Regulation of Legal Services (Scotland) Bill

2nd Groupings of Amendments for Stage 2

This document provides procedural information which will assist in preparing for and following proceedings on the above Bill. The information provided is as follows:

- the list of groupings (that is, the order in which amendments will be debated). Any procedural points relevant to each group are noted;
- a list of any amendments already debated;
- the text of amendments to be debated on the day of Stage 2 consideration, set out in the order in which they will be debated. **THIS LIST DOES NOT REPLACE THE MARSHALLED LIST, WHICH SETS OUT THE AMENDMENTS IN THE ORDER IN WHICH THEY WILL BE DISPOSED OF.**

Groupings of amendments

Complaints: constitution etc. of Scottish Legal Complaints Commission
312, 335, 336, 337, 339, 340, 341, 342, 343, 344, 345, 346, 438, 439, 440, 441, 538, 443, 444, 445, 446, 447, 539, 448, 540, 467, 499, 523

Notes on amendments in this group
Amendment 335 is pre-empted by amendment 578 in the group "Complaints: ineligible or premature complaints"

Complaints: minor and consequential amendments
313, 314, 315, 317, 318, 320, 330, 356, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 381, 449, 451, 460, 471, 474, 475, 476, 477, 479, 480, 482, 483, 485, 486, 487, 488, 489, 490, 491, 492, 493, 495, 496, 497, 498, 500

Complaints: ineligible or premature complaints
557, 558, 559, 560, 643, 563, 316, 564, 565, 571, 573, 578, 582, 590, 605, 640

Notes on amendments in this group
Amendment 578 pre-empts amendment 335 in the group "Complaints: constitution etc. of Scottish Legal Complaints Commission"

Services complaints: notice where not upheld or upheld
572

Disclosure of information about complaints
524, 338, 526, 527, 533, 534, 535, 536, 536A, 484, 494

Services complaints: procedure etc.
319, 331, 332, 333, 334, 450, 481

Conduct and regulatory complaints: procedure etc.
525, 322, 323, 324, 325, 326, 327, 328, 329, 386, 387, 388, 389, 390, 529, 530, 531, 392, 393, 394, 532, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437

Complaints: disclosure of information from/about practitioners
347, 348, 349, 350, 351, 352, 644, 645, 353, 354, 355, 357, 358, 359, 360, 361, 650

Unregulated providers of legal services: voluntary register and resources
646, 372, 647, 648, 649, 373, 374

Complaints: Commission rules as to practice and procedure
528, 375, 376, 377, 378, 379, 380, 382, 383, 384, 385

Complaints: monitoring and minimum standards
395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 414, 415, 416, 417, 418, 419, 420, 421, 422, 537

Review of Act
637

Removal of practising restrictions: law centres, citizen's advice bodies and charities
452, 453, 454

Safeguarding of clients by Law Society of Scotland
638

Regulation by Law Society of Scotland: conduct and regulatory complaints
468, 469, 470, 472, 478

Miscellaneous: other modifications of enactments
473, 501, 502, 506, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521

Powers of Law Society of Scotland relating to conditions upon or suspension from practice
503, 504, 505

Amendments already debated

Regulatory framework: minor and consequential amendments
With 47 - 412, 413, 461, 462, 463, 464, 465, 466, 507, 522

Regulatory framework: powers to oversee regulators
With 68 - 459

Offences
With 250 - 455, 456, 457, 458

Regulation of legal businesses
With 271 - 641

Safeguarding of clients by Law Society of Scotland
With 27 - 639, 508

Amendments in debating order

Complaints: constitution etc. of Scottish Legal Complaints Commission

Siobhian Brown

312 Leave out section 51

Siobhian Brown

335 In section 57, page 44, line 40, at end insert—

<( ) after paragraph (a) insert—

"(aa) a decision under section 2A(1) to initiate a complaint to be taken only by—

(i) any of its committees, or

(ii) one of the Commission's members,",>

Siobhian Brown

336 In section 57, page 44, line 41, at end insert—

<( ) after paragraph (c), insert—

"(ca) the making of any decision on the disclosure of information under section 41A to be exercised only by one of the Commission's members,",>

Siobhian Brown

337 In section 57, page 45, line 4, leave out <24(2)> and insert <24(6)>

Siobhian Brown

339 In section 58, page 46, line 3, leave out <is or>

Siobhian Brown

340 In section 58, page 46, leave out lines 5 to 10 and insert—

<(b) a determination that a complaint referred to in section 2(1) or 2A(1) is a conduct complaint,

(c) a determination that a complaint referred to in section 2(1) or 2A(1) is a regulatory complaint,>

Siobhian Brown

341 In section 58, page 46, line 16, at end insert—

<(ga) a decision not to initiate the investigation of a services complaint (and not to determine it under section 9(1)) in accordance with section 9(6)(a),

(gb) a decision to discontinue the investigation of a services complaint (and not to determine it under section 9(1)) in accordance with section 9(6)(b),>

Siobhian Brown

342 In section 58, page 46, line 17, leave out <10(1)> and insert <10(2)>

Siobhian Brown

343 In section 58, page 46, line 19, after <practitioner> insert <or the employing practitioner (as the case may be)>

Siobhian Brown

344 In section 58, page 46, line 24, leave out from beginning to <(3),> in line 29

Siobhian Brown

345 In section 58, page 47, line 18, leave out <is or>

Siobhian Brown

346 In section 58, page 47, leave out lines 20 to 25 and insert—

<(ii) a determination that a complaint referred to in section 2(1) or 2A(1) is a conduct complaint,

(iii) a determination that a complaint referred to in section 2(1) or 2A(1) is a regulatory complaint,>

Siobhian Brown

438 In section 73, page 69, line 23, leave out <Services> and insert <Complaints>

Siobhian Brown

439 In section 74, page 70, line 7, at end insert—

<( ) in sub-paragraph (1)(b), for "8" substitute "at least 8 but no more than 20",>

Siobhian Brown

440 In section 74, page 70, line 8, before <4> insert <at least>

Siobhian Brown

441 In section 74, page 70, line 9, leave out <for "3" substitute "4"> and insert <after "be" insert "at least">

Siobhian Brown

538 *In substitution for amendment 442—*

In section 74, page 70, line 9, at end insert—

<( ) sub-paragraphs (5), (7) and (9) are repealed,

( ) in sub-paragraph (8), after "of lawyer members" insert ", but the number of non-lawyer members must not exceed the number of lawyer members by more than three".>

Siobhian Brown

443 In section 74, page 70, line 11, leave out <"8"> and insert <"not less than 5 years and not exceeding 8">

Siobhian Brown

444 In section 74, page 70, leave out line 12 and insert—

<( ) sub-paragraph (5) is repealed.>

Siobhian Brown

445 In section 75, page 70, line 14, leave out <Schedule 1 of>

Siobhian Brown

446 In section 75, page 70, line 14, at end insert—

<( ) In section 41 (power by regulations to amend duties and powers of Commission), after subsection (1)(a) insert—

"(aa) the independent advisory panel established under paragraph 11A of schedule 1,".>

Siobhian Brown

447 In section 75, page 70, line 15, at beginning insert <In schedule 1,>

Maggie Chapman

539 In section 75, page 70, line 15, after <11A> insert <—

( )>

Siobhian Brown

448 In section 75, page 70, line 20, at end insert—

<(da) to make recommendations to the Lord President relating to any of the Lord President's functions conferred under or by virtue of the 2023 Act,>

Maggie Chapman

540 In section 75, page 70, line 24, at end insert—

<( ) after sub-paragraph (3) insert—

"(4) The Commission must ensure that the panel is adequately funded and resourced to be able to discharge its functions.".>

Siobhian Brown

467 In schedule 3, page 104, line 16, leave out paragraphs 8 to 22

Siobhian Brown

499 In schedule 3, page 110, line 22, leave out <Services> and insert <Complaints>

Siobhian Brown

523 In section 91, page 77, line 18, leave out <Services> and insert <Complaints>

Complaints: minor and consequential amendments

Siobhian Brown

313 In section 52, page 38, line 30, leave out <attached to the grant> and insert <imposed in relation to the authorisation>

Siobhian Brown

314 In section 52, page 40, leave out lines 2 to 22

Siobhian Brown

315 After section 52, insert—

<Complaints initiated by, or continued by, the Commission

(1) The 2007 Act is amended as follows.

(2) After section 2, insert—

"2A Complaints initiated by the Commission

(1) In addition to receiving a conduct complaint or a regulatory complaint mentioned in section 2(1), the Commission may itself initiate a complaint against a practitioner which, had it been received from a person mentioned in section 2(2), would be a conduct complaint or a regulatory complaint.

(2) Section 2(1A) applies to a complaint under subsection (1) as it applies to a complaint referred to in section 2(1).

(3) References in this Part (other than in this section) and in sections 47 to 52B to a conduct complaint or a regulatory complaint include references to a conduct complaint or a regulatory complaint that is initiated by the Commission under subsection (1).

(4) The Commission may not initiate a complaint under subsection (1) if it would not be an eligible complaint in accordance with any provision in rules made under section 32(1).".>

Siobhian Brown

317 In section 54, page 41, line 11, after <2(1)> insert <or 2A(1)>

Siobhian Brown

318 In section 54, page 42, line 3, leave out first <negotiated>

Siobhian Brown

320 In section 55, page 42, line 16, after <2(1)> insert <or 2A(1)>

Siobhian Brown

330 In section 55, page 43, leave out lines 9 to 21

Siobhian Brown

356 In section 61, page 49, line 33, after <2(1)> insert <or 2A(1)>

Siobhian Brown

362 In section 63, page 51, line 21, at end insert—

<( ) the title of the section becomes "**Handling by relevant professional organisations of conduct or regulatory complaints: investigation by Commission**",>

Siobhian Brown

363 In section 63, page 52, line 5, at end insert—

<( ) after subsection (4) insert—

"(4A) But paragraph (b) of subsection (4) does not apply where the Commission considers that there are exceptional circumstances justifying its investigation of a handling complaint that is made after the expiry of the 6 month period referred to in that paragraph.",>

Siobhian Brown

364 In section 63, page 52, leave out line 6

Siobhian Brown

365 In section 63, page 52, line 7, leave out <subsection (10) is> and insert <subsections (8) and (10) are>

Siobhian Brown

366 In section 63, page 52, leave out lines 9 and 10

Siobhian Brown

367 In section 63, page 52, leave out lines 13 and 14

Siobhian Brown

368 In section 63, page 52, leave out lines 18 to 35 and insert—

<( ) in paragraph (e), after "conduct complaint" insert "or regulatory complaint",

( ) in paragraph (f), before "cost", in both places where it occurs, insert "administrative",

( ) in subsection (5)—

(i) after "conduct complaint" insert "or regulatory complaint",

(ii) for the words from "of—" to the end of the subsection, substitute "whether it will comply with the recommendation within 3 months and, if not, the reason why not.",

( ) in subsection (6)—

(i) in paragraph (a)—

(A) for "has decided not to" substitute "will not",

(B) the word "wholly" is repealed,

(ii) in paragraph (b)—

(A) the word "wholly" is repealed,

(B) for "before the end of the period of" substitute "within",

(C) the words from "beginning" to the end of paragraph (b) are repealed,

(iii) in the closing words, for "if the Commission thinks fit" substitute "within such period as it may specify in the direction",

( ) in subsection (6A)—

(i) for "considers" substitute "notifies the Commission",

(ii) the word "wholly" is repealed,

( ) in subsection (6B)(b), after "conduct complaint" insert "or regulatory complaint",

( ) after subsection (8) insert—

"(9) In this section, "within 3 months", in relation to a recommendation included in a report sent to a relevant professional organisation under this section, means before the end of the period of 3 months beginning with the day on which the report was sent to the organisation.

(10) In this section and schedule 3, "the other party to the conduct complaint or regulatory complaint to which the handling complaint relates" is in the case of a handling complaint made in accordance with—

(a) paragraph (a)(ii)(A) of section 23(1A), the practitioner concerned in the conduct complaint to which the handling complaint relates,

(b) paragraph (b)(ii)(A) of section 23(1A), the authorised legal business concerned in the regulatory complaint to which the handling complaint relates,

(c) paragraph (a)(ii)(B) or (b)(ii)(B) of section 23(1A), the complainer in the conduct complaint or regulatory complaint to which the handling complaint relates.".>

Siobhian Brown

369 In section 63, page 52, line 36, leave out subsection (4)

Siobhian Brown

370 In section 64, page 53, line 26, leave out <attributed> and insert <attributable>

Siobhian Brown

371 In section 64, page 54, line 12, leave out <attributed> and insert <attributable>

Siobhian Brown

381 In section 66, page 58, line 16, after <2(1)> insert <or 2A(1)>

Siobhian Brown

449 In section 76, page 70, line 36, leave out <24(2)> and insert <24(6)>

Siobhian Brown

451 In section 77, page 71, line 9, leave out <2> and insert <2A>

Siobhian Brown

460 In section 87, page 75, line 24, leave out <Schedule 3 contains> and insert <Parts 3A and 4 of schedule 3 contain>

Siobhian Brown

471 In schedule 3, page 106, line 21, at end insert—

<*Publication of decisions*

(1) Schedule 4 of the 1980 Act (constitution, procedure and powers of Tribunal) is amended as follows.

(2) In paragraph 14, the words "and shall, subject to paragraph 14A, be published in full" are repealed.

(3) After paragraph 14, insert—

"14ZA The Tribunal must publish—

(a) a decision under section 53(1)(a) as respects a conduct complaint suggesting professional misconduct,

(b) a decision under section 53ZB(1) or (2) where the determination or direction being appealed against has been published by the Council,

(c) a decision under section 53ZD(1),

(d) a decision under section 53ZE(1) or (2) where the determination or decision being appealed against has been published by the Council.

14ZB The Tribunal may publish any other decision of the Tribunal.".

(4) For paragraph 14A substitute—

"14A In publishing a decision under paragraph 14ZA or 14ZB the Tribunal must not publish any information about persons, other than the solicitor against whom the complaint was made, unless the Tribunal considers that it is in the public interest to do so.".>

Siobhian Brown

474 In schedule 3, page 107, line 11, at end insert—

<( ) In section 17 (conveyancing practitioners), subsection (8)(d) is repealed.>

Siobhian Brown

475 In schedule 3, page 107, line 12, after <etc.)> insert <—

( )>

Siobhian Brown

476 In schedule 3, page 107, line 13, leave out <the words "or 15(5)(a)" are repealed> and insert <for "6(2)(a) or 15(5)(a) of the 2007 Act" substitute "6(2) of the 2007 Act (or treated as having been so remitted by virtue of section 33A(2) of that Act)",>

Siobhian Brown

477 In schedule 3, page 107, line 13, at end insert—

<( ) subsection (2)(ca) is repealed,

( ) subsection (2ZB) is repealed,

( ) subsection (2B)(aa) is repealed,

( ) for subsection (4) substitute—

"(4) Any fine imposed under subsection (2)(cb) or (2B)(b) is payable to the Scottish Ministers.",

( ) subsection (6) is repealed,

( ) subsection (7) is repealed,

( ) subsections (11ZA) to (11ZC) are repealed,

( ) subsections (11B) to (11E) are repealed,

( ) subsection (11G) is repealed,

( ) subsection (11H) is repealed.

