

*These notes relate to the Legal Profession and Legal Aid  
(Scotland) Act (asp 5) which received Royal Assent on 19 January  
2007 (asp 5) which received Royal Assent on 19 January 2007*

# **LEGAL PROFESSION AND LEGAL AID (SCOTLAND) ACT (ASP 5) WHICH RECEIVED ROYAL ASSENT ON 19 JANUARY 2007**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### ***Schedule 1—The Scottish Legal Complaints Commission***

221. **Schedule 1** makes provision for the detailed constitution, powers and proceedings of the Scottish Legal Complaints Commission. The Commission is to consist of five non-lawyer members, one of whom is to chair it, and four lawyer members. The terms “lawyer members” and “non-lawyer members” are defined in paragraph 2 of the schedule. These numbers may be varied by order made by the Scottish Ministers, subject to the affirmative resolution procedure but there are some limitations on the power. The number of non-lawyer members is required to remain greater than that of lawyer members; the number of non-lawyer members must be no fewer than four and no greater than eight, and the number of lawyer members no fewer than three and no greater than seven. The first members of the Commission are to be appointed by the Scottish Ministers, having consulted the Lord President of the Court of Session, for an initial period of four to six years (to avoid the entire membership of the Commission ceasing to be members at the same time). Other members (i.e. all subsequent members) are appointed for a fixed period of five years and are to be eligible for reappointment for a single further period, but not before a period of three years has elapsed since the end of the member’s original term of appointment.

222. In appointing members, the Scottish Ministers are to have regard to the desirability of including persons:

- (i) who have experience of, and have shown capacity in (a) consumer affairs or complaints handling; (b) the practice and provision of legal education and training; (c) civil or criminal proceedings; (d) court procedures and practice generally; (e) the practice and provision of other legal services; (f) the monitoring of legal services; and
- (ii) persons who have such other skills, knowledge or experience as the Scottish Ministers consider to be relevant in relation to the exercise of the Commission’s functions.

The schedule provides for the qualifications for membership, for the circumstances in which members may be removed, for disqualification of MPs, MSPs and MEPs from membership, and for remuneration, pensions and allowances.

223. The schedule also provides for the appointment of a Chief Executive of the Commission, with the approval of the Scottish Ministers, and of other staff. The Chief Executive is to be the accountable officer for the Commission. The schedule makes

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provision for the procedure of the Commission, for the establishment of committees, for  
its general powers and for delegation of functions. The Commission is to be required to  
keep proper accounts to be audited by the Auditor General for Scotland, and to publish  
an Annual Report which is to be laid before Parliament by the Scottish Ministers.

224. The Commission's determination of the location of its office premises is subject to the approval of the Scottish Ministers, who may also direct the Commission as to the location of its office premises.