



# Law Reform (Miscellaneous Provisions) (Scotland) Act 1990

## 1990 CHAPTER 40

### PART II

#### LEGAL SERVICES

##### *Conveyancing and executry services*

#### **[<sup>F1</sup>20B Unsatisfactory professional conduct: powers of Tribunal on appeal**

- (1) On an appeal to the Tribunal under section 20ZB(9) the Tribunal—
  - (a) may quash or confirm the determination being appealed against;
  - (b) if they quash the determination, shall quash the censure accompanying the determination;
  - (c) may quash, confirm or vary the direction being appealed against;
  - (d) may, where they consider that the practitioner does not have sufficient competence in relation to any aspect of conveyancing law or legal practice or, as the case may be, executry law or legal practice, direct him to undertake such education or training as regards the law or legal practice concerned as the Tribunal consider appropriate in that respect;
  - (e) may, subject to subsection (5), fine the practitioner an amount not exceeding £2000;
  - (f) may, where they consider that the complainer has been directly affected by the conduct, direct the practitioner to pay compensation of such amount, not exceeding £5,000, as they may specify to the complainer for loss, inconvenience or distress resulting from the conduct.
- (2) On an appeal to the Tribunal under section 20ZB(10) the Tribunal—
  - (a) may quash the determination being appealed against and make a determination upholding the complaint;

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**Changes to legislation:** Law Reform (Miscellaneous Provisions) (Scotland) Act 1990, Section 20B is up to date with all changes known to be in force on or before 22 August 2023. 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

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- (b) if they do so, may, where they consider that the complainer has been directly affected by the conduct, direct the practitioner to pay compensation of such amount, not exceeding £5,000, as they may specify to the complainer for loss, inconvenience or distress resulting from the conduct;
  - (c) may confirm the determination.
- (3) On an appeal to the Tribunal under section 20ZB(11) the Tribunal may, where they consider that the complainer has been directly affected by the conduct, direct the practitioner to pay compensation of such amount, not exceeding £5,000, as they may specify to the complainer for loss, inconvenience or distress resulting from the conduct.
- (4) On an appeal under section 20ZB(12) the Tribunal may quash, confirm or vary the direction being appealed against.
- (5) The Tribunal shall not direct the practitioner to pay a fine under subsection (1)(e) where, in relation to the subject matter of the complaint, he has been convicted by any court of an offence involving dishonesty and sentenced to a term of imprisonment of not less than 2 years.
- (6) Any fine directed to be paid under subsection (1)(e) shall be treated for the purposes of section 211(5) of the Criminal Procedure (Scotland) Act 1995 (fines payable to HM Exchequer) as if it were a fine imposed in the High Court.
- (7) A direction of the Tribunal under this section is enforceable in like manner as an extract registered decree arbitral in favour of the Council bearing a warrant for execution issued by the sheriff court of any sheriffdom in Scotland.
- (8) The Scottish Ministers may by order made by statutory instrument—
  - (a) amend subsection (1)(e) by substituting for the amount for the time being specified in that subsection such other amount as appears to them to be justified by a change in the value of money;
  - (b) after consulting the Council and such groups of persons representing consumer interests as they consider appropriate, amend subsection (1)(f) by substituting for the amount for the time being specified in that subsection such other amount as they consider appropriate.
- (9) A statutory instrument containing an order under—
  - (a) subsection (8)(a) is subject to annulment in pursuance of a resolution of the Scottish Parliament;
  - (b) subsection (8)(b) is not to be made unless a draft of the instrument has been laid before, and approved by resolution of, the Scottish Parliament.]

#### Textual Amendments

- F1** Ss. 20B-20E inserted (1.10.2008) by [Legal Profession and Legal Aid \(Scotland\) Act 2007 \(asp 5\)](#), ss. 54(3), 82(2) (with s. 77); S.S.I. 2008/311, art. 2(c)

**Changes to legislation:**

Law Reform (Miscellaneous Provisions) (Scotland) Act 1990, Section 20B is up to date with all changes known to be in force on or before 22 August 2023. 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.

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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. 21A(1)(c) words substituted by [2007 asp 5 Sch. 5 para. 3\(7\)\(a\)\(iii\)](#)
- s. 33(6) inserted by [2007 asp 5 Sch. 5 para. 3\(11\)](#)