( ) Section 20ZA (remission of complaint by Tribunal to Council) is repealed.>

Siobhian Brown

479 In schedule 3, page 107, line 24, at end insert—

<( ) In section 3 (existence of specified regulatory scheme), in subsection (1), after "2(1)" insert "or 2A(1)".>

Siobhian Brown

480 In schedule 3, page 107, line 29, leave out <, subject to> and insert <and>

Siobhian Brown

482 In schedule 3, page 107, leave out lines 34 and 35

Siobhian Brown

483 In schedule 3, page 108, line 12, at end insert—

<( ) in subsection (3)(b), for "incorporated practice of which the practice" substitute "authorised legal business of which the business",>

Siobhian Brown

485 In schedule 3, page 108, leave out line 29

Siobhian Brown

486 In schedule 3, page 108, line 29, at end insert—

<( ) In section 45 (giving of notices etc. under Part 1), in subsection (2)(a)—

(a) in sub-paragraph (ii)—

(i) for "incorporated practice" substitute "authorised legal business",

(ii) for "practice's registered office" substitute "business's principal place of business",

(b) in sub-paragraph (iii), for "a firm of solicitors or an incorporated practice" substitute "an authorised legal business".>

Siobhian Brown

487 In schedule 3, page 109, line 5, leave out second <legal> and insert <professional>

Siobhian Brown

488 In schedule 3, page 109, line 10, leave out <legal> and insert <professional>

Siobhian Brown

489 In schedule 3, page 109, line 32, leave out from <(except> to end of line 33 and insert <—

(a) in relation to an authorised legal business, has the meaning given by section 2(1)(c),

(b) in relation to a licensed legal services provider (within the meaning of section 47 of the Legal Services (Scotland) Act 2010), has the meaning given by section 57A(4A)(a),",>

Siobhian Brown

490 In schedule 3, page 110, line 10, leave out <"such rules"> and insert <"section 33(4) and any rules made under section 32(1)">

Siobhian Brown

491 In schedule 3, page 110, leave out line 11

Siobhian Brown

492 In schedule 3, page 110, line 11, at end insert—

<( ) in subsection (4), for "52" substitute "52B".>

Siobhian Brown

493 In schedule 3, page 110, line 11, at end insert—

<( ) In section 48 (conduct complaints and reviews: power of relevant professional organisations to examine documents and demand explanations), in subsection (1), in the opening words—

(a) after "section 47" insert "or a regulatory complaint under section 52B,",

(b) for "a conduct", where it second occurs, substitute "such a".

( ) The title of section 48 becomes "**Conduct complaints, regulatory complaints and reviews: power of relevant professional organisations to examine documents and demand explanations**".

( ) In section 49 (conduct complaints: financial impropriety), in subsection (1), after "section 47" insert "or a regulatory complaint under section 52B".

( ) The title of section 49 becomes "**Conduct complaints and regulatory complaints: financial impropriety**".

( ) In section 51 (powers in relation to documents and information from third parties), in subsection (1)—

(a) after "section 47" insert "or a regulatory complaint under section 52B,",

(b) for "a conduct", where it second occurs, substitute "such a".>

Siobhian Brown

495 In schedule 3, page 110, line 11, at end insert—

<( ) In section 52 (restriction upon disclosure of information: relevant professional organisations), in subsection (2)(a), after "complaint" insert "or a regulatory complaint".>

Siobhian Brown

496 In schedule 3, page 110, line 11, at end insert—

<( ) In section 57A (complaints about licensed providers)—

(a) in subsection (2), for the words "and (4)" substitute "to (4A)",

(b) in subsection (4), paragraph (b) is repealed,

(c) after subsection (4) insert—

"(4A) In relation to a regulatory complaint about a licensed provider—

(a) a regulatory complaint is where any person suggests that the licensed provider is failing (or has failed) to—

(i) have regard to the regulatory objectives,

(ii) adhere to the professional principles,

(iii) comply with the approved regulator's regulatory scheme,

(iv) comply with the terms and conditions of its licence, and

(b) its approved regulator is to be regarded as the relevant professional organisation.",

(d) subsection (5) is repealed.

( ) Section 57B (regulatory complaints) is repealed.

( ) In section 57C (levy, advice and guidance)—

(a) in subsection (2), after the words "28(1)" insert "to the extent it relates to the annual general levy and the complaints levy",

(b) subsections (4) and (5) are repealed,

(c) the title of the section becomes "Levy".

( ) In section 57E (handling complaints), in subsection (1), after "conduct complaint" insert "or a regulatory complaint".>

Siobhian Brown

497 In schedule 3, page 110, line 11, at end insert—

<( ) In section 78 (ancillary provision), in subsection (1), for "of" where it second occurs substitute "made under".>

Siobhian Brown

498 In schedule 3, page 110, line 20, leave out <In the 2010 Act> and insert—

<( ) The 2010 Act is amended as follows.

( ) In section 19 (financial sanctions)—

(a) in subsection (1)—

(i) the words from "the" to the end of the subsection become paragraph (a),

(ii) after that paragraph, insert—

"(b) the withdrawal of the imposition of a financial penalty if the regulator considers that it would not be reasonable to seek (or to continue to seek) payment of the financial penalty.",

(b) for subsection (2) substitute—

"(2) The Scottish Ministers may by regulations specify the maximum amount of a financial penalty that may be imposed by virtue of subsection (1).",

(c) after subsection (5) insert—

"(6) Before making regulations under subsection (2), the Scottish Ministers must consult—

(a) each approved regulator, and

(b) such other person or body as the Scottish Ministers consider appropriate.

(7) Regulations under subsection (2) may not be made without the agreement of the Lord President.".

( ) In section 38 (measures open to Ministers), in subsection (6), the words "except paragraph (d)" are repealed.

( )>

Siobhian Brown

500 In schedule 3, page 110, line 22, at end insert—

<( ) In schedule 4 (financial penalties), paragraphs 8 to 10 are repealed.>

Complaints: ineligible or premature complaints

Paul O'Kane

557 In section 52, page 39, line 15, after <complaints> insert <—

( )>

Paul O'Kane

558 In section 52, page 39, line 21, at end insert—

<( ) take the preliminary steps mentioned in subsection (4).>

Paul O'Kane

559 In section 52, page 40, leave out line 1

Paul O'Kane

560 In section 52, page 40, line 1, at end insert—

<( ) in subsection (4), in paragraph (a), the word "totally" is repealed,>

Paul O'Kane

643 *In substitution for amendment 562—*

In section 53, page 40, line 26, leave out subsections (2) to (5)

Paul O'Kane

563 In section 53, page 41, leave out line 3

Siobhian Brown

316 In section 53, page 41, line 5, at end insert—

<( ) paragraph (b) is repealed.>

Paul O'Kane

564 In section 54, page 41, line 13, after <complaint> insert <, and

(c) proceeds to determine under section 2(4) whether the complaint is frivolous, vexatious or without merit and determines that it is none of these things>

Paul O'Kane

565 In section 54, page 41, line 31, at end insert—

<(aa) proceeds to determine under section 2(4) whether the complaint is frivolous, vexatious or without merit and determines that it is none of these things, and>

Paul O'Kane

571 In section 54, page 42, line 7, leave out subsection (6) and insert—

<( ) In section 9A (services complaint: further provision)—

(a) in subsection (1), in paragraph (c), the word "totally" is repealed,

(b) in subsection (4), the word "totally" is repealed.>

Paul O'Kane

573 In section 55, page 42, line 18, after <complaint> insert <, and

(c) proceeds to determine under section 2(4) whether the complaint is frivolous, vexatious or without merit and determines that it is none of these things>

Paul O'Kane

578 In section 57, page 44, leave out lines 40 and 41

Paul O'Kane

582 In section 58, page 46, line 3, after <with> insert <section 2(4) or>

Paul O'Kane

590 In section 58, page 47, line 18, after <with> insert <section 2(4) or>

Paul O'Kane

605 In section 66, page 56, line 35, after <criteria> insert <under paragraph (a) or section 2(4)>

Paul O'Kane

640 In schedule 3, page 107, leave out lines 23 and 24

Services complaints: notice where not upheld or upheld

Paul O'Kane

572 In section 54, page 42, line 8, leave out subsection (7)

Disclosure of information about complaints

Stuart McMillan

524 In section 54, page 42, line 8, at end insert—

<( ) Section 13 (services complaint: reports) is repealed.>

Siobhian Brown

338 In section 58, page 45, line 8, leave out subsection (2)

Stuart McMillan

526 Leave out section 59

Stuart McMillan

527 In section 62, page 50, leave out line 22

Stuart McMillan

533 After section 71, insert—

<Power to disclose information about complaints: Commission

(1) The 2007 Act is amended as follows.

(2) After section 41, insert—

"41A Power to disclose information about complaints: Commission

(1) The Commission may, if it considers it to be in the public interest, disclose information about any conduct complaint, regulatory complaint, services complaint or handling complaint, including—

(a) information that identifies or is likely to identity any person to whom the complaint relates,

(b) information about the investigation or resolution of the complaint,

(c) information about any outcomes resulting from the complaint.

(2) But information that, in the opinion of the Commission, identifies or is likely to identify the complainer may not be disclosed under subsection (1) unless the complainer consents to its disclosure.".>

Stuart McMillan

534 After section 71, insert—

<Restriction on disclosure of information: Commission

(1) The 2007 Act is amended as follows.

(2) In section 43 (restriction upon disclosure of information: Commission)—

(a) after subsection (3)(a) insert—

"(aa) for the purpose of enabling or assisting a regulatory body to exercise any of the body's functions,",

(b) after subsection (4) insert—

"(4A) In subsection (3)(aa), "regulatory body" means any regulatory body as the Scottish Ministers may by regulations specify.

(4B) Regulations under subsection (4A) may—

(a) include transitional, transitory or saving provision,

(b) make different provision for different purposes.

(4C) Before making regulations under subsection (4A), the Scottish Ministers must—

(a) consult—

(i) any regulatory body that is proposed to be specified by the regulations,

(ii) the Lord President,

(iii) the Commission,

(iv) the independent advisory panel established under paragraph 11A of schedule 1,

(v) each category 1 and category 2 regulator,

(vi) each approved regulator within the meaning of Part 2 of the Legal Services (Scotland) Act 2010,

(b) publish a report describing—

(i) the consultation carried out,

(ii) any representations received in response to the consultation, and

(iii) the changes (if any) to the proposals as a result of the representations, and

(c) confirm that the Lord President agrees with the proposal to make the regulations.".>

Siobhian Brown

535 After section 71, insert—

<Power to disclose information about complaints: relevant professional organisations

(1) The 2007 Act is amended as follows.

(2) After section 51, insert—

"51A Power to disclose information about complaints: relevant professional organisations

(1) A relevant professional organisation may, if it considers it to be in the public interest, disclose information about any relevant conduct or regulatory complaint including—

(a) information that identifies or is likely to identity a person to whom the complaint relates,

(b) information about the investigation or resolution of the complaint,

(c) information about any outcomes resulting from the complaint.

(2) But information that, in the opinion of the relevant professional organisation, identifies or is likely to identify the complainer may not be disclosed under subsection (1) unless the complainer consents to its disclosure.

(3) In subsection (1), "relevant conduct or regulatory complaint" means—

(a) a conduct complaint that has been remitted to the relevant professional organisation under section 6(2)(a) (or that is treated as having been remitted to it under that section by virtue of section 33A(2)),

(b) a regulatory complaint that has been remitted to the relevant professional organisation under section 7A(2) (or that is treated as having been remitted to it under that section by virtue of section 33B(2)).".>

Siobhian Brown

536 After section 71, insert—

<Restriction on disclosure of information: relevant professional organisations

(1) The 2007 Act is amended as follows.

(2) In section 52 (restriction upon disclosure of information: relevant professional organisations)—

(a) after subsection (3)(a) insert—

"(aa) for the purpose of enabling or assisting a regulatory body to exercise any of the body's functions,",

(b) after subsection (4) insert—

"(4A) In subsection (3)(aa), "regulatory body" means any regulatory body as the Scottish Ministers may by regulations specify.

(4B) Regulations under subsection (4A) may—

(a) include transitional, transitory or saving provision,

(b) make different provision for different purposes.

(4C) Before making regulations under subsection (4A), the Scottish Ministers must—

(a) consult—

(i) any regulatory body that is proposed to be specified by the regulations,

(ii) the Lord President,

(iii) the Commission,

(iv) the independent advisory panel established under paragraph 11A of schedule 1,

(v) each category 1 and category 2 regulator,

(vi) each approved regulator within the meaning of Part 2 of the Legal Services (Scotland) Act 2010,

(b) publish a report describing—

(i) the consultation carried out,

(ii) any representations received in response to the consultation, and

(iii) the changes (if any) to the proposals as a result of the representations, and

(c) confirm that the Lord President agrees with the proposal to make the regulations.".>

Paul O'Kane

536A As an amendment to amendment 536, line 8, at end insert—

<(ab) under or by virtue of section 51A(1),>

Siobhian Brown

484 In schedule 3, page 108, line 26, at end insert—

<( ) In section 42 (reports: privilege)—

(a) the title of the section becomes "**Disclosure of information by Commission: privilege**",

(b) for "publication of any report" insert "disclosure of any information by the Commission",

(c) the words "13(1), 23(8)," are repealed,

(d) after "36(2)" insert ", 41A",

(e) for "publication" where it second occurs substitute "disclosure".>

Siobhian Brown

494 In schedule 3, page 110, line 11, at end insert—

<( ) After section 51, insert—

"51B Disclosure of information by relevant professional organisation: privilege

For the purposes of the law of defamation, disclosure of any information by a relevant professional organisation under section 51A is privileged unless the disclosure is proved to be made with malice.".>

Services complaints: procedure etc.

Siobhian Brown

319 After section 54, insert—

<Commission's duty to investigate and determine services complaints

(1) The 2007 Act is amended as follows.

(2) In section 9 (services complaint: Commission's duty to investigate and determine), after subsection (4) insert—

"(5) Where the practitioner (and, where subsection (3) applies, the employing practitioner) accepts a settlement proposed by the Commission under subsection (2) as respects the complaint but the complainer does not accept the settlement, the Commission may discontinue the investigation of the complaint and not determine it under subsection (1).

