it shall be exercised in the name of the Society.
- (9) Any arrangement under this section for the discharge of any of the functions of the Council—
- (a) does not affect the responsibility of the Council for the exercise of the function or any liability arising therefrom;
  - (b) does not prevent the Council from exercising the function; and
  - (c) may be revoked at any time by the Council and also, in the case of any arrangement made under subsection (2) or (3), by the committee or sub-committee which made that arrangement.
- (10) In this section, “excepted functions” means—
- (a) any function of the Council to make rules or regulations under this Act or any other enactment; and
  - (b) any function of the Council under paragraph 2 of Schedule 1 to prepare a scheme (scheme for the constitution of the Council etc.).
- (11) This section is without prejudice to any other power which the Council may have to arrange for the discharge of their functions.
- (12) During any period before—
- (a) paragraph 14(6)(a) of schedule 4 to the Public Appointments and Public Bodies etc. (Scotland) Act 2003 (asp 4) comes into force, subsection (5) applies as if paragraph (b) and the word “and” that precedes it were omitted;
  - (b) section 12(c) of that Act comes into force, subsection (5)(a) applies as if for the words “the 1990 Act” there were substituted “the Law

Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40) (“the 1990 Act”).”.

## **2 Committees and sub-committees of the Council of the Law Society of Scotland**

- (1) Schedule 1 to the 1980 Act is amended as follows.
- (2) In paragraph 2(d), after “committees” insert “and sub-committees”.
- (3) In paragraph 3, after sub-paragraph (b), insert—
  - “(ba) may make provision for persons other than solicitors to be members of a committee or sub-committee of the Council (including provision for such persons to constitute a majority of the members of the committee or sub-committee);”.

## **3 Short title and commencement**

- (1) This Act may be cited as the Council of the Law Society of Scotland Act 2003.
- (2) This Act comes into force at the end of the period of one month beginning with the date of Royal Assent.