



# Solicitors (Scotland) Act 1980

## 1980 CHAPTER 46

### PART IV

#### COMPLAINTS AND DISCIPLINARY PROCEEDINGS

##### *The Scottish Solicitors' Discipline Tribunal*

#### 50 The Tribunal.

- (1) For the purposes of this Part of this Act [<sup>F1</sup>and sections 16 to 23 (which relate to the provision of conveyancing and executry services) of the 1990 Act] there shall be a tribunal, which shall be known as the Scottish Solicitors' Discipline Tribunal and is in this Act referred to as "the Tribunal".
- (2) Part I of Schedule 4 shall have effect in relation to the constitution of the Tribunal.

#### Textual Amendments

- F1** Words in s. 50(1) inserted (15.8.2003) by [Public Appointments and Public Bodies etc. \(Scotland\) Act 2003 \(asp 4\)](#), ss. 13(a), 21(2)(3); S.S.I. 2003/384, art. 2

#### 51 Complaints to Tribunal.

- (1) A complaint may be made to the Tribunal by the Council; and, for the purpose of investigating and prosecuting complaints, the Council may appoint a solicitor to act as fiscal.
- [<sup>F2</sup>(1A) In subsection (1) above, without prejudice to the generality of that subsection, the reference to a complaint includes a complaint in respect of conveyancing and executry practitioners and the provision by them of conveyancing and executry services (those expressions having the meanings given in section 23 of the 1990 Act).]

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- (2) The persons mentioned in subsection (3) may report to the Tribunal any case where it appears that a solicitor may have been guilty of professional misconduct (including any case where it appears that a solicitor may have been seeking to make extraordinary and apparently unjustified claims against his client [<sup>F3</sup>or against the Scottish Legal Aid Fund]) [<sup>F4</sup>or an incorporated practice may have failed to comply with any provision of this Act or of rules made under this Act applicable to it][<sup>F5</sup>or a solicitor or an incorporated practice may have provided inadequate professional services], and any such report shall be treated by the Tribunal as a complain under subsection (1).
- (3) The persons referred to in subsection (2) are—
- (a) the Lord Advocate;
  - [<sup>F6</sup>(aa) the Advocate General for Scotland]
  - (b) any judge;
  - [<sup>F7</sup>(ba) the Dean of the Faculty of Advocates;]
  - (c) the Auditor of the Court of Session;
  - (d) the Auditor of any sheriff court.
  - [<sup>F8</sup>(e) the Scottish Legal Aid Board.]
  - [<sup>F9</sup>(f) the Scottish legal services ombudsman.]
- [<sup>F10</sup>(4) Where a report is made to the Tribunal under subsection (2) the Tribunal may, if it thinks fit, appoint a solicitor to prosecute the complaint and the expenses of the solicitor, so far as not recoverable from the solicitor complained against, shall be paid out of the funds of the Tribunal.]

#### Textual Amendments

- F2** S. 51(1A) inserted (15.8.2003) by Public Appointments and Public Bodies etc. (Scotland) Act 2003 (asp 4), ss. 13(b), 21(2)(3); S.S.I. 2003/384, art. 2
- F3** Words inserted by Legal Aid (Scotland) Act 1986 (c. 47, SIF 77:2), ss. 43, 45, Sch. 3 para. 8(2), **Sch. 4 para. 3(1)**
- F4** Words inserted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73, SIF 76:2), s. 56, **Sch. 1 Pt. I para. 26**
- F5** Words inserted by Solicitors (Scotland) Act 1988 (c. 42, SIF 76:2), s. 6(1)(3), **Sch. 1 para. 14(a)**
- F6** S. 51(3)(aa) inserted (20.5.1999) by S.I. 1999/1042, arts. 1(2)(b), 4, **Sch. 2 Pt. I para. 7(3)**
- F7** S. 51(3)(ba) inserted (3.6.1991) by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 76:2), s. 74, **Sch. 8 Pt. II para. 29(9)(a)**; S.I. 1991/1252, art. 3, **Sch. 1**
- F8** S. 51(3)(e) inserted by Legal Aid (Scotland) Act 1986 (c. 47, SIF 77:2), ss. 43, 45, Sch. 3 para. 8(3), **Sch. 4 para. 3(1)**
- F9** S. 51(3)(f) substituted (3.6.1991) (for para. (f) added by Solicitors (Scotland) Act 1988 (c. 42, SIF 76:2), s. 6(1), **Sch. 1 para. 14(b)**) by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 76:2), s. 74, **Sch. 8 Pt. II para. 29(9)(b)**; S.I. 1991/1252, art. 3, **Sch. 1**
- F10** S. 51(4) added by Solicitors (Scotland) Act 1988 (c. 42, SIF 76:2), s. 6(1), **Sch. 1 para. 14(c)**

