

*These notes relate to the Legal Profession and Legal Aid
(Scotland) Act (asp 5) which received Royal Assent on 19 January
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LEGAL PROFESSION AND LEGAL AID (SCOTLAND) ACT (ASP 5) WHICH RECEIVED ROYAL ASSENT ON 19 JANUARY 2007

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1 – the Scottish Legal Complaints Commission

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

47. **Section 23** provides that the Commission may investigate complaints about the manner in which a professional organisation has dealt with a conduct complaint (referred to as “handling complaints”). In general, it may not do so where the organisation has not completed its investigation of the conduct complaint or where the handling complaint is made after the expiry of 6 months from the date on which the professional organisation determined the conduct complaint. The Scottish Ministers may by order amend the period of time referred to above.
48. The Commission may however investigate a conduct complaint before the professional organisation has completed its own investigation where (a) the handling complaint is that the body has acted unreasonably in failing to start an investigation into the complaint or, having started such an investigation, has failed to complete it within a reasonable time; or (b) the Commission considers that an investigation by the Commission is justified. In such circumstances, the Commission must give notice in writing to the complainer, the practitioner and the relevant professional organisation of its decision to investigate and the reasons for that decision.
49. The Commission may decide not to investigate a handling complaint or to discontinue the investigation of a handling complaint. In such circumstances the Commission must give notice in writing of its decision and specify the reasons for the decision to the person who made the handling complaint, the practitioner and the relevant professional organisation. Where the Commission decides to make a written interim report on an investigation it is conducting into a handling complaint, it must send a copy of any such report to the person who made the handling complaint, the relevant professional organisation and the practitioner concerned in the conduct complaint to which the handling complaint relates.