(6) If subsection (7) applies, the Commission may decide—

(a) not to initiate the investigation of a services complaint and determine it under subsection (1), or

(b) to discontinue the investigation of a services complaint and not to determine it under subsection (1).

(7) This subsection applies if—

(a) the Commission considers that the practitioner, the practitioner's firm or the employing practitioner has offered the complainer a settlement as respects the complaint ("the proposed settlement") which the Commission considers is fair and reasonable in the circumstances,

(b) the complainer has not accepted the proposed settlement, and

(c) the Commission is satisfied that the proposed settlement will remain available for acceptance by the complainer for a period of up to 28 days after the complainer receives notice of the Commission's decision under subsection (6).">

Siobhian Brown

331 In section 56, page 43, line 25, at end insert—

<"(3ZA) Where the practitioner was, at the time when the services were provided, a partner of a firm, a direction under subsection (2)(c) may be given to the practitioner's firm instead of the practitioner.>

Siobhian Brown

332 In section 56, page 43, line 27, after <practitioner> insert <or the practitioner's firm>

Siobhian Brown

333 In section 56, page 43, line 28, after <practitioner> insert <or the practitioner's firm>

Siobhian Brown

334 In section 56, page 43, line 29, after <practitioner> insert <or the practitioner's firm>

Siobhian Brown

450 In section 76, page 71, line 7, at end insert—

<(d) provide information about—

(i) the work of each review committee established by the Commission under paragraph 11(1)(a), including the number of applications for review that each review committee dealt with during the year,

(ii) the steps taken by the Commission to ensure that each review committee is able to act independently of the Commission when considering and determining each application for review.

(1B) When preparing the report, the Commission must consult—

(a) the Lord President,

(b) the independent advisory panel of the Commission,

(c) each category 1 and category 2 regulator.".>

Siobhian Brown

481 In schedule 3, page 107, line 32, at end insert—

<( ) in the closing words, for "(4)" substitute "(7)",>

Conduct and regulatory complaints: procedure etc.

Siobhian Brown

525 In section 55, page 42, line 34, at end insert <and, subject to subsection (1A), determine the complaint.

(1A) The relevant professional organisation may decide—

(a) to discontinue an investigation of a regulatory complaint,

(b) to reinstate the investigation of a discontinued regulatory complaint,

but only if the organisation considers that this is in the public interest.

(1B) As soon as practicable after making a decision under subsection (1A), the relevant professional organisation must give notice in writing of its decision to the complainer, the practitioner and the Commission by—

(a) sending them a copy of the decision, and

(b) specifying the reason for the decision.

(1C) In addition, notice under subsection (1B) given to the complainer or the practitioner, must also give them information about any—

(a) right of appeal, and

(b) ability to make a handling complaint to the Commission.>

Siobhian Brown

322 In section 55, page 42, line 35, leave out <investigating a> and insert <determining the>

Siobhian Brown

323 In section 55, page 42, line 38, leave out first <the> and insert <any>

Siobhian Brown

324 In section 55, page 42, line 39, leave out <and> and insert—

<(aa) the relevant professional organisation's determination and the reasons for that determination,>

Siobhian Brown

325 In section 55, page 43, line 1, after <action> insert <(if any)>

Siobhian Brown

326 In section 55, page 43, line 4, at end insert <, and

(c) if the relevant professional organisation does not propose to take, or has not taken, any action in the matter, an explanation of why this is the case.>

Siobhian Brown

327 In section 55, page 43, line 4, at end insert—

<(2A) When making a written report under subsection (2), the relevant professional organisation must also give notice in writing to the complainer and the practitioner of any right of appeal or ability to make a handling complaint by virtue of section 23.>

Siobhian Brown

328 In section 55, page 43, line 4, at end insert—

<(2B) The relevant professional organisation must, in considering what action (if any) to take as mentioned in subsection (2)(b), take into account any decision taken by the Commission in respect of a services complaint against the practitioner where the services complaint arises from the same matter to which the regulatory complaint relates.>

Siobhian Brown

329 In section 55, page 43, line 8, leave out <24(2)> and insert <24(6)>

Siobhian Brown

386 In section 67, page 60, line 15, leave out <attached to the grant> and insert <imposed in relation to the authorisation>

Siobhian Brown

387 In section 67, page 60, line 25, after <organisation> insert <—

(a)>

Siobhian Brown

388 In section 67, page 60, line 26, leave out from <authorised> to end of line 28 and insert <regulated by it, and

(b) is satisfied that the matter, if it were to be referred to the Commission as mentioned in section 2(1)(a), would be considered by the Commission to be an eligible conduct complaint in accordance with any provision in rules made under section 32(1).>

Siobhian Brown

389 In section 67, page 61, line 15, after <organisation> insert <—

(a)>

Siobhian Brown

390 In section 67, page 61, line 18, at end insert <, and

(b) is satisfied that the matter, if it were to be referred to the Commission as mentioned in section 2(1)(c), would be considered by the Commission to be

an eligible regulatory complaint in accordance with any provision in rules made under section 32(1).>

Siobhian Brown

529 In section 67, page 61, line 33, at end insert—

<33C Recategorisation of conduct or regulatory complaint by regulated professional organisation

(1) Subsection (2) applies where a relevant professional organisation—

(a) at any time during its investigation in relation to a conduct complaint remitted to it under section 6(2) (or treated as such by virtue of section 33A(2)), considers that the complaint (or any element of it) instead constitutes a regulatory complaint, or

(b) at any time during its investigation in relation to a regulatory complaint remitted to it under section 7A(2) (or treated as such by virtue of section 33B(2)), considers that the complaint (or any element of it) instead constitutes a conduct complaint.

(2) The relevant professional organisation must as soon as practicable send details to the Commission of the organisation's recategorisation of the complaint (or any element of it) as mentioned in paragraph (a) or (b) of subsection (1).

(3) For the purpose of subsection (1)(a), the relevant professional organisation may consider that the conduct complaint (or an element of it) is a regulatory complaint if the organisation is satisfied that the complaint (or the element of it), if it were to be referred to the Commission as mentioned in section 2(1)(c), would be considered by the Commission to be an eligible regulatory complaint in accordance with any provision in rules made under section 32(1).

(4) For the purpose of subsection (1)(b), the relevant professional organisation may consider that the regulatory complaint (or an element of it) is a conduct complaint if the organisation is satisfied that the complaint (or the element of it), if it were to be referred to the Commission as mentioned in section 2(1)(a), would be considered by the Commission to be an eligible conduct complaint in accordance with any provision in rules made under section 32(1).">.

Siobhian Brown

530 After section 67, insert—

<Conduct or regulatory complaint appears to regulated professional organisation during investigation to be services complaint

(1) The 2007 Act is amended as follows.

(2) In section 33 (duty of relevant professional organisations to forward complaints to Commission), after subsection (3) insert—

"(4) Subsection (5) applies where a relevant professional organisation at any time during its investigation in relation to—

(a) a conduct complaint remitted to it under section 6(2) (or treated as such by virtue of section 33A(2)), or

(b) a regulatory complaint remitted to it under section 7A(2) (or treated as such by virtue of section 33B(2)),

considers that it is reasonably likely that the complaint (or any element of it) may instead constitute a services complaint.

(5) The relevant professional organisation must—

(a) suspend the investigation,

(b) consult, co-operate and liaise with the Commission as respects the matter,

(c) send the complaint and any material which relates to it and which is in the organisation's possession to the Commission, and

(d) give notice in writing to the complainer and the practitioner that it considers the complaint (or an element of it) to be a services complaint and that it is sending the complaint to the Commission.".>

Siobhian Brown

531 In section 68, page 61, line 37, at end insert—

<( ) after subsection (1) insert—

"(1A) The relevant professional organisation may decide—

(a) to discontinue the investigation of a conduct complaint,

(b) to reinstate the investigation of a discontinued conduct complaint,

but only if the organisation considers that this is in the public interest.

(1B) As soon as practicable after making a decision under subsection (1A), the relevant professional organisation must give notice in writing of its decision to the complainer, the practitioner and the Commission by—

(a) sending them a copy of the decision, and

(b) specifying the reason for the decision.

(1C) In addition, notice under subsection (1B) given to the complainer or the practitioner, must also give them information about any—

(a) right of appeal, and

(b) ability to make a handling complaint to the Commission.",>

Siobhian Brown

392 In section 68, page 61, line 38, after <(2)> insert <—

( ) in the opening words,>

Siobhian Brown

393 In section 68, page 61, line 39, at end insert—

<( ) in paragraph (a), for "the facts" substitute "any facts",

( ) in paragraph (b), after "action" insert "(if any)",

( ) after paragraph (b), insert—

"(c) if the organisation does not propose to take, or has not taken, any action in the matter, an explanation of why this is the case.",>

Siobhian Brown

394 In section 68, page 61, line 40, at end insert—

<"(2ZA) The relevant professional organisation must, in considering what action (if any) to take as mentioned in subsection (2)(b), take into account any decision taken by the Commission in respect of a services complaint against the practitioner where the services complaint arises from the same matter to which the conduct complaint relates.>

Siobhian Brown

532 In section 68, page 62, line 3, leave out subsection (3)

Siobhian Brown

423 In section 72, page 68, line 30, at end insert—

<( ) In section 42ZB (unsatisfactory professional conduct: Council's powers to monitor compliance), in subsection (2), the words "or (12)" are repealed.

( ) In section 52 (procedure on complaints and appeals to Tribunal), in subsection (2), in paragraph (aa), the words "(11) or (12)," are repealed.>

Siobhian Brown

424 In section 72, page 68, line 31, leave out <of the 1980 Act>

Siobhian Brown

425 In section 72, page 68, line 31, at end insert—

<( ) in subsection (1)—

(i) in paragraph (b)—

(A) the words "(other than a conviction for an economic crime offence)" are repealed, and

(B) the words "(other than in relation to a conviction for an economic crime offence)" are repealed,

(ii) paragraph (ba) is repealed,

(iii) paragraph (ca) is repealed,>

Siobhian Brown

426 In section 72, page 68, line 35, after <(c)> insert <—

( ) the words "subject to subsection (3ZA)," are repealed,

( )>

Siobhian Brown

427 In section 72, page 68, line 35, at end insert—

<( ) paragraph (ca) is repealed,>

Siobhian Brown

428 In section 72, page 68, line 35, at end insert—

<( ) subsection (2A) is repealed,

( ) subsection (2B) is repealed,

( ) after subsection (2B) insert—

"(2C) Where the solicitor has been convicted of a criminal offence in relation to the subject matter of the Tribunal's inquiry, the Tribunal must, when deciding whether to exercise a power under subsection (2), have regard to the conviction.",

( ) subsection (3ZA) is repealed,>

Siobhian Brown

429 In section 72, page 68, leave out line 36 and insert—

<( ) in subsection (3A)—

(i) in the opening words, for "subsection (2)(bb)" substitute "subsection (2)(c)",

(ii) in paragraph (a), for ", (b) or (ba)" substitute "or (b)",

(iii) in paragraph (b), ", (ca)" is repealed,>

Siobhian Brown

430 In section 72, page 68, line 37, at end insert—

<( ) subsection (7D) is repealed,

( ) in subsection (8), paragraph (a) is repealed,>

Siobhian Brown

431 In section 72, page 68, line 38, at end insert—

<( ) subsection (9A) is repealed.>

Siobhian Brown

432 In section 72, page 69, line 3, at end insert—

<( ) subsection (3) is repealed,

( ) subsection (4) is repealed,>

Siobhian Brown

433 In section 72, page 69, line 5, at end insert—

<( ) subsection (10) is repealed.>

Siobhian Brown

434 In section 72, page 69, line 13, after <subsection (1)> insert <—

( )>

Siobhian Brown

435 In section 72, page 69, line 13, at end insert—

<( ) for paragraph (c), substitute—

"(c) impose on the solicitor a fine of any amount,">

Siobhian Brown

436 In section 72, page 69, leave out line 14 and insert—

<( ) subsection (5) is repealed,>

Siobhian Brown

437 In section 72, page 69, line 15, at end insert—

<( ) subsection (7) is repealed.

( ) In section 55A (power of Court: unsatisfactory professional conduct)—

(a) in subsection (1), paragraph (b) is repealed,

(b) in subsection (3), paragraph (b) is repealed.>

<u>Complaints: disclosure of information from/about practitioners</u>

Siobhian Brown

347 In section 60, page 48, line 18, after <of> insert <—

(a) a document or information if consent to the disclosure is given by the client of (as the case may be)—

(i) the practitioner,

(ii) the practitioner's firm, or

(iii) the employing practitioner, or

(b)>

Siobhian Brown

348 In section 60, page 48, line 30, at end insert—

<(c) after subsection (6) insert—

"(6A) For the purpose of subsection (3) or (6), references to other documents include references to anything in which information is recorded in any form.",>

Siobhian Brown

349 In section 60, page 48, line 30, at end insert—

<( ) after subsection (6A) (inserted by subsection (2)(c)) insert—

"(6B) Subsection (6C) applies where—

(a) the Commission gave notice under subsection (1) in connection with its investigation and determination of a services complaint under section 9 to the practitioner, the practitioner's firm or the employing practitioner ("the recipient"),

(b) the recipient failed to provide some or all of the documents or information sought in the notice within the time specified in it, and

(c) the Commission is satisfied that the recipient does not have a reasonable excuse for the failure.

(6C) The Commission may proceed to determine the complaint based on the information before it despite the recipient's failure.

(6D) Before proceeding as mentioned in subsection (6C), the Commission must notify the recipient in writing of the proposal and give the recipient an opportunity to respond within the period specified in the notice (which must be no fewer than 14 days from the date of the notice) to—

(a) provide all of the documents or information sought in the notice given under subsection (1), or

(b) provide a reasonable excuse for the failure to provide some or all of the documents or information sought in that notice within the time specified in that notice.

(6E) Where subsection (6C) applies, in determining the complaint, the Commission may draw such inference from the recipient's failure as it considers appropriate.".>

Siobhian Brown

350 In section 60, page 48, line 35, after <of> insert <—

(a) a document or information if consent to the disclosure is given by the client of (as the case may be)—

(i) the practitioner,

(ii) the practitioner's firm, or

(iii) the employing practitioner, or

(b)>

Siobhian Brown

351 In section 60, page 48, line 38, leave out <concerned>

Siobhian Brown

352 In section 60, page 49, line 9, after <explanations)> insert <—

( ) after subsection (1) insert—

"(1A) Where a relevant professional organisation gives notice under subsection (1)(a) to a practitioner and the practitioner is an employee of another practitioner, the organisation must give a copy of the notice to the employing practitioner.",

( )>

Paul O'Kane

644 In section 60, page 49, line 10, at end insert—

<(2ZA) Where a relevant professional organisation is considering initiating a complaint against a practitioner or an authorised legal business to the Commission under section 2(1) of the 2007 Act, the relevant professional organisation may give notice in writing in accordance with subsection 2ZB to the practitioner, the practitioner's firm or, as the case may be, the employing practitioner, or the authorised legal business.