#### Modifications etc. (not altering text)

- C1** S. 51 applied in part (with modifications) (1.10.2004) by The Solicitors (Scotland) Act 1980 (Foreign Lawyers and Multi-national Practices) Regulations (S.S.I. 2004/383), {reg. 13}

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## 52 Procedure on complaints to Tribunal.

- (1) Part II of Schedule 4, shall have effect in relation to the procedure and powers of the Tribunal in relation to any complaint concerning a solicitor [<sup>F11</sup>or an incorporated practice].
- (2) Subject to the other provisions of this Part [<sup>F12</sup>, the provisions of sections 16 to 23 of the 1990 Act], and of any rules of court made under this Act, the Tribunal, with the concurrence of the Lord President, may make rules—
  - (a) for regulating the making, hearing and determining of complaints made to it under this Act; and
  - [<sup>F13</sup>(aa) for regulating the making, hearing and determining of appeals made to it under section 42A(7) or 53D(1);]
  - [<sup>F14</sup>(ab) for regulating the making, hearing and determining of—
    - (i) inquiries under subsection (2A) of section 20 of the 1990 Act; and
    - (ii) appeals under subsection (11)(b) of that section.]
  - (b) generally as to the procedure of the Tribunal (including provision for hearings taking place in public or wholly or partly in private).

### Textual Amendments

- F11** Words inserted by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1985 \(c. 73, SIF 76:2\)](#), s. 56, [Sch. 1 Pt. I para. 27](#)
- F12** Words in s. 52(2) inserted (15.8.2003) by [Public Appointments and Public Bodies etc. \(Scotland\) Act 2003 \(asp 4\)](#), [ss. 13\(c\)\(i\), 21\(2\)\(3\)](#); S.S.I. 2003/384, [art. 2](#)
- F13** S. 52(2)(aa) inserted by [Solicitors \(Scotland\) Act 1988 \(c. 42, SIF 76:2\)](#), s. 6(1), [Sch. 1 para. 15](#)
- F14** S. 52(2)(ab) inserted (15.8.2003) by [Public Appointments and Public Bodies etc. \(Scotland\) Act 2003 \(asp 4\)](#), [ss. 13\(c\)\(ii\), 21\(2\)\(3\)](#); S.S.I. 2003/384, [art. 2](#)

### Modifications etc. (not altering text)

- C2** S. 52 applied by [Legal Aid \(Scotland\) Act 1986 \(c. 47, SIF 77:2\)](#), ss. 31(10), 45, [Sch. 4 para. 2](#)
- C3** S. 52(1) applied (with modifications) (1.10.2004) by [The Solicitors \(Scotland\) Act 1980 \(Foreign Lawyers and Multi-national Practices\) Regulations \(S.S.I. 2004/383\)](#), {reg. 13}
- C4** S. 52(2) modified (1.10.2004) by [The Solicitors \(Scotland\) Act 1980 \(Foreign Lawyers and Multi-national Practices\) Regulations \(S.S.I. 2004/383\)](#), {reg. 14}

