

Changes to legislation: Solicitors (Scotland) Act 1980, Cross Heading: Complaints is up to date with all changes known to be in force on or before 20 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULES

SCHEDULE 4

CONSTITUTION, PROCEDURE AND POWERS OF TRIBUNAL

Modifications etc. (not altering text)

- C1 Sch. 4 applied (with modifications) (1.10.2004) by The Solicitors (Scotland) Act 1980 (Foreign Lawyers and Multi-national Practices) Regulations (S.S.I. 2004/383), {reg. 13}

PART II

PROCEDURE AND POWERS OF TRIBUNAL

Modifications etc. (not altering text)

- C1 Sch. 4 Pt. II (paras. 7–22) applied by Legal Aid (Scotland) Act 1986 (c. 47, SIF 77:2), ss. 31(10), 45, Sch. 4 para. 2

Complaints

- 7 The making of a complaint to the Tribunal or the giving of any information in connection with a complaint shall confer qualified privilege.

Modifications etc. (not altering text)

- C1 Sch. 4 paras. 7-9, 11, 13-15, 18A-22 applied (with modifications) (15.8.2003) by 1990 c. 49, s. 21B(1) (2) (as inserted by Public Appointments and Public Bodies etc. (Scotland) Act 2003 (asp 4), ss. 17, 21(2) (3), Sch. 4 para. 12(9); S.S.I. 2003/384, art. 2)

- 8 A complaint made to the Tribunal shall not be withdrawn except with the Tribunal's leave and subject to such conditions with respect to expenses or otherwise as the Tribunal thinks fit.

Modifications etc. (not altering text)

- C2 Sch. 4 paras. 7-9, 11, 13-15, 18A-22 applied (with modifications) (15.8.2003) by 1990 c. 49, s. 21B(1) (2) (as inserted by Public Appointments and Public Bodies etc. (Scotland) Act 2003 (asp 4), ss. 17, 21(2) (3), Sch. 4 para. 12(9); S.S.I. 2003/384, art. 2)

- 8A F1

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Textual Amendments

- F1** Sch. 4 para. 8A repealed (1.10.2008) by [Legal Profession and Legal Aid \(Scotland\) Act 2007 \(asp 5\)](#), ss. 81, 82, [Sch. 5 para. 1\(26\)\(a\)](#) (with s. 77); S.S.I. 2008/311, [art. 2](#)

- 9 Subject to Part IV, the Tribunal may dismiss a complaint against a solicitor [^{F2}or an incorporated practice]—
- (a) without requiring the solicitor [^{F2}or the incorporated practice] to answer the allegations made against him [^{F2}or, as the case may be, it] or without holding any enquiry if—
- (i) they are of the opinion that the complaint discloses no *prima facie* case of professional misconduct on the part of the solicitor [^{F2}or, of failure on the part of the incorporated practice to comply with any provision of this Act or of rules made under this Act]. . . ; or
- (ii) the complainer fails to comply with any rule made under section 52; or
- (b) without hearing parties if they are of the opinion upon consideration of the complaint and other documents that they disclose no case of professional misconduct on the part of the solicitor [^{F2}or, of failure on the part of the incorporated practice to comply with any provision of this Act or of rules made under this Act]. . . .

Textual Amendments

- F2** Words inserted by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1985 \(c. 73, SIF 76:2\)](#), s. 56, [Sch. 1 Pt. I para. 35\(a\)](#)

Modifications etc. (not altering text)

- C3** Sch. 4 paras. 7-9, 11, 13-15, 18A-22 applied (with modifications) (15.8.2003) by 1990 c. 49, s. 21B(1) (2) (as inserted by [Public Appointments and Public Bodies etc. \(Scotland\) Act 2003 \(asp 4\)](#), ss. 17, 21(2) (3), [Sch. 4 para. 12\(9\)](#); S.S.I. 2003/384, [art. 2](#))

- 10 The Tribunal shall give notice of the complaint to the solicitor [^{F3}or incorporated practice] against whom the complaint is made (“the respondent”) and shall enquire into the complaint, giving him [^{F3}or, as the case may be, it] reasonable opportunity of making his [^{F3}or, as the case may be, its] defence.

Textual Amendments

- F3** Words inserted by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1985 \(c. 73, SIF 76:2\)](#), s. 56, [Sch. 1 Pt. I para. 35\(b\)](#)

- 11 For the purpose of enquiring into the complaint the Tribunal may administer oaths and receive affirmations; and the complainer and respondent shall each be entitled—
- (a) to require the evidence of parties, witnesses and others interested, and
- (b) to call for and recover such evidence and documents, and examine such witnesses, as they think proper, but no person shall be compelled to produce any document which he could not be compelled to produce in an action.

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Modifications etc. (not altering text)

- C4** Sch. 4 paras. 7-9, 11, 13-15, 18A-22 applied (with modifications) (15.8.2003) by 1990 c. 49, s. 21B(1) (2) (as inserted by Public Appointments and Public Bodies etc. (Scotland) Act 2003 (asp 4), ss. 17, 21(2) (3), **Sch. 4 para. 12(9)**; S.S.I. 2003/384, **art. 2**)

- 12 On a petition by the complainer or the respondent to the Court, or to the sheriff having jurisdiction in any place in which the respondent carries on business, the Court or, as the case may be, the sheriff, on production of copies (certified by the Clerk of the Tribunal) of the complaint and answers, if lodged, together with a statement signed by the clerk specifying the place and date of the hearing of the complaint and certifying that notice to that effect has been given to the complainer and to the respondent, and on being satisfied that it would be proper to compel the giving of evidence by any witness or the production of documents by any haver, may—
- (a) grant warrant for the citation of witnesses and havers to give evidence or to produce documents before the Tribunal, and for the issue of letters of second diligence against any witness or haver failing to appear after due citation;
 - (b) grant warrant for the recovery of documents; and
 - (c) appoint commissioners to take the evidence of witnesses, to examine havers, and to receive exhibits and productions.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 12A(2)(ba) inserted by [2010 asp 16 s. 118\(3\)](#)
- s. 32(1)(d) and word inserted by [2010 asp 16 s. 118\(2\)\(a\)\(i\)](#)
- s. 32(2D) inserted by [2010 asp 16 s. 118\(2\)\(a\)\(iv\)](#)
- Sch. 4 para. 1A(b)(ia) inserted by [2010 asp 16 s. 118\(2\)\(b\)](#)