(2ZB) A notice under subsection (2ZA) may require—

(a) the production or delivery to any person appointed by the relevant professional organisation, at a time and place specified in the notice, of all documents mentioned in subsection (3) which are in the possession or control of the practitioner, the firm or, as the case may be, the employing practitioner, or the authorised legal business, and which relate to the matters in respect of which the relevant professional organisation is considering initiating a complaint (whether or not they relate also to other matters),

(b) an explanation, within such period being not less than 21 days as the notice specifies, from the practitioner, the firm or, as the case may be, the employing practitioner, or the authorised legal business, regarding the matters in respect of which the relevant professional organisation is considering initiating a complaint.>

Paul O'Kane

645 In section 60, page 49, line 11, leave out <subsection (1)> and insert <subsections (1) and (2ZA)>

Siobhian Brown

353 In section 60, page 49, line 14, after <of> insert <—

(a) a document or information if consent to the disclosure is given by the client of (as the case may be)—

(i) the practitioner,

(ii) the practitioner's firm, or

(iii) the employing practitioner, or

(b)>

Siobhian Brown

354 In section 60, page 49, line 26, at end insert—

<( ) after subsection (5) insert—

"(5A) For the purpose of subsection (3) or (5), references to other documents include references to anything in which information is recorded in any form.",>

Siobhian Brown

355 In section 60, page 49, line 26, at end insert—

<( ) after subsection (5A) (inserted by this section) insert—

"(5B) Subsection (5C) applies where—

(a) a relevant professional organisation gave notice under subsection (1)(a) to the practitioner, the practitioner's firm or the employing practitioner ("the recipient") for the purposes of an investigation into a conduct complaint under section 47 or a regulatory complaint under section 52B,

(b) the recipient failed to provide some or all of the documents or information sought in the notice within the time specified in it, and

(c) the relevant professional organisation is satisfied that the recipient does not have a reasonable excuse for the failure.

(5C) The relevant professional organisation may proceed to determine the complaint based on the information before it despite the recipient's failure.

(5D) Before proceeding as mentioned in subsection (5C), the relevant professional organisation must notify the recipient in writing of the proposal and give the recipient an opportunity to respond within the period specified in the notice (which must be no fewer than 14 days from the date of the notice) to—

(a) provide all of the documents or information sought in the notice given under subsection (1), or

(b) provide a reasonable excuse for the failure to provide some or all of the documents or information sought in that notice within the time specified in that notice.

(5E) Where subsection (5C) applies, in determining the complaint, the Commission may draw such inference from the recipient's failure as it considers appropriate.".>

Siobhian Brown

357 In section 61, page 49, line 35, leave out from <for> to end of line 36 and insert <held by the relevant professional organisation relating to—

(a) the practitioner,

(b) the practitioner's firm,

(c) the employing practitioner,

(d) the person (or persons) holding a specified role (or exercising a specified function) in the practitioner's firm or the employing practitioner.>

Siobhian Brown

358 In section 61, page 49, line 39, leave out <as soon as practicable> and insert <without delay>

Siobhian Brown

359 In section 61, page 50, line 2, after <to> insert <—

<(i)>

Siobhian Brown

360 In section 61, page 50, line 2, at end insert <, or

(ii) assessment of the eligibility of complaints.>

Siobhian Brown

361 In section 61, page 50, line 2, at end insert—

<(4) It does not matter for the purpose of a relevant professional organisation's response under subsection (2) whether, at the time of the response, the practitioner, practitioner's firm or employing practitioner (as the case may be) continues to be authorised by the organisation to provide legal services.".>

Paul O'Kane

650 In schedule 3, page 110, line 18, at end insert—

<( ) In schedule 4 (further powers of relevant professional organisations under section 48)—

(a) in paragraph (1), in sub-paragraph (a), after "section 48(1)(a)" insert "or (2ZA)",

(b) in paragraph (2), in sub-paragraph (a), after "made" insert "or, as the case may be, the practitioner or authorised legal business against whom the relevant professional organisation is considering initiating a complaint".>

Unregulated providers of legal services: voluntary register and resources

Tess White

646 In section 65, page 55, line 26, leave out <**voluntary**> and insert <**mandatory**>

Siobhian Brown

372 In section 65, page 55, line 28, leave out <may> and insert <must>

Tess White

647 In section 65, page 55, line 28, leave out <voluntary> and insert <mandatory>

Tess White

648 In section 65, page 55, leave out lines 33 and 34 and insert—

<(3) Every unregulated provider of legal services must be entered in the register established under subsection (1).>

Tess White

649 In section 65, page 55, line 34, at end insert—

<(3A) It is an offence for a person who is an unregulated provider of legal services to provide those services if the provider is unregistered.>

Siobhian Brown

373 In section 65, page 56, line 2, at end insert—

<(6A) The Commission must ensure that the amount of resources allocated for its use is reasonably sufficient to enable it to—

(a) establish and maintain the register, and

(b) investigate, determine and review services complaints against unregulated providers of legal services.>

Siobhian Brown

374 In section 65, page 56, line 12, leave out <amounts> and insert <amount>

Complaints: Commission rules as to practice and procedure

Siobhian Brown

528 In section 66, page 57, leave out lines 9 and 10

Siobhian Brown

375 In section 66, page 57, line 11, leave out <determining> and insert <assessing>

Siobhian Brown

376 In section 66, page 57, line 18, at end insert—

<(ea) assessing whether to initiate a complaint against a practitioner under section 2A(1) which, had it been received by a person mentioned in section 2(2), would be a conduct complaint or a regulatory complaint,>

Siobhian Brown

377 In section 66, page 58, line 8, after <complaint> insert <other than a handling complaint>

Siobhian Brown

378 In section 66, page 58, line 9, after <any)> insert <and, where appropriate, the relevant professional organisation>

Siobhian Brown

379 In section 66, page 58, leave out line 12

Siobhian Brown

380 In section 66, page 58, line 12, at end insert—

<(iia) to initiate a conduct complaint or a regulatory complaint under section 2A(1),>

Siobhian Brown

382 In section 66, page 58, line 16, leave out <, or a handling complaint,>

Siobhian Brown

383 In section 66, page 58, line 22, at end insert—

<(ma) the timing and the manner in which the Commission is to notify, in relation to a handling complaint, the following persons of its decisions—

(i) the person who made the handling complaint (and, if made on behalf of another person, that other person),

(ii) the other party to the conduct complaint or regulatory complaint to which the handling complaint relates (see section 24(10)), and

(iii) the relevant professional organisation,>

Siobhian Brown

384 In section 66, page 59, line 16, at end insert—

<1ZA Rules under paragraph 1(m)(v) must in particular provide that where a complaint referred to in section 2(1) constituted a services complaint and additionally constituted a conduct complaint or a regulatory complaint that has been remitted to a relevant professional organisation under section 6(2) or 7A(2) (as the case may be), the Commission must inform the organisation—

(a) of the outcome under section 9 of—

(i) any decision by the Commission relating to the investigation of the services complaint, or

(ii) any determination by the Commission of the services complaint, and

(b) if the Commission makes a determination under that section upholding the services complaint, of any determination, direction or report by the Commission under section 10(2).>

Siobhian Brown

385 In section 66, page 59, line 27, after <relation> insert <to>

Complaints: monitoring and minimum standards

Siobhian Brown

395 In section 69, page 62, line 14, after <sharing)> insert <—

( )>

Siobhian Brown

396 In section 69, page 62, line 15, at end insert—

<( ) after subsection (4) insert—

"(5) If, in the course of exercising its functions under this Act, the Commission identifies a matter of concern relating to one or more practitioners (or practitioners' firms or employing practitioners), the Commission may notify the relevant professional organisation of the concern and give the organisation any information it holds relating to the concern.".>

Siobhian Brown

397 In section 69, page 63, line 29, leave out from <each> to end of line 34 and insert <—

(a) the following persons in relation to the Commission's initial proposals for the minimum standards that are to be set out in the guidance—

(i) the Lord President,

(ii) each relevant professional organisation concerned,

(iii) the practitioners regulated by each organisation, and

(iv) any other person the Commission considers appropriate,

(b) the following persons in relation to a subsequent draft of the guidance that includes the proposed minimum standards—

(i) each relevant professional organisation concerned, and

(ii) any other person the Commission considers appropriate.>

Siobhian Brown

398 In section 69, page 63, line 34, at end insert—

<(4A) For the purpose of subsection (4)(a), a duty to consult the practitioners may be met by the Commission directing a relevant professional organisation to issue information about the initial proposals to the practitioners regulated by the organisation.

(4B) The Commission must take account of any representations made by a relevant professional organisation consulted under subsection (4) that are received by the Commission within the period of 28 days beginning with the day on which the organisation receives notification from the Commission of the opportunity to make representations.>

Siobhian Brown

399 In section 69, page 63, line 35, after <must> insert <—

(a)>

Siobhian Brown

400 In section 69, page 63, line 37, at end insert <, and

(b) if the guidance sets minimum standards, at the time of publishing any such guidance, publish a document summarising—

(i) the consultation carried out under subsection (4),

(ii) any representations received in response to the consultation,

(iii) any changes made to the Commission's initial proposals for the minimum standards as a result of the consultation, and

(iv) the Commission's reasons for including the minimum standards in the guidance.".>

Siobhian Brown

401 In section 69, page 64, leave out lines 5 to 7

Siobhian Brown

402 In section 69, page 64, line 9, after <organisations> insert <—

(a)>

Siobhian Brown

403 In section 69, page 64, line 11, at end insert—

<(b) relating to standards that must be set by the organisations for practitioners that they regulate in relation to how complaints made to practitioners about the matters mentioned in paragraph (a) or (b) of subsection (1) are dealt with by practitioners,

(c) in respect of any practice (and any trends in practice) identified by the Commission in the way in which the practitioners that are regulated by the organisations deal with matters which the Commission considers contributes significantly to—

(i) services complaints being dealt with by the Commission under sections 8 to 12,

(ii) conduct complaints being remitted to the relevant professional organisations under section 6(2) (or treated as having been remitted to them under that section by virtue of section 33A(2)),

(iii) regulatory complaints being remitted to the relevant professional organisations under section 7A(2) (or treated as having been remitted to them under that section by virtue of section 33B(2)).>

Siobhian Brown

404 In section 69, page 64, leave out lines 12 to 23

Siobhian Brown

405 In section 69, page 64, line 24, leave out <, (3) or (4) or> and insert <or (3)>

Siobhian Brown

406 In section 69, page 64, line 30, after <subsection> and insert <(1) or>

Siobhian Brown

407 In section 69, page 64, line 37, after <guidance> insert <to a relevant professional organisation>

Siobhian Brown

408 In section 69, page 64, line 37, leave out from <(4)> to end of line 40 and insert <(3), the relevant professional organisation must notify the practitioners that it regulates of the guidance.>

Siobhian Brown

409 In section 69, page 65, line 2, leave out from <each> to end of line 7 and insert <—

(a) the following persons in relation to the Commission's initial proposals for the minimum standards that are to be set out in the guidance—

(i) the Lord President,

(ii) each relevant professional organisation concerned,

(iii) the practitioners regulated by each organisation, and

(iv) any other person the Commission considers appropriate,

(b) the following persons in relation to a subsequent draft of the guidance that includes the proposed minimum standards—

(i) each relevant professional organisation concerned, and

(ii) any other person the Commission considers appropriate.>

Siobhian Brown

410 In section 69, page 65, line 7, at end insert—

<(9A) For the purpose of subsection (9)(a), a duty to consult the practitioners may be met by the Commission directing a relevant professional organisation to issue information about the initial proposals to the practitioners regulated by the organisation.

(9B) The Commission must take account of any representations made by a relevant professional organisation consulted under subsection (9) that are received by the Commission within the period of 28 days beginning with the day on which the organisation receives notification from the Commission of the opportunity to make representations.>

Siobhian Brown

411 In section 69, page 65, line 10, at end insert—

<(11) In the case of guidance issued under subsection (3) that sets minimum standards, the Commission must, at the time of publishing the guidance, publish a document summarising—

(a) the consultation carried out under subsection (9),

(b) any representations received in response to the consultation,

(c) any changes made to the Commission's initial proposals for the minimum standards as a result of the consultation, and

(d) the Commission's reasons for including the minimum standards in the guidance.>

Siobhian Brown

414 In section 70, page 65, line 24, leave out <(2)> and insert <(1A)>

Siobhian Brown

415 In section 70, page 65, line 28, leave out <(2)> and insert <(1A)>

Siobhian Brown

416 In section 70, page 65, line 29, leave out from <each> to end of line 34 and insert <—

(a) the following persons in relation to the Commission's initial proposals for the minimum standards that are to be set out in the guidance—

(i) the Lord President,

(ii) each relevant professional organisation concerned,

(iii) the practitioners regulated by each organisation, and

(iv) any other person the Commission considers appropriate,

(b) the following persons in relation to a subsequent draft of the guidance that includes the proposed minimum standards—

(i) each relevant professional organisation concerned, and

(ii) any other person the Commission considers appropriate.>

Siobhian Brown

417 In section 70, page 65, line 34, at end insert—

<(6A) For the purpose of subsection (6)(a), a duty to consult the practitioners may be met by the Commission directing a relevant professional organisation to issue information about the initial proposals to the practitioners regulated by the organisation.

(6B) The Commission must take account of any representations made by a relevant professional organisation consulted under subsection (6) that are received by the Commission within the period of 28 days beginning with the day on which the organisation receives notification from the Commission of the opportunity to make representations.>

Siobhian Brown

418 In section 70, page 65, line 35, after <must> insert <—

(a)>

Siobhian Brown

419 In section 70, page 65, line 37, after <guidance> insert <, and

(b) if the guidance sets minimum standards, at the time of publishing the guidance, publish a document summarising—

(i) the consultation carried out under subsection (6),

(ii) any representations received in response to the consultation,

(iii) any changes made to the Commission's initial proposals for the minimum standards as a result of the consultation, and

(iv) the Commission's reasons for including the minimum standards in the guidance.>

Siobhian Brown

420 In section 71, page 67, line 13, at end insert <or part of the direction (see subsection (10B)).

(10A) Subsection (10B) applies if the court, having considered an application under subsection (9)—

(a) is proposing to make an order under subsection (10) requiring a relevant professional organisation to comply with the direction, and

(b) considers that the taking of one or more steps specified in the order would have a detrimental effect on the ability of the relevant professional organisation to comply with its duty under section 3(1) or (3) of the 2023 Act.