## 53 Powers of Tribunal.

- (1) Subject to the other provisions of this Part, the powers exercisable by the Tribunal under subsection (2) shall be exercisable if—
  - (a) after holding an inquiry into a complaint against a solicitor the Tribunal is satisfied that he has been guilty of professional misconduct, or
  - (b) a solicitor has (whether before or after enrolment as a solicitor), been convicted by any court of an act involving dishonesty or has been sentenced to a term of imprisonment of not less than 2 years [<sup>F15</sup>, or
  - (c) an incorporated practice has been convicted by any court of an offence, which conviction the Tribunal is satisfied renders it unsuitable to continue to be recognised under section 34(1A); or
  - (d) after holding an inquiry into a complaint, the Tribunal is satisfied that an incorporated practice has failed to comply with any provision of this Act or of rules made under this Act applicable to it.]

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- (2) Subject to subsection (1), the Tribunal may—
- (a) order that the name of the solicitor be struck off the roll; or
  - (b) order that the solicitor be suspended from practice as a solicitor for such time as it may determine; or
  - <sup>[F16]</sup>(ba) order that any right of audience held by the solicitor by virtue of section 25A be suspended or revoked;]
  - (c) subject to subsection (3), impose on the solicitor <sup>[F17]</sup>or, as the case may be, the incorporated practice] a fine not exceeding <sup>[F18]</sup>£10,000]; or
  - (d) censure the solicitor <sup>[F17]</sup>or, as the case may be, the incorporated practice]; or
  - (e) impose such fine and censure him <sup>[F17]</sup>or, as the case may be, it<sup>[F19]</sup>or
  - (f) order that the recognition under section 34(1A) of the incorporated practice be revoked<sup>[F20]</sup>; or
  - (g) order that an investment business certificate issued to a solicitor, a firm of solicitors or an incorporated practice be—
    - (i) suspended for such time as they may determine; or
    - (ii) subject to such terms and conditions as it may direct; or
    - (iii) revoked.]
- (3) The Tribunal shall not impose a fine under subsection (2)(c) in any of the circumstances mentioned in subsection (1)(b).
- <sup>[F21]</sup>(3A) The powers conferred by subsection (2)(c), (d) and (e) may be exercised by the Tribunal—
- (a) in relation to a former solicitor, notwithstanding that his name has been struck off the roll or that he has, since the date of the misconduct, conviction or sentence referred to in subsection (1)(a) or (b), ceased to practise as a solicitor or been suspended from practice;
  - (b) in relation to a body corporate which was formerly an incorporated practice, notwithstanding that the body has, since the date of the conviction or failure referred to in subsection (1)(c) or (d), ceased to be recognised as an incorporated practice by virtue of section 34(1A).]
- <sup>[F22]</sup>(3B) The power conferred by subsection (2)(ba) may be exercised by the Tribunal either independently of, or in conjunction with, any other power conferred by that subsection.]
- (4) Any fine imposed by the Tribunal under subsection (2) shall be forfeit to Her Majesty.
- (5) Where the Tribunal have exercised the power conferred by subsection (2) to censure, or impose a fine on, a solicitor, or both to censure and impose a fine, the Tribunal may order that the solicitor's practising certificate shall be subject to such terms and conditions as the Tribunal may direct; and the Council shall give effect to any such order of the Tribunal.
- (6) Where the Tribunal order that the name of a solicitor be struck off the roll, or that the solicitor be suspended from practice as a solicitor <sup>[F23]</sup>or that any right of audience held by the solicitor by virtue of section 25A be suspended or revoked], the Tribunal may direct that the order shall take effect on the date on which it is intimated to the solicitor; and if any such direction is given the order shall take effect accordingly.
- <sup>[F24]</sup>(6A) Where the Tribunal order that the recognition under section 34(1A) of an incorporated practice be revoked, the Tribunal shall direct that the order shall take effect on such

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date as the Tribunal specifies, being a date not earlier than 60 days after its order is intimated to the incorporated practice, and such an order shall take effect accordingly.]

