

LEGAL SERVICES (SCOTLAND) ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2 – Regulation of Licensed Legal Services

Chapter 3 – Further Provision

Complaints

Section 79 – Complaints about regulators

164. *Section 79* requires that complaints against approved regulators must be made to the SLCC. The SLCC is responsible for determining the nature of the complaint and whether it is “frivolous, vexatious or totally without merit”. If the Commission determines that a complaint is frivolous, vexatious or totally without merit it is not required to take further action and must notify the complainer and the approved regulator. Complaints about how an approved regulator has dealt with a regulatory complaint are to be investigated by the Commission by virtue of section 57D(1) of the Legal Profession and Legal Aid (Scotland) Act 2007 (as inserted by section 81 of the Act). All other categories of complaint must be referred by the Commission to the Scottish Ministers and the Scottish Ministers must investigate any complaint that is referred to them.
165. Subsection (5) requires the Scottish Ministers to notify the complainers and the approved regulator if the complaint is not investigated or not upheld and give reasons for their decision. Subsection (6) requires the Scottish Ministers to notify both parties concerned if the complaint is upheld and give reasons for their decision. They may decide to take any of the measures or sanctions open to them (see section 38), including direction, censure or ultimately rescinding authorisation. Subsection (7) allows the Scottish Ministers to delegate the function of investigating a complaint on their behalf to the SLCC. Subsection (8) allows the Scottish Ministers to make further provision about complaints by regulations.