(10B) In making an order under subsection (10), the court may provide that the relevant professional organisation is not required to take a step referred to in subsection (10A)(b).>

Siobhian Brown

421 In section 71, page 67, line 19, leave out from beginning to end of line 21 on page 68

Siobhian Brown

422 After section 71, insert—

<Obtaining information from practitioners

(1) The 2007 Act is amended as follows.

(2) After section 40A (inserted by section 71), insert—

"40B Obtaining information from practitioners

(1) For the purpose of any its functions mentioned in subsection (2), the Commission may request information from a practitioner about complaints received by the practitioner during the relevant period.

(2) The functions are—

(a) monitoring practice and identifying any trends in practice under section 35(1) or 36(1),

(b) the issuing of guidance under section 40(1) or (3).

(3) The information that may be sought under subsection (1) in relation to each complaint received by the practitioner during the relevant period includes—

(a) the date on which the complaint was received,

(b) a description of the substance of the complaint,

(c) the category of personnel in respect of whom the complaint was made,

(d) the type of services in respect of which the complaint was made,

(e) any action taken by the practitioner, the practitioner's firm or the employing practitioner (as the case may be) in relation to the complaint,

(f) the date on which the practitioner's consideration of the complaint concluded,

(g) an explanation of whether the complaint was resolved,

(h) any changes in the working practices of, or processes or systems used by, the practitioner, the practitioner's firm or the employing practitioner (as the case may be) arising from the complaint.

(4) In subsection (1), the "relevant period", in relation to a request under that subsection, means the period of 3 years before the day on which the request is made.".>

Siobhian Brown

537 In section 76, page 71, leave out line 2

Review of Act

Tess White

637 Before section 78, insert—

<*Review of Act*

Review of Act

(1) The Scottish Ministers must, as soon as reasonably practicable after the end of the review period—

(a) undertake a review of the operation and effectiveness of the Act, and

(b) prepare a report on that review.

(2) The Scottish Ministers may delegate their functions under subsection (1) to such a person as they consider appropriate.

(3) When undertaking a review under subsection (1)(a), the Scottish Ministers (or, if applicable, the person to whom the function is delegated under subsection (2)) must consult—

(a) regulators of legal services,

(b) consumers of legal services,

(c) such other persons as are considered appropriate.

(4) The Scottish Ministers must, as soon as reasonably practicable after the report is prepared—

(a) publish the report, and

(b) lay it before the Scottish Parliament.

(5) In this section, "the review period" means the period of 5 years beginning with the day after Royal Assent.>

Removal of practising restrictions: law centres, citizen's advice bodies and charities

Siobhian Brown

452 In section 81, page 71, line 32, leave out <insert>

Siobhian Brown

453 In section 81, page 71, line 33, leave out <, at the end of the subsection> and insert <(as substituted by paragraph 27V(10) of schedule 3), after paragraph (b)>

Siobhian Brown

454 In section 81, page 72, line 2, leave out subsection (4)

Safeguarding of clients by Law Society of Scotland

Tess White

638 After section 86, insert—

<*Safeguarding interests of clients*

Safeguarding interests of clients

(1) The 1980 Act is amended as follows.

(2) After section 45 (safeguarding interests of clients of solicitor struck off or suspended) insert—

"45A Safeguarding interests of clients of an authorised legal business where authorisation suspended or withdrawn

(1) This section has effect in relation to any authorised legal business whose authorisation to provide legal services is suspended or withdrawn (such business being referred to in this section as a "former authorised legal business").

(2) The right to operate on or otherwise deal with any client account in the name of the former authorised legal business shall vest in the Society (notwithstanding any enactment or rule of law to the contrary) to the exclusion of any other person and shall be exercisable as from the date of suspension or withdrawal of the relevant authorisation (as applicable).

(3) Any sum of money held by or in the name of the former authorised legal business on behalf of, or in relation to—

(a) the clients of the former authorised legal business, or

(b) any trust of the kind mentioned in subsection (5)(b),

shall vest in the Society (notwithstanding any enactment or rule of law to the contrary) to the exclusion of any other person with effect from the date of suspension or withdrawal of the relevant authorisation (as applicable).

(4) The Council may direct any former authorised legal business or any other person to take any specified action (or to refrain from doing something) if the Council considers that to be necessary or expedient for safeguarding the interests of the clients of the former authorised legal business.

(5) Directions given under subsection (4) may in particular (but without prejudice to the generality of subsection (4)) require the former authorised legal business or any other person to make available to a relevant person or body any document or information (of whatever kind) held or previously held in the possession or control of the former authorised legal business which—

(a) relates to, or is held on behalf of, a client of the former authorised legal business, or

(b) relates to any trust of which the former authorised legal business (or any of its members, owners, partners or directors or any entity owned by the former authorised legal business or its members, owners, partners or directors (or any of them) for the purposes of being a trustee) is sole trustee or co-trustee only with one or more of the members, owners, partners, directors or employees of the former authorised legal business).

(6) For the purposes of subsection (5), a relevant person or body is—

(a) the particular client,

(b) the Society,

(c) an authorised legal business or licensed legal services provider that is instructed by the particular client, the former authorised legal business or the Council to act in place of the former authorised legal business.

(7) The Court of Session may, on application by the Council, make an order—

(a) requiring the former authorised legal business or any other person to comply with a direction given under subsection (4),

(b) varying the direction or imposing such conditions as the Court considers appropriate in all the circumstances,

(c) providing that, without the leave of the Court, no payment may be made by any bank, building society or other body named in the order out of any account (or any sum otherwise deposited) in the name of the former authorised legal business,

(d) providing otherwise as it may see fit.

(8) Before making an order under subsection (7), the Court must—

(a) save where the Court considers it an appropriate course of action in all the circumstances of the case to dispense with this requirement, give the former authorised legal business and any other person with an interest an opportunity to be heard,

(b) be satisfied that the order represents an appropriate course of action in all the circumstances of the case.

(9) Part II of Schedule 3 has effect in relation to the powers of the Council under this section.".

(3) After section 46 (safeguarding interests of clients in certain other cases) insert—

"46A Safeguarding interests of clients in certain other cases

(1) This section applies where an authorised legal business consists of or is wholly owned by a sole solicitor and that sole solicitor—

(a) has died,

(b) is incapacitated by illness or accident to such an extent as to be unable to operate and manage the relevant authorised legal business, or

(c) is disqualified from operating or managing the relevant authorised legal business (whether as a result of the suspension or withdrawal of the practising certificate of the sole solicitor or the imposition of conditions on that certificate or otherwise).

(2) The right to operate on or otherwise deal with any client account in the name of the solicitor or the relevant authorised legal business shall vest in the Society (notwithstanding any enactment or rule of law to the contrary) to the exclusion of any personal representatives of the solicitor or any other person, and shall be exercisable as from the date of the death, incapacity or disqualification of the solicitor.

(3) Any sum of money held by, or in the name of, the solicitor or the relevant authorised legal business on behalf of, or in relation to—

(a) the clients of the solicitor or the relevant authorised legal business, or

(b) any trust of the kind mentioned in subsection (4)(b),

shall vest in the Society (notwithstanding any enactment or rule of law to the contrary) to the exclusion of any personal representatives of the solicitor or any other person with effect from the date of the death, incapacity or disqualification of the solicitor (as applicable).

(4) The Council may issue a direction requiring that any document or information (of whatever kind) held or previously held in the possession or control of the solicitor or relevant authorised legal business which—

(a) relates to, or is held on behalf of, a client of the solicitor or relevant authorised legal business, or

(b) relates to any trust of which the solicitor or relevant authorised legal business or any entity owned by the solicitor or relevant authorised legal business formed for the purposes of being a trustee is sole trustee or co-trustee only with one or more of its employees is made available to—

(i) the particular client,

(ii) the Society,

(iii) an authorised legal business or licensed legal services provider that is instructed by the particular client or the Council to act in place of the solicitor or the relevant authorised legal business.

(5) The Court of Session may, on an application by the Council, make an order—

(a) requiring any party with possession or control of the relevant document or information to comply with a direction given under subsection (4) within such time as the Court may order,

(b) varying the direction or imposing such conditions as the Court considers appropriate in all the circumstances,

(c) providing that, without the leave of the Court, no payment may be made by any bank, building society or other body named in the order out of any account (or any sum otherwise deposited) in the name of the solicitor or the relevant authorised legal business,

(d) providing otherwise as it may see fit.

(6) Before making an order under subsection (5), the Court must—

(a) save where the Court considers it an appropriate course of action in all the circumstances of the case to dispense with this requirement, give any person with an interest an opportunity to be heard,

(b) be satisfied that the order represents an appropriate course of action in all the circumstances of the case.

(7) Part II of Schedule 3 has effect in relation to the powers of the Council under this section.

(8) For the purposes of this section an authorised legal business will be deemed to consist of a sole solicitor where that solicitor is practising under his own name or as a single solicitor under a firm or business name.

(9) An authorised legal business which is wholly owned by a body or bodies (including a body or bodies corporate) will be deemed to be wholly owned by a sole solicitor where such body or bodies are wholly owned (whether through direct or indirect ownership) by a single solicitor.

(10) An authorised legal business which is partially owned by a body or bodies (including a body or bodies corporate) will be deemed to be wholly owned by a sole solicitor where such body or bodies are wholly owned (whether through direct or indirect ownership) by a single solicitor and the authorised legal business is otherwise owned by the same single solicitor.".

(4) Sections 45 (safeguarding interests of clients of solicitor struck off or suspended) and 46 (safeguarding interests of clients in certain other cases) are repealed.

(5) In section 42C(4) (powers to examine documents and demand explanations in connection with complaints), for "sections 45 and 46" in both places it occurs substitute "sections 45A and 46A".

(6) In Part II of Schedule 3, in paragraph 5—

(a) in sub-paragraph (1)—

(i) for "45 or 46" substitute "45A or 46A",

(ii) for "required" where it first occurs substitute "directed",

(b) in sub-paragraph (2) for "45 or 46" substitute "45A or 46A",

(c) sub-paragraph 3 is repealed.>

Regulation by Law Society of Scotland: conduct and regulatory complaints

Siobhian Brown

468 In schedule 3, page 106, line 21, at end insert—

<PART

MODIFICATION OF THE 1980 ACT IN RELATION TO COMPLAINTS

Conduct complaints suggesting unsatisfactory professional conduct

(1) The 1980 Act is amended as follows.

(2) In section 3A of the 1980 Act (discharge of functions of Council of the Law Society), in subsection (5), in paragraph (aa), for "(6)(2)(a) or 15(5)(a) of that Act" substitute "6(2) of that Act (or treated as having been remitted to them under that section by virtue of section 33A(2) of that Act)".

(3) In section 42ZA of the 1980 Act (unsatisfactory professional conduct: Council's powers)—

(a) in subsection (1), in the opening words—

(i) for "6(2)(a) or 15(5)(a) of the 2007 Act" substitute "6(2) of the 2007 Act (or treated as having been remitted to them under that section by virtue of section 33A(2) of that Act)",

(ii) after "must" insert "(subject to section 47(1A) of the 2007 Act and subsections (1A) and (1B))",

(b) after subsection (1), insert—

"(1A) Before the Council make a determination under subsection (1)—

(a) the Council may propose a settlement in respect of the complaint which they consider is fair and reasonable in the circumstances to the solicitor and the complainer,

(b) the solicitor may propose a settlement in respect of the complaint to the Council and the complainer.

(1B) If the solicitor accepts the proposal under subsection (1A)(a), or the Council consider that the proposal under subsection (1A)(b) is fair and reasonable in the circumstances, the Council—

(a) must make a direction to that effect, and

(b) may not determine the complaint under subsection (1) unless—

(i) the solicitor has failed to comply with the direction under paragraph (a), or

(ii) the direction is quashed under section 53ZB(2)(d).",

(c) subsection (2) is repealed,

(d) in subsection (3), in the opening words—

(i) the words "or (2)" are repealed,

(ii) after "complaint" insert "or where the Council makes a direction under subsection (1B)(a)",

(e) after subsection (3), insert—

"(3A) Where the Council censures a solicitor under subsection (3), the Council may provide that the censure is to have effect for a specified period and must give their reasons for doing so when making an intimation under subsection (8).",

(f) in subsection (4), after paragraph (c), insert—

"(d) impose conditions on the solicitor's practising certificate.",

(g) after subsection (4), insert—

"(4A) Where the Council have imposed conditions on a solicitor's practising certificate under subsection (4)(d), the Council may provide that the certificate is subject to those conditions for a specified period and must give their reasons for doing so when making an intimation under subsection (8).",

(h) in subsection (5)—

(i) after "complaint" where it first occurs insert "(including whether to propose a settlement under subsection (1A)(a)) or in considering a proposal under subsection (1A)(b)",

(ii) the words from "any" to "misconduct" become paragraph (a),

(iii) for "(but" to the end of the subsection substitute ",

(b) any previous decision made under section 47(1A)(a) of the 2007 Act with respect to a complaint against the solicitor,

(c) any previous direction made under subsection (1B)(a) with respect to a complaint against the solicitor,

(d) any previous determination of the Commission of a services complaint under section 9(1) of the 2007 Act relating to the same alleged set of circumstances,

but not a determination, decision or direction in respect of which an appeal is pending or which has been quashed ultimately on appeal.",

(i) for subsection (7) substitute—

"(7) Any fine imposed under subsection (4)(b) is payable to the Scottish Ministers.",

(j) in subsection (8)—

(i) in paragraph (a), the words "or (2)" are repealed,

(ii) in paragraph (c), for "(4)" substitute "(1B)(a), (4)(a) or (4)(b)",

(iii) after paragraph (c), insert—

"(d) any decision to impose conditions on a solicitor's practising certificate under subsection (4)(d),",

(iv) in the closing words, after "it" insert ", and to the Commission and any other relevant party,",

(v) in the closing words, for "or, as the case may be, the direction" substitute ", direction or, as the case may be, the decision",

(vi) in the closing words, after "determination" where it second occurs insert "or direction under subsection (1B)(a)",

(k) after subsection (8), insert—

"(8A) An intimation made under subsection (8) must—

(a) be sent as soon as practicable after the determination, direction or decision has been made,

(b) include information about any right of appeal or ability to make a handling complaint by virtue of section 23 of the 2007 Act.",

(l) in subsection (9)—

(i) in the opening words, for "or (2)," substitute ", a decision to reinstate a discontinued investigation has been made under section 47(1A)(b) of the 2007 Act,",

(ii) in the opening words, after "direction" where it first occurs insert "or a decision",

(iii) in the opening words, for "determination or" substitute "determination, decision, or",

(iv) after paragraph (a) insert—

"(aa) decision,",

(v) in paragraph (b), for "(whether or not he" substitute "or decision under subsection (4) (whether or not the solicitor",

(m) in subsection (10), for the words from "a determination" to the end of the subsection substitute "—

(a) a determination under subsection (1) not upholding the conduct complaint is intimated to the complainer,

(b) a decision under section 47(1A)(a) of the 2007 Act to discontinue an investigation is intimated to the complainer,

(c) a direction under subsection (1B)(a) is intimated to the complainer,

appeal to the Tribunal against the determination, direction or decision.".