[<sup>F25</sup>(6B) Where the Tribunal make an order under subsection (2)(g), they may direct that the order shall take effect on the date on which it is intimated to the solicitor, firm or incorporated practice; and if any such direction is given the order shall take effect accordingly.

(6C) The Council shall give effect to any order of the Tribunal under subsection (2)(g).]

(7) Where in relation to any such order as is mentioned in subsection (6) [<sup>F26</sup>(6A) or (6B)] the Tribunal give a direction under [<sup>F27</sup>subsection (6) or, as the case may be, subsection (6A)] [<sup>F28</sup>or (6B)], and an appeal against the order is taken to the Court under section 54, the order shall continue to have effect pending the determination or abandonment of the appeal unless, on an application under subsection (2) of section 54, the Court, otherwise directs.

[<sup>F29</sup>(7A) In subsection (2)(g), section 53D(1) and paragraph 16(h) of Schedule 4, “investment business certificate” means a certificate issued by the Council under Rule 2.2 of the Solicitors (Scotland) (Conduct of Investment Business) Practice Rules 1988.]

[<sup>F30</sup>(8) The Secretary of State may, by order made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament, amend [<sup>F31</sup>—

(a) paragraph (c) of subsection (2) by substituting for the amount for the time being specified in that paragraph such other amount as appears to him to be justified by a change in the value of money.

[<sup>F32</sup>(b) the definition of “investment business certificate” in subsection (7A) by substituting for the reference to Rule 2.2 of the Solicitors (Scotland) (Conduct of Investment Business) Practice Rules 1988, or such reference replacing that reference as may for the time being be specified in that subsection, a reference to such Practice Rule as may from time to time replace Rule 2.2.]]

#### Textual Amendments

- F15** S. 53(1)(c)(d) inserted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73, SIF 76:2), s. 56, **Sch. 1 Pt. 1 para. 28(a)**
- F16** S. 53(2)(ba) inserted (3.6.1991) by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 76:2), s. 74, **Sch. 8 Pt. 2 para. 29(10)(a)**; S.I. 1991/1252, art. 3, **Sch. 1**
- F17** Words inserted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73, SIF 76:2), s. 56, **Sch. 1 Pt. 1 para. 28(b)**
- F18** ‘£10,000’ in s. 53(2)(c) substituted (3.6.1991) by virtue of Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 76:2), s. 74, **Sch. 8**, Pt. 2 para. 29(10)(b); S.I. 1991/1252, art. 3, **Sch. 1**
- F19** S. 53(2)(f) and the word “or” added by Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73, SIF 76:2), s. 56, **Sch. 1 Pt. 1 para. 28(b)**
- F20** S. 53(2)(g) and “; or” immediately preceding it added by Solicitors (Scotland) Act 1988 (c. 42, SIF 76:2), s. 6(1), **Sch. 1 para. 16(a)**
- F21** S. 53(3A) inserted by Solicitors (Scotland) Act 1988 (c. 42, SIF 76:2), s. 6(1), **Sch. 1 para. 16(b)**
- F22** S. 53(3B) inserted (3.6.1991) by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 76:2), s. 74, **Sch. 8 Pt. 2 para. 29(10)(c)**; S.I. 1991/1252, art. 3, **Sch. 1**
- F23** Words in s. 53(6) inserted (3.6.1991) by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 76:2), s. 74, **Sch. 8 Pt. 2 para. 29(10)(d)**; S.I. 1991/1252, art. 3, **Sch. 1**
- F24** S. 53(6A) inserted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73, SIF 76:2), s. 56, **Sch. 1 Pt. 1 para. 28(c)**
- F25** S. 53(6B)(6C) inserted by Solicitors (Scotland) Act 1988 (c. 42, SIF 76:2), s. 6(1), **Sch. 1 para. 16(c)**

