



# Courts and Legal Services Act 1990

## 1990 CHAPTER 41

### PART II

#### LEGAL SERVICES

##### *The Legal Services Ombudsman*

#### **22 Ombudsman's functions**

- (1) Subject to the provisions of this Act, the Legal Services Ombudsman may investigate any allegation which is properly made to him and which relates to the manner in which a complaint made to a professional body with respect to—
  - (a) a person who is or was an authorised advocate, authorised litigator, licensed conveyancer, registered foreign lawyer, recognised body or duly certificated notary public and a member of that professional body; or
  - (b) any employee of such a person,  
has been dealt with by that professional body.
- (2) If the Ombudsman investigates an allegation he may investigate the matter to which the complaint relates.
- (3) If the Ombudsman begins to investigate an allegation he may at any time discontinue his investigation.
- (4) If the Ombudsman decides not to investigate an allegation which he would be entitled to investigate, or discontinues an investigation which he has begun, he shall notify the following of the reason for his decision—
  - (a) the person making the allegation;
  - (b) any person with respect to whom the complaint was made; and
  - (c) the professional body concerned.
- (5) The Ombudsman shall not investigate an allegation while—
  - (a) the complaint is being investigated by the professional body concerned;

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*Status: This is the original version (as it was originally enacted).*

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- (b) an appeal is pending against the determination of the complaint by that body; or
  - (c) the time within which such an appeal may be brought by any person has not expired.
- (6) Subsection (5) does not apply if—
  - (a) the allegation is that the professional body—
    - (i) has acted unreasonably in failing to start an investigation into the complaint; or
    - (ii) having started such an investigation, has failed to complete it within a reasonable time; or
  - (b) the Ombudsman is satisfied that, even though the complaint is being investigated by the professional body concerned, an investigation by him is justified.
- (7) The Ombudsman shall not investigate—
  - (a) any issue which is being or has been determined by—
    - (i) a court;
    - (ii) the Solicitors Disciplinary Tribunal;
    - (iii) the Disciplinary Tribunal of the Council of the Inns of Court; or
    - (iv) any tribunal specified in an order made by the Lord Chancellor for the purposes of this subsection; or
  - (b) any allegation relating to a complaint against any person which concerns an aspect of his conduct in relation to which he has immunity from any action in negligence or contract.
- (8) The Ombudsman may—
  - (a) if so requested by the Scottish ombudsman, investigate an allegation relating to a complaint made to a professional body in Scotland; and
  - (b) arrange for the Scottish ombudsman to investigate an allegation relating to a complaint made to a professional body in England and Wales.
- (9) For the purposes of this section, an allegation is properly made if it is made—
  - (a) in writing; and
  - (b) by any person affected by what is alleged in relation to the complaint concerned or, where that person has died or is unable to act for himself, by his personal representative or by any relative or other representative of his.
- (10) The Ombudsman may investigate an allegation even though—
  - (a) the complaint relates to a matter which arose before the passing of this Act; or
  - (b) the person making the complaint may be entitled to bring proceedings in any court with respect to the matter complained of.
- (11) In this section—
  - “professional body” means any body which, or the holder of any office who—
    - (a) has disciplinary powers in relation to any person mentioned in subsection (1)(a); and
    - (b) is specified in an order made by the Lord Chancellor for the purposes of this subsection;

“recognised body” means any body recognised under section 9 of the Administration of Justice Act 1985 (incorporated practices) or under section 32 of that Act (incorporated bodies carrying on business of provision of conveyancing services); and

“the Scottish ombudsman” means any person appointed to carry out functions in relation to the provision of legal services in Scotland which are similar to those of the Ombudsman.