



Legal Profession and Legal Aid (Scotland) Act 2007

2007 asp 5

PART 1

THE SCOTTISH LEGAL COMPLAINTS COMMISSION

Conduct or services complaints against practitioners

4 Complaint not made timeously or made prematurely

- (1) Where a complaint referred to in section 2(1) is not made timeously, the Commission is not to take the preliminary steps referred to in section 2(4) in relation to it, and is not to take any further action under any other provision of this Part (except this section), in relation to it.
- (2) Where a complaint referred to in section 2(1) is made prematurely, the Commission need not
 - [^{F1}(a) make the determination referred to in section 2(1A)(a) in relation to it;]
 - [^{F2}(b) take the preliminary steps referred to in section 2(4) in relation to it, and]
 - ^{F3} ...
 - [^{F4}(c) take any further action under any other provision of this Part (except this section), in relation to it.]
- (3) For the purposes of subsection (1) [^{F5}or section 9A(3)], a complaint is not made timeously where—
 - (a) rules made under section 32(1) fix time limits for the making of complaints;
 - (b) the complaint is made after the expiry of the time limit applicable to it;
 - (c) the Commission does not extend the time limit in accordance with the rules.
- (4) For the purposes of subsection (2) [^{F6}or section 9A(2)], a complaint is made prematurely where—
 - (a) the complainer has not previously communicated the substance of it to the practitioner, the practitioner's firm or, as the case may be, where the practitioner is an employee of another practitioner that other practitioner

Changes to legislation: Legal Profession and Legal Aid (Scotland) Act 2007, Section 4 is up to date with all changes known to be in force on or before 26 May 2023. 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) View outstanding changes

- (referred to in this Part as the “employing practitioner”) and given the practitioner, the firm or the employing practitioner what the Commission considers is a reasonable opportunity to deal with it;
- (b) rules made under section 32(1) either—
- (i) do not provide for circumstances in which the Commission will take the steps and further action referred to in that subsection; or
 - (ii) do provide for such circumstances but none is applicable in relation to the complaint.
- (5) Where the circumstances referred to in subsection (1) or (2) apply, the Commission must give notice in writing to the complainer and practitioner to that effect.
- (6) Where the circumstances referred to in subsection (2) apply, notice under subsection (5) must specify whether or not the Commission is proceeding to take the preliminary steps referred to in section 2(4).

Textual Amendments

- F1** S. 4(2)(a) inserted (1.1.2015) by [The Scottish Legal Complaints Commission \(Modification of Duties and Powers\) Regulations 2014 \(S.S.I. 2014/232\)](#), regs. 1(2), **2(3)(a)(i)** (with reg. 4)
- F2** Words in s. 4(2) renumbered as s. 4(2)(b) (1.1.2015) by [The Scottish Legal Complaints Commission \(Modification of Duties and Powers\) Regulations 2014 \(S.S.I. 2014/232\)](#), regs. 1(2), **2(3)(a)(ii)** (with reg. 4)
- F3** Words in s. 4(2) omitted (1.1.2015) by virtue of [The Scottish Legal Complaints Commission \(Modification of Duties and Powers\) Regulations 2014 \(S.S.I. 2014/232\)](#), regs. 1(2), **2(3)(a)(iii)** (with reg. 4)
- F4** Words in s. 4(2) renumbered as s. 4(2)(c) (1.1.2015) by [The Scottish Legal Complaints Commission \(Modification of Duties and Powers\) Regulations 2014 \(S.S.I. 2014/232\)](#), regs. 1(2), **2(3)(a)(iv)** (with reg. 4)
- F5** Words in s. 4(3) inserted (1.1.2015) by [The Scottish Legal Complaints Commission \(Modification of Duties and Powers\) Regulations 2014 \(S.S.I. 2014/232\)](#), regs. 1(2), **2(3)(b)** (with reg. 4)
- F6** Words in s. 4(4) inserted (1.1.2015) by [The Scottish Legal Complaints Commission \(Modification of Duties and Powers\) Regulations 2014 \(S.S.I. 2014/232\)](#), regs. 1(2), **2(3)(c)** (with reg. 4)

Changes to legislation:

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Sch. 1 para. 2(6)(ba) inserted by [2010 asp 16 s. 118\(4\)](#)