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- F26** Words substituted by [Solicitors \(Scotland\) Act 1988 \(c. 42, SIF 76:2\)](#), s. 6(1), **Sch. 1 para. 16(d)**
- F27** Words substituted by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1985 \(c. 73, SIF 76:2\)](#), s. 56, **Sch. 1 Pt. 1 para. 28(d)**
- F28** Words inserted by [Solicitors \(Scotland\) Act 1988 \(c. 42, SIF 76:2\)](#), s. 6(1), **Sch. 1 para. 16(d)**
- F29** [S. 53\(7A\)](#) inserted by [Solicitors \(Scotland\) Act 1988 \(c. 42, SIF 76:2\)](#), s. 6(1), **Sch. 1 para. 16(e)**
- F30** [S. 53\(8\)](#) added by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1980 \(c. 55, SIF 36:3\)](#), s. 24(a)(ii)
- F31** [S. 53\(8\)](#): “—(a)” inserted by [Solicitors \(Scotland\) Act 1988 \(c. 42, SIF 76:2\)](#), s. 6(1), **Sch. 1 para. 16(f)(i)**
- F32** [S. 53\(8\)\(b\)](#) added by [Solicitors \(Scotland\) Act 1988 \(c. 42, SIF 76:2\)](#), s. 6(1), **Sch. 1 para. 16(f)(ii)**

**Modifications etc. (not altering text)**

- C5** [S. 53](#) applied in part (with modifications) (1.10.2004) by [The Solicitors \(Scotland\) Act 1980 \(Foreign Lawyers and Multi-national Practices\) Regulations \(S.S.I. 2004/383\)](#), reg. 13

VALID FROM 01/10/2008

**[<sup>F33</sup>53ZARemission of complaint by Tribunal to Council**

- (1) Where, after holding an inquiry under section 53(1) into a complaint of professional misconduct against a solicitor, the Tribunal—
- (a) is not satisfied that he has been guilty of professional misconduct;
  - (b) considers that he may be guilty of unsatisfactory professional conduct,
- it must remit the complaint to the Council.
- (2) Where the Tribunal remits a complaint to the Council under subsection (1), it may make available to the Council any of its findings in fact in its inquiry into the complaint under section 53(1).

**Textual Amendments**

- F33** [Ss. 53ZA-53ZC](#) inserted (1.10.2008) by [Legal Profession and Legal Aid \(Scotland\) Act 2007 \(asp 5\)](#), **ss. 53(3)**, 82, (with s. 77); [S.S.I. 2008/311](#), **art. 2**

VALID FROM 01/10/2008

**53ZB Powers of Tribunal on appeal: unsatisfactory professional conduct**

- (1) On an appeal to the Tribunal under section 42ZA(9) the Tribunal—
- (a) may quash or confirm the determination being appealed against;
  - (b) if it quashes the determination, shall quash the censure accompanying the determination;
  - (c) may quash, confirm or vary the direction being appealed against;
  - (d) may, where it considers that the solicitor does not have sufficient competence in relation to any aspect of the law or legal practice, direct the solicitor to undertake such education or training as regards the law or legal practice as the Tribunal considers appropriate in that respect;



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- (e) may, subject to subsection (5), fine the solicitor an amount not exceeding £2000;
  - (f) may, where it considers that the complainer has been directly affected by the conduct, direct the solicitor to pay compensation of such amount, not exceeding £5,000, as it may specify to the complainer for loss, inconvenience or distress resulting from the conduct.
- (2) On an appeal to the Tribunal under section 42ZA(10) the Tribunal—
- (a) may quash the determination being appealed against and make a determination upholding the complaint;
  - (b) if it does so, may, where it considers that the complainer has been directly affected by the conduct, direct the solicitor to pay compensation of such amount, not exceeding £5,000, as it 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 42ZA(11) the Tribunal may, where it considers that the complainer has been directly affected by the conduct, direct the solicitor to pay compensation of such amount, not exceeding £5,000, as it may specify to the complainer for loss, inconvenience or distress resulting from the conduct.
- (4) On an appeal under section 42ZA(12) the Tribunal may quash, confirm or vary the direction being appealed against.
- (5) The Tribunal shall not direct the solicitor to pay a fine under subsection (1)(e) where, in relation to the subject matter of the complaint, the solicitor has been convicted by any court of an act 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) above 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.
- (10) In this section, “complainer” has the same meaning as in section 42ZA.