(4) In section 42ZB—

(a) in subsection (1)(a), for "42ZA(4)" substitute "42ZA(1B)(a) or (4)",

(b) in subsection (2)—

(i) after "42ZA(9)" insert "or (10)",

(ii) for "42ZA(4)" substitute "42ZA(1B)(a) or (4)",

(iii) after subsection (2) insert—

"(3) The Council may, by notice in writing, require an authorised legal business or, as the case may be, a licensed provider that is specified in—

(a) a decision under section 42E(3)(b), or

(b) such a decision as confirmed or varied on appeal by the Tribunal or the Court,

to give, before the expiry of such period being not less than 21 days as the notice specifies, an explanation of the steps which the authorised legal business or the licensed provider has taken to comply with the decision.

(4) Where an appeal is made under section 42E(7) against a decision under section 42E(3)(b), any notice under subsection (3) relating to the decision ceases to have effect pending the outcome of the appeal.

(5) The Council may, by notice in writing, require a solicitor who is specified in—

(a) a direction or order made under section 53ZAA(4), or

(b) such a direction or order as confirmed or varied on appeal by the Court,

to give, before the expiry of such period being not less than 21 days as the notice specifies, an explanation of the steps which the solicitor has taken to comply with the direction or order.

(6) Where an appeal is made under section 54(1A) or (3A) against a decision under section 53ZAA(1) or any direction or order under section 53ZAA(4), any notice under subsection (5) relating to the decision, direction or, as the case may be, order ceases to have effect pending the outcome of the appeal.",

(c) the title to section 42ZB becomes "**Unsatisfactory professional conduct: Council's powers to monitor compliance**".

(5) Section 42C of the 1980 Act (powers to examine documents and demand explanations in connection with complaints) is repealed.

(6) In section 53 (powers of Tribunal), in subsection (2), after paragraph (g) insert—

"(h) where it considers that a solicitor does not have sufficient competence in relation to any aspect of the law or legal practice, direct the solicitor to undertake such education or training as regards the law or legal practice as it considers appropriate in that respect.".

(7) Section 53ZA (remission of complaint from Tribunal to Council) is repealed.

(8) After section 53ZA (remission of complaint by Tribunal to Council) insert—

"53ZAA Powers of Tribunal: unsatisfactory professional conduct

(1) Where, after holding an inquiry under section 53(1)(a) into a complaint of professional misconduct against a solicitor, the Tribunal is not satisfied that the solicitor has been guilty of professional misconduct, the Tribunal may decide that the solicitor has been guilty of unsatisfactory professional conduct.

(2) Where the Tribunal decides that a solicitor has been guilty of unsatisfactory professional conduct, they—

(a) must censure the solicitor,

(b) may take any of the steps mentioned in subsection (4) which they consider appropriate.

(3) Where the Tribunal censures a solicitor under subsection (2)(a), the Tribunal may provide that the censure is to have effect for a specified period and must give its reasons for doing so when intimating their decision.

(4) The steps are—

(a) where the Tribunal consider that the solicitor does not have sufficient competence in relation to any aspect of the law or legal practice, to direct the solicitor to undertake such education or training as regards the law or legal practice as the Tribunal consider appropriate in that respect,

(b) subject to subsection (8), to direct the solicitor to pay a fine not exceeding £2,000,

(c) to order that the solicitor's practising certificate is to be subject to such conditions as the Tribunal may direct.

(5) Any fine imposed by the Tribunal under subsection (4)(b) is payable to the Scottish Ministers.

(6) Where the Tribunal has ordered that the solicitor's practising certificate is to be subject to conditions under subsection (4)(c), the Tribunal may direct that the certificate is to be subject to those conditions for a specified period and must give its reasons for doing so when intimating their decision.

(7) The Tribunal may, in deciding whether the solicitor has been guilty of unsatisfactory professional conduct, take account of—

(a) any previous determination by them, the Council or the Court upholding a complaint against the solicitor of unsatisfactory professional conduct or professional misconduct,

(b) any previous decision made under section 47(1A)(a) of the 2007 Act with respect to a complaint against the solicitor,

(c) any previous direction made under section 42ZA(1B)(a) with respect to a complaint against the solicitor,

(d) any previous determination of the Commission of a services complaint under section 9(1) of the 2007 Act relating to the same alleged set of circumstances,

but not a determination, decision or direction in respect of which an appeal is pending or which has been quashed ultimately on appeal.

(8) The Tribunal must not direct the solicitor to pay a fine under subsection (4)(b) where, in relation to the subject matter of the complaint, the solicitor has been convicted by any court of an act involving dishonesty and sentenced to a term of imprisonment of not less than two years.

(9) A direction of the Tribunal under this section is enforceable in like manner as an extract registered decree arbitral in favour of the Council bearing a warrant for execution issued by the sheriff court of any sheriffdom in Scotland.

(10) The Scottish Ministers may by regulations amend subsection (4)(b) by substituting for the amount for the time being specified in that subsection such other amount as appears to them to be justified by a change in the value of money.

(11) Regulations under subsection (10) are subject to the negative procedure.".

(9) In section 53ZB (powers of Tribunal on appeal: unsatisfactory professional conduct)—

(a) in the opening words of subsection (1), after "Tribunal" insert "by the solicitor",

(b) in subsection (1)(a), for "being appealed against" substitute "upholding a conduct complaint",

(c) in subsection (1)(c), for "being appealed against" substitute "or decision made under section 42ZA(4)",

(d) after subsection (1)(f), insert—

"(g) may quash or confirm the decision made under section 47(1A)(b) of the 2007 Act (to reinstate a discontinued investigation),

(h) if it confirms the decision, may direct the Council as to which aspects of the complaint should be continued.",

(e) in the opening words of subsection (2), after "Tribunal" insert "by the complainer",

(f) in subsection (2)(a), at end insert ", and if it does so—

(i) must censure the solicitor,

(ii) may, subject to subsection (5), direct the solicitor to pay a fine not exceeding £2,000,

(iii) order that the solicitor's practising certificate is to be subject to such conditions as the Tribunal may direct,",

(g) after subsection (2)(c), insert—

"(d) may quash or confirm the direction made under section 42ZA(1B)(a),

(e) if it quashes the direction—

(i) must quash any censure and any other associated measures accompanying the direction,

(ii) may direct the Council to carry out their duties under section 42ZA(1),

(iii) may direct the Council to propose a new settlement under section 42ZA(1A)(a), taking into account any matters specified by the Tribunal,

(iv) may dismiss the complaint,

(f) may, where it considers that the solicitor does not have sufficient competence in relation to any aspect of the law or legal practice, direct the solicitor to undertake such education or training as regards the law or legal practice as it considers appropriate in that respect,

(g) may quash or confirm the decision made under section 47(1A)(a) of the 2007 Act,

(h) if it quashes the decision, may direct the Council as to which aspects of the complaint should be continued.",

(h) after subsection (2), insert—

"(2A) The Tribunal may, in determining whether to uphold the complaint by virtue of subsection (2)(a), take account of—

(a) any previous determination by them, the Council or the Court upholding a complaint against the solicitor of unsatisfactory professional conduct or professional misconduct,

(b) any previous decision made under section 47(1A)(a) of the 2007 Act with respect to a complaint against the solicitor,

(c) any previous direction made under section 42ZA(1B)(a) with respect to a complaint against the solicitor,

(d) any previous determination of the Commission of a services complaint under section 9(1) of the 2007 Act relating to the same alleged set of circumstances,

but not a determination, decision or direction in respect of which an appeal is pending or which has been quashed ultimately on appeal.

(2B) Where the Tribunal censures a solicitor under subsection (2)(a)(i), the Tribunal may provide that the censure is to have effect for a specified period and must give its reasons for doing so when intimating their decision.

(2C) Where the Tribunal has ordered that the solicitor's practising certificate is to be subject to conditions under subsection (2)(a)(iii), the Tribunal may direct that the certificate is to be subject to those conditions for a specified period and must give its reasons for doing so when intimating their decision.",

(i) in subsection (5), after "subsection (1)(e)" insert "or (2)(a)(ii)",

(j) for subsection (6) substitute—

"(6) Any fine imposed under subsection (1)(e) or (2)(a)(ii) is payable to the Scottish Ministers.",

(k) in subsection (8)(a), after "subsection (1)(e)" insert "or (2)(a)(ii)".

(10) Section 54A (appeals from decisions of Tribunal: unsatisfactory professional conduct) is amended as follows—

(a) in subsection (1)—

(i) after "decision" where it first occurs insert "mentioned in subsection (1A)",

(ii) the words "under section 53ZB(1), (2), (3) or (4)" are repealed,

(b) after subsection (1), insert—

"(1A) The decision is—

(a) a decision that the solicitor has been guilty of unsatisfactory professional conduct under section 53ZAA(1),

(b) a direction or order made under section 53ZAA(4),

(c) a decision under section 53ZB(1),

(d) a decision under section 53ZB(2)(a), (f), (g) or (h).",

(c) in subsection (3) the following paragraphs are repealed—

(i) paragraph (b),

(ii) paragraph (c),

(iii) paragraph (d),

(iv) paragraph (f),

(v) paragraph (g),

(d) in subsection (3)—

(i) after paragraph (a), insert—

"(aa) a decision under subsection (1)(b) made in relation to a decision under subsection (1)(a),

(ab) a decision under subsection (1)(h) made in relation to a decision under subsection (1)(g),",

(ii) after paragraph (g), insert—

"(h) a decision under subsection (2)(g) to confirm a decision made under section 47(1A)(a) of the 2007 Act.".

(e) after subsection (3) insert—

"(3A) The Council may, before the expiry of the period of 21 days beginning with the day on which a decision by the Tribunal under section 53ZAA(1) is intimated to them, appeal to the Court against—

(a) a decision on whether the solicitor has been guilty of unsatisfactory professional conduct under section 53ZAA(1),

(b) any direction or order made under section 53ZAA(4).",

(f) in subsection (4), for the words "subsection (1) or (2)" substitute "this section".

(11) In section 65 (interpretation), in subsection (1), insert after the definition of "the CMA Board"—

""conduct complaint" is to be construed in accordance with Part 1 of the 2007 Act,".>

Siobhian Brown

469 In schedule 3, page 106, line 21, at end insert—

<*Regulatory complaints*

(1) The 1980 Act is amended as follows.

(2) In section 3A (discharge of functions of Council of the Law Society), in subsection (5)—

(a) after paragraph (aa), insert—

"(aaa) that under section 52B of the 2007 Act of determining of a regulatory complaint remitted to them under section 7A(2) of that Act (or treated as having been remitted to them under that section by virtue of section 33B(2) of that Act),",

(b) after paragraph (ad), insert—

"(ae) that under section 51(1) of determining whether or not to make a regulatory complaint to the Tribunal,".

(3) After section 42D (procedure relating to complaints) as inserted by this Act, insert—

"42E Powers relating to regulatory complaints

(1) Before the Council make a determination upholding a regulatory complaint under section 52B(1) of the 2007 Act—

(a) the Council may propose a settlement in respect of the complaint which they consider is fair and reasonable in the circumstances to—

(i) the authorised legal business or, as the case may be, the licensed provider, and

(ii) the complainer,

(b) the authorised legal business or, as the case may be, the licensed provider may propose a settlement in respect of the complaint to the Council and the complainer.

(2) If the authorised legal business or, as the case may be, the licensed provider accepts a proposal under subsection (1)(a), or the Council consider that a proposal under subsection (1)(b) is fair and reasonable in the circumstances, the Council—

(a) must make a direction to that effect, and

(b) may not determine the complaint unless—

(i) the authorised legal business or, as the case may be, licensed provider has failed to comply with the direction made under paragraph (a), or

(ii) the direction is quashed under section 53ZE(2)(e).

(3) Where the Council make a determination upholding a regulatory complaint under section 52B(1) of the 2007 Act or where the Council make a direction under subsection (2)(a), the Council—

(a) must censure the authorised legal business or, as the case may be, the licensed provider,

(b) may—

(i) where the Council consider that a solicitor of the authorised legal business or, as the case may be, the licensed provider does not have sufficient competence in relation to any aspect of the law or legal practice, direct the solicitor to undertake such education or training as regards the law or legal practice as the Council consider appropriate in that respect,

(ii) where the imposition of a fine is permitted under the regulatory scheme of the Council, direct the authorised legal business or, as the case may be, the licensed provider to pay a fine,

(iii) impose conditions on the practising certificate of a solicitor of the authorised legal business or, as the case may be, the licensed provider,

(vi) order that the authorisation of a legal business to provide legal services be subject to such conditions as the Council may direct,

(vii) impose any other sanction permitted by the regulatory scheme of the Council.

(4) Where the Council censures an authorised legal business or a licensed provider under subsection (3)(a), the Council may provide that the censure is to have effect for a specified period and, where they do so, must give their reasons for doing so in the report under section 52B(2) of the 2007 Act.

(5) Where the Council have placed conditions on the practising certificate of a solicitor under subsection (3)(b), the Council may provide that the certificate is subject to those conditions for a specified period and, where they do so, must give their reasons for doing so in the report under section 52B(2) of the 2007 Act.

(6) When considering a regulatory complaint, including whether to propose a settlement under subsection (1)(a) or in considering a proposal under subsection (1)(b), the Council may take into account—

(a) any previous determination by them, the Tribunal or the Court upholding a regulatory complaint against the authorised legal business or, as the case may be, the licensed provider,

(b) any previous decision under section 52B(1A)(a) of the 2007 Act with respect to a complaint against the authorised legal business or, as the case may be, the licensed provider,

(c) any previous direction made under subsection (2)(a) with respect to a complaint against the authorised legal business or, as the case may be, the licensed provider,

(d) any previous determination of the Commission of a services complaint under section 9(1) of the 2007 Act relating to the same alleged set of circumstances,

but not a determination, decision or direction in respect of which an appeal is pending or which has been quashed ultimately on appeal.

(7) An authorised legal business or a licensed provider may, before the expiry of the period of 21 days beginning with the day on which—

(a) a determination under section 52B(1) of the 2007 Act upholding a regulatory complaint is intimated to the them,

(b) a decision under section 52B(1A)(b) of that Act to reinstate a discontinued investigation is intimated to them, or

(c) a decision to impose a sanction under subsection (3)(b) is intimated to them,

appeal to the Tribunal against the determination or decision.

