

2007 No. 497 (C. 41)

LEGAL PROFESSION

**The Legal Profession and Legal Aid (Scotland) Act 2007
(Commencement No. 4) Order 2007**

Made - - - -

5th November 2007

The Scottish Ministers make the following Order in exercise of the powers conferred by section 82(2) of the Legal Profession and Legal Aid (Scotland) Act 2007(a).

Citation

1. This Order may be cited as the Legal Profession and Legal Aid (Scotland) Act 2007 (Commencement No. 4) Order 2007.

Appointed day

2. 23rd November 2007 is the appointed day for the coming into force of the following provisions of the Legal Profession and Legal Aid (Scotland) Act 2007:—

- (a) section 1, in so far as not already commenced;
- (b) sections 27, 29, 30, 31, 32, 34, 39, 41, 58, 59, 60, 62, 63 and 78;
- (c) section 81, so far as relating to paragraph 1(15) and (16) and paragraph 6 of schedule 5;
- (d) paragraphs 8 to 11, 13, 15 and 16 of schedule 1;
- (e) schedule 3; and
- (f) paragraph 1(15) and (16) and paragraph 6 of schedule 5.

KENNY MACASKILL

A member of the Scottish Executive

St Andrew's House,
Edinburgh
5th November 2007

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force on 23rd November 2007 various provision of the Legal Profession and Legal Aid (Scotland) Act 2007 (“the Act”).

Article 2(a) and (d) commences section 1 (in part) and various paragraphs of schedule 1 (the Scottish Legal Complaints Commission (“the Commission”)) of the Act. Section 1 introduces schedule 1 and is commenced only for the purposes of the remaining paragraphs of schedule 1 that are being commenced. These provide for the appointment of a Chief Executive of the Commission and of other staff. The Chief Executive is to be the accountable officer for the Commission. Provision is made for the procedure of the Commission, for the establishment of committees, for its general powers and for delegation of functions. The Commission must keep proper accounts (to be audited by the Auditor General for Scotland) and publish an Annual Report which is to be laid before Parliament by the Scottish Ministers.

Article 2(b) commences a number of sections.

- sections 27 and 29 provide for the setting and collection of the annual general levy and the preparation of a proposed budget for each financial year. Sections 30 and 31 allow Scottish Ministers to make grants or loans to the Commission or to provide guarantees in relation to sums borrowed by the Commission.
- Section 32 and schedule 3 make provision regarding rules as to the Commission’s practice and procedure. Schedule 3 is commenced by article 2(e).
- Section 34(1) provides that the Commission must provide advice regarding the process of making a complaint.
- Section 39 allows the Commission to monitor the Scottish Solicitors Guarantee Fund and any professional indemnity arrangements.
- Sections 41 and 78 provide Scottish Ministers with order-making powers to amend the duties and powers of the Commission and to make ancillary provisions necessary or expedient for giving full effect to the Act.
- Section 58 makes amendments to the constitution of the Scottish Solicitors Discipline Tribunal.
- Section 59 increases the borrowing limit available to the Law Society of Scotland in respect of the Guarantee Fund from £20,000 to £1.25 million.
- Section 60 amends the Solicitors (Scotland) Act 1980 in relation to safeguarding the interests of clients. Sections 62 and 63, respectively, provide that notaries public must be practising solicitors and for the Council of the Law Society of Scotland to make rules regarding notaries public.

Article 2(c) and (f) commences section 81 (in part) and paragraphs 1(15) and (16) and 6 of schedule 5 (minor and consequential modifications) to the Act.

Section 81 introduces schedule 5 and is commenced only for the purposes of paragraph 1(15) and (16) and paragraph 6. Paragraph 1(15) and (16) makes minor amendments to provisions of the Solicitors (Scotland) Act 1980 regarding the safeguarding of clients interests. Paragraph 6 amends the Public Appointments and Public Bodies etc. (Scotland) Act 2003 to add the Commission to the list of specified authorities in schedule 2 to that Act. The effect is that the Commission will fall within the remit of the Office of the Public Appointments Commissioner for Scotland.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

The following provisions of the Act have been brought into force by commencement order made before the date of this Order:–

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Sections 69(1), (2)(a) and (4), 71, 73 and 76.	8th February 2007	2007/57
Section 1 so far as relating to paragraphs 1 to 7, 12 and 14 of schedule 1, sections 44 and 61, section 81 so far as relating to paragraph 3(10) of schedule 5, paragraphs 1 to 7, 12 and 14 of schedule 1, paragraph 3(10) of schedule 5.	19th March 2007	2007/140
Sections 67, 68 and 74.	30th July 2007	2007/335

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£3.00

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