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**F33** Ss. 53ZA-53ZC inserted (1.10.2008) by [Legal Profession and Legal Aid \(Scotland\) Act 2007 \(asp 5\)](#), [ss. 53\(3\)](#), 82, (with s. 77); [S.S.I. 2008/311](#), [art. 2](#)

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#### **53ZC Enforcement of Council direction: unsatisfactory professional conduct**

Where a solicitor fails to comply with a direction given by the Council under section 42ZA(4) (including such a direction as confirmed or varied on appeal by the Tribunal or, as the case may be, the Court) before the expiry of the period specified in the notice relating to that direction given to him under section 42ZB(1), or such longer period as the Council may allow, the direction shall be 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.]

#### Textual Amendments

**F33** Ss. 53ZA-53ZC inserted (1.10.2008) by [Legal Profession and Legal Aid \(Scotland\) Act 2007 \(asp 5\)](#), [ss. 53\(3\)](#), 82, (with s. 77); [S.S.I. 2008/311](#), [art. 2](#)

#### **[<sup>F34</sup>53A Inadequate professional services: powers of Tribunal.**

- (1) Subject to the other provisions of this Part where—
- (a) a complaint is made to the Tribunal that professional services provided by a solicitor in connection with any matter in which he has been instructed by a client were inadequate; and
  - (b) the Tribunal, after inquiry and after giving the solicitor an opportunity to make representations, upholds the complaint,
- it may take such of the steps mentioned in subsection (2) as it thinks fit.

- (2) The steps referred to in subsection (1) are—
- (a) to determine that the amount of the fees and outlays to which the solicitor shall be entitled for the services shall be—
    - (i) nil; or
    - (ii) such amount as the Tribunal may specify in the determination,
 and by order direct the solicitor to comply, or secure compliance, with such of the requirements set out in subsection (3) as appear to it to be necessary to give effect to the determination;
  - (b) to direct the solicitor to secure the rectification at his own expense of any such error, omission or other deficiency arising in connection with the services as the Tribunal may specify;
    - [<sup>F35</sup>(ba) to order that any right of audience held by the solicitor by virtue of section 25A be suspended or revoked;]
    - (c) to direct the solicitor to take, at his own expense, such other action in the interests of the client as the Tribunal may specify.



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- [<sup>F36</sup>(d) to direct the solicitor to pay the client by way of compensation such sum, not exceeding £1,000, as the Tribunal may specify.]
- (3) The requirements referred to in subsection (2)(a) are—
- (a) to refund, whether wholly or to any specified extent, any amount already paid by or on behalf of the client in respect of the fees and outlays of the solicitor in connection with the services;
  - (b) to waive, whether wholly or to any specified extent, the right to recover those fees and outlays.
- (4) Before making a determination in accordance with subsection (2)(a) the Tribunal may submit the solicitor's account for the fees and outlays to the Auditor of the Court of Session for taxation.
- (5) Where a solicitor in respect of whom a complaint of inadequate professional services is made was, at the time when the services were provided, an employee of another solicitor, a direction under this section shall specify and apply to that other solicitor as well as the solicitor in respect of whom the complaint is made.
- (6) A direction of the Tribunal under this section shall be 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.
- (7) Section 54(1) shall apply to a direction of the Tribunal under this section (but not to a decision to submit an account for taxation under subsection (4)) as it applies to a decision of the Tribunal relating to discipline under this Act.
- (8) In the foregoing provisions of this section “solicitor” and “client” have the same meanings as in section 42A(8).]