(8) A complainer may, before the expiry of 21 days beginning on the day on which—

(a) a determination under section 52B(1) of the 2007 Act not upholding a regulatory complaint is intimated to the complainer,

(b) a decision under section 52B(1A)(a) of that Act to discontinue an investigation is intimated to the complainer,

(c) a direction under subsection (2)(a) is intimated to the complainer,

appeal to the Tribunal against the determination or decision.

(9) In this section—

"complainer" has the same meaning as in section 42ZA,

"qualifying individual" has the meaning given in section 39(8) of the Regulation of Legal Services (Scotland) Act 2023,

"regulatory scheme" is to be construed in accordance with Part 1 of the Regulation of Legal Services (Scotland) Act 2023, and

references to provisions of the 2007 Act include references to those provisions as they are applied in relation to licensed providers by Part 2A of the 2007 Act.".

(4) In section 51 (complaints to Tribunal)—

(a) in subsection (1A), after "includes" insert "—

(a) a regulatory complaint,

(b)",

(b) subsection (2) is repealed,

(c) subsection (3) is repealed,

(d) subsection (4) is repealed.

(5) After section 51, insert—

"51A Procedure on making regulatory complaints to Tribunal

(1) The Council must make rules as to the procedure for determining whether or not to make a regulatory complaint to the Tribunal under section 51(1).

(2) Before making any rules under this section, the Council must—

(a) consult the Tribunal,

(b) send to each member of the Society a draft of the rules,

(c) after sending the rules under paragraph (b), submit the draft rules to a meeting of the Society, and

(d) take into consideration any resolution passed at that meeting relating to amendments to the draft rules.

(3) Rules made under this section will not have effect unless the Lord President, after considering any objections the Lord President thinks relevant, has approved the rules so made.".

(6) In section 52 (procedure on complaints and appeals to Tribunal), in subsection (2)(aa), after "42ZD(1)" insert ", 42E(7) or (8)".

(7) After section 53ZC, insert—

"53ZD Powers relating to regulatory complaints

(1) Where a regulatory complaint is made to the Tribunal under section 51(1), the Tribunal must determine the complaint.

(2) Where the Tribunal make a determination upholding a regulatory complaint, the Tribunal—

(a) must censure the authorised legal business or, as the case may be, the licensed provider,

(b) may—

(i) where the Tribunal consider that a solicitor of the authorised legal business or, as the case may be, the licensed provider does not have sufficient competence in relation to any aspect of the law or legal practice, direct the solicitor to undertake such education or training as regards the law or legal practice as the Tribunal consider appropriate in that respect,

(ii) where the imposition of a fine is permitted under the regulatory scheme of the Council, impose a fine,

(iii) order that the practising certificate of a solicitor of the authorised legal business or, as the case may be, the licensed provider is to be subject to such conditions as the Tribunal may direct,

(iv) order that the recognition under section 34(1A) of the incorporated practice be revoked,

(v) order that the authorisation of a legal business to provide legal services be withdrawn,

(vi) order that the authorisation of a legal business to provide legal services be subject to such conditions as the Tribunal may direct,

(vii) impose any other sanction permitted by the regulatory scheme of the Council.

(3) Where the Tribunal censures an authorised legal business or a licensed provider under subsection (2)(a), the Tribunal may provide that the censure is to have effect for a specified period and, where they do so, must give their reasons in their decision.

(4) Where the Tribunal orders that the practising certificate of a solicitor is to be subject to conditions under subsection (2)(b)(iii), the Tribunal may direct that the certificate is to be subject to those conditions for a specified period and, where they do so, must give their reasons in their decision.

(5) Where the Tribunal order that the recognition under section 34(1A) of an incorporated practice be revoked, the Tribunal must direct that the order is to take effect on such date as the Tribunal specifies, being a date not earlier than 60 days after its order is intimated to the authorised legal business and such an order is to take effect accordingly.

(6) Where the Tribunal order that the authorisation of a legal business to provide legal services be withdrawn, the Tribunal must direct that the order is to take effect on such date as the Tribunal specifies, being a date not earlier than 60 days after its order is intimated to the authorised legal business and such an order is to take effect accordingly.

(7) Where an appeal against an order mentioned in subsection (5) or (6) is taken to the Court under section 54B, the order continues to have effect pending the determination or abandonment of the appeal unless the Court otherwise directs.

(8) When considering a regulatory complaint, the Tribunal may take into account—

(a) any previous determination by the Council, the Tribunal or the Court upholding a regulatory complaint against the authorised legal business or, as the case may be, the licensed provider,

(b) any previous decision under section 52B(1A)(a) of the 2007 Act with respect to a complaint against the authorised legal business or, as the case may be, the licensed provider,

(c) any previous direction made under section 42E(2)(a) with respect to a complaint against the authorised legal business or, as the case may be, the licensed provider,

(d) any previous determination of the Commission of a services complaint under section 9(1) of the 2007 Act relating to the same alleged set of circumstances,

but not a determination, decision or direction in respect of which an appeal is pending or which has been quashed ultimately on appeal.".

(8) After section 53ZD (as inserted by this Act), insert—

"53ZE Powers of Tribunal on appeal: regulatory complaints

(1) On an appeal to the Tribunal by an authorised legal business or a licensed provider under section 42E(7), the Tribunal may—

(a) confirm the determination upholding a regulatory complaint,

(b) quash the determination upholding a regulatory complaint and the censure accompanying it,

(c) confirm the decision to reinstate a discontinued investigation and direct the Council as to which aspects of the complaint are to be continued,

(d) quash the decision to reinstate a discontinued investigation,

(e) quash, confirm or vary a sanction imposed under section section 42E(3)(b),

(f) where the Tribunal consider that a solicitor of the authorised legal business or, as the case may be, the licensed provider does not have sufficient competence in relation to any aspect of the law or legal practice, direct the solicitor to undertake such education or training as regards the law or legal practice as the Tribunal consider appropriate in that respect,

(g) where the imposition of a fine is permitted under the regulatory scheme of the Council, impose a fine,

(h) order that the practising certificate of a solicitor of the authorised legal business or, as the case may be, the licensed provider is to be subject to such conditions as the Tribunal may direct,

(i) order that the recognition under section 34(1A) of the incorporated practice be revoked,

(j) order that the authorisation of a legal business to provide legal services be withdrawn,

(k) order that the authorisation of a legal business to provide legal services be subject to such conditions as the Tribunal may direct,

(l) impose any other sanction permitted by the regulatory scheme of the Council.

(2) On an appeal to the Tribunal by the complainer under section 42E(8), the Tribunal may—

(a) confirm the determination not upholding a regulatory complaint,

(b) quash the determination not upholding a regulatory complaint, make a determination upholding the complaint and censure the authorised legal business or, as the case may be, licensed provider,

(c) confirm the decision to discontinue an investigation,

(d) quash the decision to discontinue an investigation and direct the Council as to which aspects of the complaint are to be continued,

(e) quash or confirm the direction made under section 42E(2)(a),

(f) if it quashes the direction—

(i) must quash any censure and any other associated measures accompanying the direction,

(ii) may direct the Council to carry out their duties under section 52B(1),

(iii) may direct the Council to propose a new settlement under section 42E(1)(a), taking into account any matters specified by the Tribunal,

(iv) may dismiss the complaint,

(g) where the Tribunal consider that a solicitor of the authorised legal business or, as the case may be, the licensed provider does not have sufficient competence in relation to any aspect of the law or legal practice, direct the solicitor to undertake such education or training as regards the law or legal practice as the Tribunal consider appropriate in that respect,

(h) where the imposition of a fine is permitted under the regulatory scheme of the Council, impose a fine,

(i) order that the practising certificate of a solicitor of the authorised legal business or, as the case may be, the licensed provider is to be subject to such conditions as the Tribunal may direct,

(j) order that the recognition under section 34(1A) of the incorporated practice be revoked,

(k) order that the authorisation of a legal business to provide legal services be withdrawn,

(l) order that the authorisation of a legal business to provide legal services be subject to such conditions as the Tribunal may direct,

(m) impose any other sanction permitted by the regulatory scheme of the Council.

(3) Where the Tribunal censures an authorised legal business or a licensed provider under subsection (2)(b), the Tribunal may provide that the censure is to have effect for a specified period and, where they do so, must give their reasons in their decision.

(4) Where the Tribunal orders that the practising certificate of a solicitor is to be subject to conditions under subsection (1)(h) or (2)(i), the Tribunal may direct that the certificate is to be subject to those conditions for a specified period and, where they do so, must give their reasons in their decision.

(5) Where the Tribunal order that the recognition under section 34(1A) of an incorporated practice be revoked, the Tribunal must direct that the order is to take effect on such date as the Tribunal specifies, being a date not earlier than 60 days after its order is intimated to the authorised legal business and such an order is to take effect accordingly.

(6) Where the Tribunal order that the authorisation of a legal business to provide legal services be withdrawn, the Tribunal must direct that the order is to take effect on such date as the Tribunal specifies, being a date not earlier than 60 days after its order is intimated to the authorised legal business and such an order is to take effect accordingly.

(7) Where an appeal against an order mentioned in subsection (5) or (6) is taken to the Court under section 54B, the order continues to have effect pending the determination or abandonment of the appeal unless the Court otherwise directs.".

(9) After section 54A, insert—

"54B Appeals from decisions of Tribunal: regulatory complaints

(1) An authorised legal business or a licensed provider in respect of which a decision mentioned in subsection (2) has been made may, before the expiry of the period of 21 days beginning with the day on which the decision is intimated to them, appeal to the Court against the decision.

(2) The decision is—

(a) a decision under section 53ZD(1) upholding a regulatory complaint,

(b) a decision to impose a sanction under section 53ZD(2)(b),

(c) a decision under section 53ZE(1)(a) confirming the determination upholding a regulatory complaint,

(d) a decision under section 53ZE(2)(b) quashing the determination not upholding the regulatory complaint, making a determination upholding the complaint and censuring the authorised legal business or licensed provider,

(e) a decision under section 53ZE(1)(c) reinstating a discontinued investigation and directing the Council as to which aspects of the complaint are to be continued,

(f) a decision under section 53ZE(2)(d) quashing the decision to discontinue an investigation and directing the Council as to which aspects of the complaint are to be continued,

(g) a decision under section 53ZE(1)(e) to quash, confirm or vary a sanction,

(h) a decision to impose a sanction under section 53ZE(1)(f) to (l) or (2)(g) to (m).

(3) The Council may, before the expiry of the period of 21 days beginning with the day on which a decision mentioned in subsection (4) is intimated to them, appeal to the Court against the decision.

(4) The decision is—

(a) a decision under section 53ZD(1) not upholding a regulatory complaint,

(b) a decision under section 53ZE(1)(b) quashing the determination upholding a regulatory complaint and the censure accompanying it,

(c) a decision under section 53ZE(2)(a) confirming the determination not upholding a regulatory complaint,

(d) a decision under section 53ZE(1)(d) quashing the decision to reinstate a discontinued investigation,

(e) a decision under section 53ZE(2)(c) confirming the decision to discontinue an investigation,

(f) a decision under section 53ZE(1)(e) to quash, confirm or vary a sanction,

(g) a decision to impose a sanction under section 53ZE(1)(f) to (l) or (2)(g) to (m).

(5) Section 43 of the Regulation of Legal Services (Scotland) Act 2023 does not apply to an appeal under this section.".

(10) After section 55A, insert—

"55B Powers of Court: regulatory complaints

(1) In the case of an appeal under section 54B(1), the Court may—

(a) confirm the determination upholding a regulatory complaint,

(b) quash the determination upholding a regulatory complaint and the censure accompanying it,

(c) confirm the decision to reinstate a discontinued investigation and direct the Council as to which aspects of the complaint are to be continued,

(d) quash the decision to reinstate a discontinued investigation,

(e) quash, confirm or vary a sanction,

(f) where the Court considers that a solicitor of the authorised legal business or, as the case may be, the licensed provider does not have sufficient competence in relation to any aspect of the law or legal practice, direct the solicitor or qualifying individual to undertake such education or training as regards the law or legal practice as the Court considers appropriate in that respect,

(g) where the imposition of a fine is permitted under the regulatory scheme of the Council, impose a fine,

(h) order that the practising certificate of a solicitor of the authorised legal business or, as the case may be, the licensed provider is to be subject to such conditions as the Court may direct,

(i) order that the recognition under section 34(1A) of the incorporated practice be revoked,

(j) order that the authorisation of the legal business to provide legal services be withdrawn,

(k) order that the authorisation of the legal business to provide legal services be subject to such conditions as the Court may direct,

(l) impose any other sanction permitted by the regulatory scheme of the Council.

(2) In the case of an appeal under section 54B(3), the Court may—

(a) confirm the determination not upholding a regulatory complaint,

(b) quash the determination not upholding a regulatory complaint, make a determination upholding the complaint and censure the authorised legal business,

(c) confirm the decision to discontinue an investigation,

(d) quash the decision to discontinue an investigation and direct the Council as to which aspects of the complaint are to be continued,

(e) quash, confirm or vary a sanction,

(f) where the Court considers that a solicitor of the authorised legal business or, as the case may be, the licensed provider does not have sufficient

competence in relation to any aspect of the law or legal practice, direct the solicitor to undertake such education or training as regards the law or legal practice as the Court considers appropriate in that respect,

(g) where the imposition of a fine is permitted under the regulatory scheme of the Council, impose a fine,

(h) order that the practising certificate of a solicitor of an authorised legal business or, as the case may be, the licensed provider is to be subject to such conditions as the Court may direct,

(i) order that the recognition under section 34(1A) of the incorporate practice be revoked,

(j) order that the authorisation of a legal business to provide legal services be withdrawn,

(k) order that the authorisation of a legal business to provide legal services be subject to such conditions as the Court may direct,

(l) impose any other sanction permitted by the regulatory scheme of the Council.

(3) Where the Court censures an authorised legal business or a licensed provider under subsection (2)(b), the Court may provide that the censure is to have effect for a specified period and, where it does so, must give its reasons.

(4) Where the Court orders that the practising certificate of a solicitor is to be subject to conditions under subsection (1)(h) or (2)(h), the Court may direct that the certificate is to be subject to those conditions for a specified period and, where they do so, must give its reasons.

(5) A decision of the Court under this section is final.

(6) The Court may give such directions in the matter as it thinks fit, including directions as to the expenses of the proceedings before the Court and as to any order by the Tribunal relating to expenses.".

(11) After section 62A (Council's power to recover expenses), insert—

"62B Power to amend application of regulatory complaints provisions to licensed providers

(1) The Scottish Ministers may by regulations amend sections 42E, 53ZE, 54B and 55B—

(a) to disapply those sections to licensed providers,

(b) where the power in paragraph (a) has been exercised, to reapply those sections to licensed providers.

(2) Regulations under subsection (1) may include incidental, supplementary, consequential, transitional, transitory or saving provision.

