

*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 28: Complaints levy

58. **Section 28** sets out the circumstances in which a practitioner can be required to pay a levy to the Commission in respect of a complaint about the services provided by that practitioner which is dealt with by the Commission. The levy is payable in respect of a complaint where either (a) the outcome of mediation by the Commission has been accepted by both the complainer and the practitioner; or (b) the complaint has been investigated by the Commission and an informal settlement has been accepted by both parties; or (c) the Commission has determined and upheld the complaint.
59. The Commission may charge interest on any unpaid complaints levy at a rate to be specified by the Scottish Ministers by order. The total sum due may be recovered by the Commission as a debt from the practitioner. Non-payment or late payment of the complaint levy by a practitioner may give rise to a complaint of misconduct or unsatisfactory professional conduct.
60. The levy is not payable therefore where the Commission determines a complaint to be frivolous, vexatious, totally without merit or otherwise ineligible in terms of its rules or where the Commission determines a complaint but does not uphold it. The levy will also not require to be paid where the Commission has determined the levy as nil or has waived the requirement to pay it in accordance with its rules made under section 32(1).