#### Textual Amendments

- F34** Ss. 53A–53C inserted by Solicitors (Scotland) Act 1988 (c. 42, SIF 76:2), ss. 3, 6(3)
- F35** S. 53A(2)(ba) inserted (3.6.1991) by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 76:2), s. 74, Sch. 8 Pt. II para. 29(11)(a); S.I. 1991/1252, art. 3, Sch.1
- F36** S. 53A(2)(d) inserted (3.6.1991) by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 76:2), s. 74, Sch. 8 Pt. II para. 29(11)(b); S.I. 1991/1252, art. 3, Sch.1

#### Modifications etc. (not altering text)

- C6** S. 53A applied (with modifications) (1.10.2004) by The Solicitors (Scotland) Act 1980 (Foreign Lawyers and Multi-national Practices) Regulations (S.S.I. 2004/383), {reg. 13}

### [<sup>F37</sup>53B Inadequate professional services: appeal to Tribunal against Council determination or direction.

- (1) On an appeal to the Tribunal under section 42A(7) the Tribunal may quash, confirm or vary the determination or direction being appealed against.
- (2) Section 54(1) shall apply to a decision of the Tribunal under subsection (1) as it applies to a decision of the Tribunal relating to discipline under this Act.]

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**Changes to legislation:** Solicitors (Scotland) Act 1980, Cross Heading: The Scottish Solicitors' Discipline Tribunal is up to date with all changes known to be in force on or before 13 June 2024. 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)

#### Textual Amendments

**F37** Ss. 53A–53C inserted by Solicitors (Scotland) Act 1988 (c. 42, SIF 76:2), ss. 3, 6(3)

#### Modifications etc. (not altering text)

**C7** S. 53B applied (with modifications) (1.10.2004) by The Solicitors (Scotland) Act 1980 (Foreign Lawyers and Multi-national Practices) Regulations (S.S.I. 2004/383), {reg. 13}

### [<sup>F38</sup>53C Inadequate professional services: enforcement by Tribunal of Council direction.

- (1) Where a solicitor fails to comply with a direction given by the Council under section 42A (including, as the case may be, such a direction as confirmed or varied on appeal by the Tribunal or the Court) within the period specified in the notice relating to that direction given to the solicitor under section 42B(1), or such longer period as the Council may allow, the Council shall make a complaint to the Tribunal and may appoint a solicitor to represent them in connection with the complaint.
- (2) If after inquiry into a complaint made under subsection (1) the Tribunal is satisfied that the solicitor has failed to comply with the direction the Tribunal may order that the direction, or such part of it as the Tribunal thinks fit, shall be 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.
- (3) Paragraph 9 of Schedule 4 shall not apply to a complaint made under subsection (1).]

#### Textual Amendments

**F38** Ss. 53A–53C inserted by Solicitors (Scotland) Act 1988 (c. 42, SIF 76:2), ss. 3, 6(3)

#### Modifications etc. (not altering text)

**C8** S. 53B applied (with modifications) (1.10.2004) by The Solicitors (Scotland) Act 1980 (Foreign Lawyers and Multi-national Practices) Regulations (S.S.I. 2004/383), {reg. 13}

### [<sup>F39</sup>53D Suspension etc. of investment business certificates: appeal to Tribunal.

- (1) Where, in accordance with rules made under this Act, the Council suspend or withdraw an investment business certificate or impose conditions or restrictions on it the solicitor, firm of solicitors or incorporated practice to whom it was issued may, within 21 days of the date of intimation of the decision of the Council, appeal to the Tribunal against that decision.
- (2) On an appeal to the Tribunal under subsection (1) the Tribunal may quash, confirm or vary the decision being appealed against.
- (3) Section 54(1) shall apply to a decision of the Tribunal under subsection (2) as it applies to a decision of the Tribunal relating to discipline under this Act.]

#### Textual Amendments

**F39** S. 53D inserted by Solicitors (Scotland) Act 1988 (c. 42, SIF 76:2), s. 6(1), Sch. 1 para. 17

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## 54 Appeals from decisions of Tribunal.

