

*These notes relate to the Legal Profession and Legal Aid
(Scotland) Act (asp 5) which received Royal Assent on 19 January
2007 (asp 5) which received Royal Assent on 19 January 2007*

LEGAL PROFESSION AND LEGAL AID (SCOTLAND) ACT (ASP 5) WHICH RECEIVED ROYAL ASSENT ON 19 JANUARY 2007

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1 – the Scottish Legal Complaints Commission

Section 24: Investigation under section 23: final report and recommendations

50. **Section 24** requires the Commission on completion of its investigation into a handling complaint to make a written report of its conclusions, and copy the report to the person who made the handling complaint, the relevant professional organisation and the practitioner concerned in the conduct complaint to which the handling complaint relates.
51. The Commission's report may include one or more of the following recommendations:
- (a) that the relevant professional organisation provides to the person making the handling complaint such information about the conduct complaint to which the handling complaint relates, and how it was dealt with, as the Commission considers appropriate;
 - (b) that the conduct complaint be investigated further by the professional organisation;
 - (c) that the conduct complaint be reconsidered by the professional organisation;
 - (d) that the professional organisation consider exercising its powers in relation to the practitioner concerned;
 - (e) that the professional organisation pay compensation of such amount, not exceeding £5000, as the Commission may specify to the person making the handling complaint for loss, inconvenience or distress caused to the person resulting from the way in which the conduct complaint was handled by the organisation (the Scottish Ministers, after consulting (a) the relevant professional organisation and (b) such groups of persons representing consumer interests as they consider appropriate, may vary the maximum level of compensation by affirmative resolution order);
 - (f) that the professional organisation pay to the person making the handling complaint an amount specified by the Commission by way of reimbursement of the cost, or part of the cost, of making the handling complaint.
52. The Commission's report must give its reasons for making particular recommendations. The professional organisation must have regard to the conclusions and

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recommendations set out in the report which relate to it, and within 3 months from
the date on which the report was sent, notify the Commission and the person who
made the handling complaint of (a) the action it has taken either to comply with the
recommendations or in consequence of its further consideration of the matter; and (b)
its reasons for any decision not to comply wholly with a recommendation.

53. Where the professional organisation notifies the Commission of its decision not to comply wholly with a recommendation or the Commission believes that the organisation has not complied wholly with a recommendation by the end of the 3 month period, the Commission may at its discretion direct the organisation to comply with the recommendation in question, after first giving the organisation an opportunity to make representations; and the organisation must comply with the direction. For the purposes of this provision, “recommendation” refers only to the types of recommendation referred to in sub-paragraphs (a), (c), (e) and (f) of paragraph 51 above.