

*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 2 – Conduct Complaints: Other Matters

Section 56: Powers to fine and award compensation for professional misconduct etc

148. **Section 56(1)** amends the 1980 Act to enable the Scottish Solicitors' Discipline Tribunal to direct a solicitor found guilty of professional misconduct to pay compensation of up to £5,000 to any person the Tribunal considers to have suffered loss, inconvenience or distress as a direct result of the professional misconduct. The Scottish Ministers may, after consultation with the Council and such consumer interest groups as they consider appropriate, vary by affirmative resolution order the maximum level of compensation which the Tribunal may award in such circumstances.
149. **Section 56(2)** amends section 55 of the 1980 Act to provide that on an appeal relating to a complaint of professional misconduct against a solicitor, the Court of Session may impose a fine of up to £10,000 on the solicitor and order him or her to pay compensation of up to £5,000 to the complainer. The maximum amounts of the fine and compensation mentioned above may be varied by the Scottish Ministers by order subject to parliamentary approval.
150. **Section 56(3)** amends section 20(2) of the 1990 Act to allow the Council to direct the payment of compensation of up to £5000 to a complainer in cases where a conveyancing or executry practitioner has been found guilty of professional misconduct or where the practitioner has been convicted of a criminal offence rendering him no longer a fit and proper person to provide conveyancing and/ or executry services. Similarly, the Tribunal is also now empowered to direct payment of compensation of up to £5,000 in cases of professional misconduct. The maximum amounts of the compensation may be varied by the Scottish Ministers by order after consultation with the Council and such consumer interest groups as they consider appropriate, and subject to parliamentary approval. Section 20(2) is also amended to allow the Council to impose a fine of up to £2000.