- (1) Any person aggrieved by a decision of the Tribunal relating to discipline under this Act may within 21 days of the date on which the decision of the Tribunal is intimated to [<sup>F40</sup>that person], appeal against the decision to the Court, and on any such appeal the Court may give such directions in the matter as it thinks fit, including directions as to the expenses of the proceedings before the Court and as to any order by the Tribunal relating to expenses; and the order of the Court shall be final.
- (2) Where
  - [<sup>F41</sup>(a)] the Tribunal has exercised the power conferred by section 53(6) to direct that its decision shall take effect on the date on which it is intimated to the solicitor concerned, the solicitor may, within 21 days of that date, apply to the Court for an order varying or quashing the direction in so far as it relates to the date of taking effect [<sup>F42</sup>;
  - (b) the Tribunal has ordered the revocation of the recognition under section 34(1A) of an incorporated practice, the incorporated practice may within 21 days of the date when the order is intimated to it apply to the court for an order varying (subject to the limit of 60 days referred to in subsection (6A) of section 53) the direction under that subsection;]; and on any such application the Court may make the order applied for or such other order with respect to the matter as it thinks fit.

### Textual Amendments

- F40** Words substituted by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1985 \(c. 73, SIF 76:2\)](#), s. 56, [Sch. 1 Pt. I para. 29\(a\)](#)
- F41** “(a)” inserted by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1985 \(c. 73, SIF 76:2\)](#), s. 56, [Sch. 1 Pt. I para. 29\(b\)](#)
- F42** “;” and s. 54(2)(b) inserted by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1985 \(c. 73, SIF 76:2\)](#), s. 56, [Sch. 1 Pt. I para. 29\(b\)](#)

### Modifications etc. (not altering text)

- C9** [S. 54](#) applied (with modifications) (1.10.2004) by [The Solicitors \(Scotland\) Act 1980 \(Foreign Lawyers and Multi-national Practices\) Regulations \(S.S.I. 2004/383\)](#), {reg. 13}

VALID FROM 01/10/2008

### [<sup>F43</sup>54A Appeals from decisions of Tribunal: unsatisfactory professional conduct

- (1) A solicitor in respect of whom a decision has been made by the Tribunal under section 53ZB(1), (2), (3) or (4) may, before the expiry of the period of 21 days beginning with the day on which the decision is intimated to him, appeal to the Court against the decision.
- (2) A complainer may, before the expiry of the period of 21 days beginning with the day on which a decision by the Tribunal under section 53ZB to which this subsection applies is intimated to him, appeal to the Court against the decision.
- (3) Subsection (2) applies to the following decisions of the Tribunal under section 53ZB—

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- (a) a decision under subsection (1)(a) quashing the Council's determination upholding the complaint;
  - (b) a decision under subsection (1)(c) quashing or varying a direction by the Council that the solicitor pay compensation;
  - (c) a decision under subsection (1)(f) directing the solicitor to pay compensation;
  - (d) a decision under subsection (2)(b) not to direct the solicitor to pay compensation;
  - (e) a decision under subsection (2)(c) confirming the Council's decision not to uphold the complaint;
  - (f) a decision under subsection (3) confirming the Council's decision not to direct the solicitor to pay compensation;
  - (g) a decision under subsection (4) quashing the Council's direction that the solicitor pay compensation or varying the amount of compensation directed to be paid.
- (4) On an appeal under subsection (1) or (2), the Court may give such directions in the matter as it thinks fit, including directions as to the expenses of the proceedings before the Court and as to any order by the Tribunal relating to expenses.
- (5) A decision of the Court under subsection (4) shall be final.
- (6) In this section, “complainer” has the same meaning as in section 42ZA.]

#### **Textual Amendments**

**F43** S. 54A inserted (1.10.2008) by [Legal Profession and Legal Aid \(Scotland\) Act 2007 \(asp 5\)](#), **ss. 53(4)**, 82 (with s. 77); S.S.I. 2008/311, **art. 2**

**Status:**

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**Changes to legislation:**

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