

*These notes relate to the Legal Profession and Legal Aid
(Scotland) Act (asp 5) which received Royal Assent on 19 January
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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 39: Monitoring effectiveness of guarantee funds etc.

74. **Section 39** provides that the Commission may monitor the effectiveness of (a) the Scottish Solicitors Guarantee Fund maintained by the Law Society of Scotland, the purpose of which is to compensate any person who suffers pecuniary loss by reason of dishonesty on the part of a Scottish solicitor; (b) professional indemnity insurance arrangements made under section 44(2) of the Solicitors (Scotland) Act 1980 (the current arrangements taking the form of a “Master Policy” the premiums for which are met by Scottish solicitors); and (c) any other funds or arrangements maintained by any relevant professional organisation for purposes analogous to the Guarantee Fund or the professional indemnity arrangements. The Commission has an interest in these arrangements as they are an integral part of the overall mechanisms for providing redress for clients who have suffered as a result of the dishonesty or poor service of a legal practitioner.
75. The power may be used to monitor the turnaround times for the making of settlements from these sources. The Commission may make recommendations to the relevant professional organisation about the effectiveness of such funds or arrangements and may request information from that organisation relevant to its functions under this section. Where a relevant professional organisation fails to provide such information, it is required to give reasons to the Commission in respect of that failure.