



# Solicitors (Scotland) Act 1988

## 1988 CHAPTER 42

### 2 Power of Council of Law Society to investigate complaints.

After section 42B of the 1980 Act (inserted in that Act by the preceding section of this Act) there shall be inserted the following section—

#### **“42C Powers to examine documents and demand explanations in connection with complaints.**

- (1) Where the Council are satisfied that it is necessary for them to do so for the purpose of investigating a complaint made to them or remitted to them by the Tribunal alleging—
  - (a) professional misconduct by a solicitor;
  - (b) the failure of an incorporated practice to comply with any provision of this Act or of rules made under this Act applicable to that practice; or
  - (c) the provision by a solicitor or an incorporated practice of inadequate professional services,the Council may give notice in writing in accordance with subsection (2) to the solicitor or his firm or to the incorporated practice or, where the solicitor is an employee of a firm or of an incorporated practice, to his employer.
- (2) A notice under subsection (1) may require—
  - (a) the production or delivery to any person appointed by the Council, at a time and place specified in the notice, of all documents to which this section applies which are in the possession or control of the solicitor, firm or incorporated practice and relate to the matters to which the complaint relates (whether or not they relate also to other matters); and
  - (b) an explanation, within such period, not being less than 21 days, as the notice may specify, from the solicitor, firm or incorporated practice regarding the matters to which the complaint relates.
- (3) This section applies to the documents specified in section 38(2).
- (4) Part II of Schedule 3 shall have effect in relation to the powers conferred by subsection (1) to require the production or delivery of documents as it has

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**Changes to legislation:** *There are currently no known outstanding effects for the Solicitors (Scotland) Act 1988, Section 2. (See end of Document for details)*

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effect in relation to the powers conferred by section 38, but with the following modifications—

- (a) for the references in that Part to section 38 there shall be substituted references to this section; and
- (b) for the reference in paragraph 5(1) in that Part to a person failing to produce or deliver documents immediately on being required by the Council to do so there shall be substituted a reference to a person failing to produce or deliver the documents within the time specified in the notice under subsection (1) of this section.”

**Changes to legislation:**

There are currently no known outstanding effects for the Solicitors (Scotland) Act 1988, Section 2.