



# Legal Profession and Legal Aid (Scotland) Act 2007

2007 asp 5

## PART 1

### THE SCOTTISH LEGAL COMPLAINTS COMMISSION

#### *Finance*

#### 27 Annual general levy

(1) Each—

- (a) advocate practising as such;
- (b) conveyancing practitioner or executry practitioner;
- (c) person exercising a right to conduct litigation or a right of audience acquired by virtue of section 27 of the 1990 Act;
- (d) solicitor who has in force a practising certificate,

must, subject to subsection (2) and section 29(2), pay to the Commission in respect of each financial year a contribution (referred to in this Part as “the annual general levy”).

(2) Each relevant professional organisation—

- (a) must secure the collection by it, from all of the persons falling within the categories referred to in paragraphs (a) to (d) of subsection (1) as respects whom it is the relevant professional organisation, of the annual general levy due by them;
- (b) must pay to the Commission a sum representing the total amount which falls to be collected by it under paragraph (a) in respect of each financial year.

(3) Any—

- (a) sum due to the Commission under subsection (2)(b);
- (b) interest due on any such sum at such rate as may be specified by the Scottish Ministers by order from the date the sum is due under rules made under section 32(1) until it is paid,

may be recovered by it (as a debt) from the relevant professional organisation which is liable under that subsection to pay the sum.

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- (4) A relevant professional organisation may recover (as a debt), from any person falling within the categories referred to in paragraphs (a) to (d) of subsection (1) as respects whom it is the relevant professional organisation—
- (a) any sum due by the person to the Commission under that subsection;
  - (b) any interest due on any such sum at such rate as may be specified by the Scottish Ministers by order from the date the sum is due under rules made under section 32(1) until it is paid.
- (5) If any person who is liable under subsection (1) to pay the annual general levy fails to pay any amount of the levy, or pays any such amount late, the failure or late payment may be treated as professional misconduct or unsatisfactory professional conduct.

VALID FROM 01/10/2008

## 28 Complaints levy

- (1) A practitioner against whom a services complaint is made must pay to the Commission, in the circumstances mentioned in subsection (2), a contribution in relation to the complaint (referred to in this Part as “the complaints levy”).
- (2) The circumstances are where—
- (a) any of the following applies—
    - (i) mediation by virtue of section 8(5) takes place in relation to the complaint and the outcome of the mediation is accepted by both the complainer and the practitioner;
    - (ii) a settlement proposed as respects the complaint by the Commission under section 9(2) is accepted as mentioned in section 9(4);
    - (iii) the Commission makes a determination under section 9(1) upholding the complaint; and
  - (b) the amount of the levy has not been determined as nil and the Commission does not in accordance with rules made under section 32(1) waive the requirement to pay the levy.
- (3) Any—
- (a) sum due by a practitioner to the Commission under subsection (1);
  - (b) interest due on any such sum at such rate as may be specified by the Scottish Ministers by order from the date the sum is due under rules made under section 32(1) until it is paid,
- may be recovered by it (as a debt) from the practitioner.
- (4) If any person who is liable under subsection (1) to pay the complaints levy fails to pay any amount of the levy, or pays any such amount late, the failure or late payment may be treated as professional misconduct or unsatisfactory professional conduct.

## 29 Amount of levies and consultation

- (1) The amount of the—
- (a) annual general levy;
  - (b) complaints levy,

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- in respect of each financial year is such amount as may be determined by the Commission, having had regard to any views expressed in its consultation under subsection (4) in respect of the financial year in question.
- (2) The amount of the annual general levy must be the same amount for each of the individuals who are liable under section 27(1) to pay it; but rules made under section 32(1) may provide for circumstances in which the Commission may waive a portion of the amount which would otherwise require to be paid.
  - (3) The Commission may determine different amounts (including an amount of nil) for the complaints levy in different circumstances.
  - (4) The Commission must, in January each year, consult each relevant professional organisation and its members on the Commission's proposed budget for the next financial year.
  - (5) The proposed budget must—
    - (a) include—
      - (i) an estimate as respects resource requirements;
      - (ii) the proposed amount of the annual general levy and the complaints levy;
    - (b) be accompanied by information as to the Commission's projected work plan for the next financial year.
  - (6) Each relevant professional organisation must, for the purpose of informing the Commission in relation to—
    - (a) the inclusion in the Commission's proposed budget for each financial year of the proposed amount of the annual general levy;
    - (b) the Commission's determination under subsection (1) of the amount of the annual general levy in respect of each financial year,provide the Commission with an estimate of the number of persons as respects whom it is the relevant professional organisation and who it anticipates should be liable under section 27(1) to pay the annual general levy for the financial year concerned.
  - (7) The Commission must secure so far as is reasonably practicable that, taking one financial year with another, the amount of the annual general levy and the complaints levy is reasonably sufficient to meet its expenditure.
  - (8) The Commission must, no later than 31 March in each year, publish the responses it has received in the consultation carried out by it under subsection (4) in the immediately preceding January.
  - (9) Subsection (1) does not apply to responses which are subject to an express request in writing for confidentiality.
  - (10) The Commission must lay a copy of the finalised budget before the Parliament no later than 30 April in each year.

### **30 Grants or loans by the Scottish Ministers**

- (1) The Scottish Ministers may make grants to the Commission of such amounts as they consider appropriate.

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- (2) Any grant under this section may be made on such terms and subject to such conditions (including conditions as to repayment) as the Scottish Ministers consider appropriate; and the Scottish Ministers may from time to time after the grant is made vary such terms and conditions.
- (3) For the purpose of the exercise of any of its duties or powers under this Part—
  - (a) the Commission may, subject to such conditions as the Scottish Ministers think fit, borrow from them;
  - (b) the Scottish Ministers may lend to the Commission, sums of such amounts as the Ministers may determine.
- (4) Any loan made in pursuance of subsection (3) is to be repaid to the Scottish Ministers at such times and by such methods, and interest on the loan is to be paid to them at such times and at such rates, as they may from time to time direct.

### **31 Guarantees**

- (1) The Scottish Ministers may guarantee, in such manner and on such conditions as they think fit, the discharge of any financial obligation in connection with any sums borrowed by the Commission.
- (2) Immediately after any guarantee is given under this section, the Scottish Ministers must lay a statement of the guarantee before the Parliament.
- (3) Where any sum is paid out in fulfilment of a guarantee under this section, the Commission must make to the Scottish Ministers, at such times and in such manner as they may from time to time direct—
  - (a) payments of such amount as they may so direct in or towards repayment of the sums so paid out;
  - (b) payments of interest, at such rate as they may so direct, on the amount outstanding for the time being in respect of sums so paid out.

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