

*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 45: Giving of notices etc. under Part 1

81. *Section 45* provides for any notice which is required to be given in writing under Part 1 to be treated as being in writing if it is received in a form which is legible and capable of being used for subsequent reference.
82. If notice is required to be given to any person, it is duly given (i) where the person is not an incorporated practice, if left at or delivered or sent by post to a person's last known place of business or residence; (ii) in the case of an incorporated practice, if it is left at or delivered or sent by post to the registered office of the practice; (iii) where the person is a practitioner who is a firm of solicitors or an incorporated practice, if it is sent to the person by electronic means (but only if the practitioner agrees to that means of sending); (iv) where the person is an individual, if it is sent to the person by electronic means but only if the individual agrees to that means of sending; (v) to any person, if it is given in such other manner as may be prescribed by regulations by the Scottish Ministers.
83. Where notice is sent by electronic means, it is deemed to be delivered on the next working day which follows the day on which the notice is sent, unless the contrary is proved.
84. As explained in paragraph 82, the section also creates a power for the Scottish Ministers to prescribe by regulations other ways of giving notice to any person in addition to those prescribed in subsection (2)(a)(i) to (iv). Subsection (3) clarifies that where notice is required to be given to a person who is not an individual, the regulations may permit the notice to be given to that person by addressing or sending it instead to someone who is appointed by that person to receive the notice or such other person falling within such other categories prescribed in the regulations as appear appropriate to the Scottish Ministers. This provision might for example be used to enable a named complaints partner in a law firm to receive such a notice. "Working day" is defined to mean any day other than a Saturday or Sunday or bank holiday in Scotland.