



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

## 1990 CHAPTER 40

### PART II

#### LEGAL SERVICES

##### *Miscellaneous and supplementary*

#### **[<sup>F1</sup>41A Enforcement of notices under section 41**

- (1) The court may, on an application by the [<sup>F2</sup>CMA] , enquire into whether any person (“the defaulter”) has refused or otherwise failed, without reasonable excuse, to comply with a notice under section 41(1).
- (2) An application under subsection (1) shall include details of the possible failure which the [<sup>F2</sup>CMA] considers has occurred.
- (3) In enquiring into a case under subsection (1), the court shall hear any witness who may be produced against or on behalf of the defaulter and any statement which may be offered in defence.
- (4) Subsections (5) and (6) apply where the court is satisfied, after hearing any witnesses and statements as mentioned in subsection (3), that the defaulter has refused or otherwise failed, without reasonable excuse, to comply with a notice under section 41(1).
- (5) The court may punish the defaulter as it would have been able to punish him had he been guilty of contempt of court.
- (6) Where the defaulter is a body corporate or is a partnership constituted under the law of Scotland, the court may punish any director, officer or (as the case may be) partner of the defaulter as it would have been able to punish that director, officer or partner had he been guilty of contempt of court.

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*Changes to legislation: Law Reform (Miscellaneous Provisions) (Scotland) Act 1990, Section 41A is up to date with all changes known to be in force on or before 10 July 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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(7) In this section “the court” means the Court of Session.]

**Textual Amendments**

- F1** Ss. 41A, 41B inserted (20.6.2003) by [The Enterprise Act 2002 \(Consequential and Supplemental Provisions\) Order 2003 \(S.I. 2003/1398\)](#), art. 1, **Sch. para. 12(3)**
- F2** Words in s. 41A(1)(2) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), **Sch. 6 para. 50**; S.I. 2014/416, art. 2(1)(d) (with Sch.)

**Changes to legislation:**

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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\(11\)](#)