(3) Regulations under subsection (1) are subject to the negative procedure.".

(12) In section 65 (interpretation), at the appropriate place insert—

""regulatory complaint" is to be construed in accordance with Part 1 of the 2007 Act (and, in the case of a regulatory complaint about a licensed provider, is to be construed in accordance with that Part as applied by Part 2A of that Act),".

(13) In schedule 4—

(a) after paragraph 9A (as inserted by this Act), insert—

"9B(1) Subject to Part 4, the Tribunal may dismiss a regulatory complaint against an authorised legal business—

(a) without requiring the authorised legal business to answer the allegations made against it or without holding any enquiry if sub-paragraph (2) applies, or

(b) without hearing parties if the Tribunal are of the opinion upon consideration of the complaint and other documents that they disclose no case of failure on the part of the authorised legal business to comply with—

(i) the practice rules forming part of the rules for authorising and regulating the legal business made under (or for the purposes of) section 41(1)(a) of the Regulation of Legal Services (Scotland) Act 2023, or

(ii) the terms on which its authorisation is granted including any conditions or restrictions imposed in relation to the authorisation.

(2) This sub-paragraph applies if—

(a) the Tribunal are of the opinion that the complaint discloses no prima facie case of failure on the part of the authorised legal business to comply with—

(i) the practice rules forming part of the rules for authorising and regulating the legal business made under (or for the purposes of) section 41(1)(a) of the Regulation of Legal Services (Scotland) Act 2023, or

(ii) the terms on which its authorisation is granted including any conditions or restrictions imposed in relation to the authorisation, or

(b) the complainer fails to comply with any rule made under section 52.

9C(1) Where under paragraph 9B the Tribunal dismisses a complaint against an authorised legal business, a person mentioned in sub-paragraph (2) may appeal the decision to the Court.

(2) The persons are—

(a) in the case of a decision under paragraph 9B(1)(b), the Council,

(b) if paragraph 9B(2)(a) applies, the Council,

(c) if paragraph 9B(2)(b) applies, the complainer.

(3) An appeal under sub-paragraph (1) must be made before the expiry of the period of 21 days beginning with the day on which the Tribunal's decision is intimated to the Council or, as the case may be, the complainer.

9D(1) Subject to Part 4, the Tribunal may dismiss a regulatory complaint against a licensed provider—

(a) without requiring the licensed provider to answer the allegations made against it or without holding any enquiry if sub-paragraph (2) applies,

(b) without hearing parties if the Tribunal are of the opinion upon consideration of the complaint and other documents that they disclose no case of failure on the part of the licensed provider to—

(i) have regard to the regulatory objectives (as described in section 2 of the Regulation of Legal Services (Scotland) Act 2023 (and construed in accordance with section 3 of that Act)),

(ii) adhere to the professional principles (as described in section 4(1) of that Act),

(iii) comply with the regulatory scheme of the Council, or

(iv) comply with the terms and conditions of its licence.

(2) This sub-paragraph applies if—

(a) the Tribunal are of the opinion that the complaint discloses no prima facie case of failure on the part of the licensed provider to—

(i) have regard to the regulatory objectives (as described in section 2 of the Regulation of Legal Services (Scotland) Act 2023 (and construed in accordance with section 3 of that Act)),

(ii) adhere to the professional principles (as described in section 4(1) of that Act),

(iii) comply with the regulatory scheme of the Council, or

(iv) comply with the terms and conditions of its licence, or

(b) the complainer fails to comply with any rule made under section 52.

9E (1) Where under paragraph 9D the Tribunal dismisses a complaint against a licensed provider, a person mentioned in sub-paragraph (2) may appeal the decision to the Court.

(2) The persons are—

(a) in the case of a decision under paragraph 9D(1)(b), the Council,

(b) if paragraph 9D(2)(a) applies, the Council,

(c) if paragraph 9D(2)(b) applies, the complainer.

(3) An appeal under sub-paragraph (1) must be made before the expiry of the period of 21 days beginning with the day on which the Tribunal's decision is intimated to the Council or, as the case may be, the complainer.",

(b) in paragraph 23, in the opening words, after "section 42ZD(1)" insert ", section 42E(7) or (8)".>

Siobhian Brown

470 In schedule 3, page 106, line 21, at end insert—

<Procedure relating to complaints

After section 42C (powers to examine documents and demand explanations in connection with complaints) of the 1980 Act insert—

"42D Procedure relating to complaints

(1) The Council must make rules as to the procedure for—

(a) making a decision under section 47(1A)(a) of the 2007 Act to discontinue an investigation of a conduct complaint,

(b) making a decision under section 47(1A)(b) of that Act to reinstate a discontinued investigation of a conduct complaint,

(c) making a proposed settlement under section 42ZA(1A),

(d) accepting a proposed settlement under section 42ZA(1B),

(e) making a decision under section 52B(1A)(a) of the 2007 Act to discontinue an investigation of a regulatory complaint,

(f) making a decision under section 52B(1A)(b) of that Act to reinstate a discontinued investigation of a regulatory complaint.

(2) Before making any rules under this section, the Council must—

(a) send to each member of the Society a draft of the rules,

(b) after sending the rules under paragraph (a), submit the draft rules to a meeting of the Society, and

(c) take into consideration any resolution passed at that meeting relating to amendments to the draft rules.

(3) Rules made under this section will not have effect unless the Lord President, after considering any objections the Lord President thinks relevant, has approved the rules so made.".>

Siobhian Brown

472 In schedule 3, page 106, line 21, at end insert—

<Other modifications

(1) The 1980 Act is amended as follows.

(2) In section 34 (rules as to professional practice, conduct and discipline), after subsection (1D) insert—

"(1E) Before making any rules under this section in pursuance of the Society's functions under the 2007 Act relating to complaints against members of the Society or authorised legal businesses, the Council must consult the Commission.".

(3) In section 39A (powers where excessive fees etc. charged), in subsection (10), paragraph (b), for "6(2)(a) or 15(5)(a) of the 2007 Act" substitute "6(2) of the 2007 Act (or treated as having been remitted to them under that section by virtue of section 33A(2) of that Act)".

(4) In section 40 (power where failure to comply with accounts rules etc.), in subsection (5), in paragraph (b), for "6(2)(a) or 15(5)(a) of the 2007 Act" substitute "6(2) of the 2007 Act (or treated as having been remitted to them under that section by virtue of section 33A(2) of that Act)".>

Siobhian Brown

478 In schedule 3, page 107, leave out lines 14 to 17 and insert—

( ) In section 20ZB (unsatisfactory professional conduct)—

(a) in subsection (1), in the opening words—

(i) for "6(2)(a) or 15(5)(a) of the 2007 Act" substitute "6(2) of the 2007 Act (or is treated as having been so remitted by virtue of section 33A(2) of that Act)",

(ii) after "must" insert "(subject to section 47(1A) of the 2007 Act and subsections (1A) and (1B))",

(b) after subsection (1), insert—

"(1A) The Council may propose a settlement in respect of the complaint which they consider is fair and reasonable in the circumstances to the practitioner and the complainer and, if the practitioner accepts the proposal, the Council—

(a) must make a direction to that effect, and

(b) may not determine the complaint under subsection (1) unless—

(i) the practitioner has failed to comply with the direction under paragraph (a), or

(ii) the direction is quashed under section 20B(2)(f).

(1B) The practitioner may propose a settlement to the Council and the complainer, and if the Council considers the proposed settlement is fair and reasonable in the circumstances the Council—

(a) must make a direction to that effect, and

(b) may not determine the complaint under subsection (1) unless—

(i) the practitioner has failed to comply with the direction under paragraph (a), or

(ii) the direction is quashed under section 20B(2)(f).",

(c) subsection (2) is repealed,

(d) in subsection (3), in the opening words—

(i) the words "or (2)" are repealed,

(ii) after "complaint" insert "or where the Council make a direction under subsection (1A)(a) or (1B)(a)",

(e) after subsection (3), insert—

"(3A) Where the Council censures a practitioner under subsection (3), the Council may provide that the censure is to have effect for a specified period and must give their reasons for doing so when making an intimation under subsection (8).",

(f) subsection (4)(c) is repealed,

(g) in subsection (5)—

(i) after "complaint" where it first occurs insert "(including whether to make a proposed settlement under subsection (1A) or accept a proposed settlement made under subsection (1B))",

(ii) after "of" where it first occurs insert "—

"(a)",

(iii) for "(but not a complaint in respect of which an appeal is pending or which has been quashed ultimately on appeal)." substitute ",

(b) any previous decision made under section 47(1A)(a) of the 2007 Act with respect to a complaint against the practitioner,

(c) any previous direction made under subsection (1A)(a) or (1B)(a) with respect to a complaint against the practitioner,

(d) any previous determination of the Commission of a services complaint under section 9(1) of the 2007 Act relating to the same alleged set of circumstances,

but not a determination, decision or direction in respect of which an appeal is pending or which has been quashed ultimately on appeal.",

(h) for subsection (7) substitute—

"(7) Any fine imposed under subsection (4)(b) is payable to the Scottish Ministers.",

(i) in subsection (8)—

(i) in paragraph (a), the words "or (2)" are repealed,

(ii) in paragraph (c), after "subsection" insert "(1A)(a), (1B)(a) or",

(iii) in the closing words, after "practitioner" insert ", and to the Commission and any other relevant party,",

(iv) in the closing words, after "determination" where it second occurs insert "or the direction under subsection (1A)(a) or (1B)(a)",

(j) after subsection (8) insert—

"(8A) An intimation made under subsection (8) must—

(a) be sent as soon as practicable after the determination or direction under subsection (1A)(a) or (1B)(a) has been made,

(b) include information about any right of appeal or ability to make a handling complaint by virtue of section 23 of the 2007 Act.",

(k) in subsection (9)—

(i) in the opening words, for "or (2)," substitute ", a decision to reinstate a discontinued investigation has been made under section 47(1A)(b) of the 2007 Act,",

(ii) in the opening words, for "determination or" substitute "determination, decision or",

(iii) after paragraph (a) insert—

"(aa) decision,",

(l) in subsection (10)—

(i) after "which" insert "—

"(a)",

(ii) the words "or (2)" are repealed,

(iii) for "him, appeal to the Tribunal against the determination." substitute "the complainer,

(b) a decision under subsection 47(1A)(a) of the 2007 Act to discontinue an investigation is intimated to the complainer, or

(c) a direction under subsection (1A)(a) or (1B)(a) is intimated to the complainer,

appeal to the Tribunal against the determination, decision or direction.",

(m) subsection (11) is repealed,

(n) subsection (12) is repealed,

(o) subsection (13)(b) is repealed,

(p) subsection (14)(b) is repealed.

( ) In section 20ZC—

(a) in subsection (1), for "20ZB(4)" substitute "20ZB(1A)(a), (1B)(a) or (4)",

(b) in subsection (2)—

(i) for "(12)" substitute "(10)",

(ii) for "20ZB(4)" substitute "20ZB(1A)(a), (1B)(a) or (4)",

(c) the title to the section becomes "**Unsatisfactory professional conduct: Council's powers to monitor compliance with direction under section 20ZB**".

( ) After section 20ZE, insert—

"20ZF Application of procedure relating to complaints

(1) The rules made by the Council under section 42D(1)(a) and (b) of the 1980 Act about the procedure for the making of a decision under section 47(1A) of the 2007 Act apply to such decisions made in relation to a complaint against a practitioner.

(2) The rules made by the Council under section 42D(1)(c) and (d) of the 1980 Act about the procedure for making and accepting a proposed settlement under section 42ZA(1A) and (1B) of that Act apply to the making and accepting of a proposed settlement under section 20ZB(1A) and (1B).".

( ) In section 20B (unsatisfactory professional conduct: powers of Tribunal on appeal)—

(a) in subsection (1)—

(i) paragraph (f) is repealed,

(ii) after paragraph (f) insert—

"(g) may quash or confirm the decision being appealed against,

(h) if it confirms the decision, may direct the Council as to which aspects of the complaint should be continued.",

(b) in subsection (2)—

(i) paragraph (b) is repealed,

(ii) after paragraph (c), insert—

"(d) may quash or confirm the decision being appealed against,

(e) if it quashes the decision, may direct the Council as to which aspects of the complaint should be continued,

(f) may quash or confirm the direction being appealed against,

(g) if it quashes the direction—

(i) must quash any censure and any other associated measures accompanying the direction,

(ii) may direct the Council to carry out their duties under section 20ZB(1),

(iii) may direct the Council to propose a new settlement under section 20ZB(1A), taking into account any matters specified by the Tribunal,

(iv) may dismiss the complaint.",

(c) subsection (3) is repealed,

(d) subsection (4) is repealed,

(e) for subsection (6) substitute—

"(6) Any fine imposed under subsection (1)(e) is payable to the Scottish Ministers.",

(f) subsection (8)(b) is repealed,

(g) subsection (9)(b) is repealed.

( ) In section 20D (unsatisfactory professional conduct: appeal from decisions of Tribunal), in subsection (3)—

(a) paragraphs (b) to (d) are repealed,

(b) paragraph (f) is repealed,

(c) paragraph (g) is repealed,

(d) after paragraph (g), insert—

"(h) a decision under subsection (2)(d) to quash or confirm a decision made under section 47(1A)(a) of the 2007 Act.".

( ) In section 20E (unsatisfactory professional conduct: powers of court on appeal)—

(a) subsection (1)(b) is repealed,

(b) subsection (3)(b) is repealed,

(c) subsection (4)(b) is repealed.

( ) In section 21B (procedures of the Tribunal etc.), in subsection (2)—

(a) "15" substitute "15A, 16A",

(b) for ", (10), (11) or (12)" substitute "or (10)".>

Miscellaneous: other modifications of enactments

Siobhian Brown

473 In schedule 3, page 106, line 25, leave out paragraph 23

Siobhian Brown

501 In schedule 3, page 110, line 22, at end insert—

<PART

MISCELLANEOUS MODIFICATIONS OF THE 1980 ACT ETC.

The roll and other registers

(1) The 1980 Act is amended as follows.

(2) In section 7 (keeping the roll)—

(a) in subsection (1), the words "at the office of their secretary" are repealed,

(b) for subsection (3) substitute—

"(3) The roll must be accessible to, and searchable by, the public, free of charge, by such electronic means as the Council consider appropriate.".

(3) In section 8 (entry in the roll), for subsection (2) substitute—

"(2) Any solicitor whose name is entered on the roll (in this Act referred to as "an enrolled solicitor") must—

(a) on enrolment, inform the Council of—

(i) the address of the solicitor's place of business, and

(ii) any other information the Council consider necessary for the purpose of maintaining the roll, and

(b) inform the Council of any change to the information required under paragraph (a) within 28 days of the change.".

(4) In section 12A (keeping the register)—

(a) in subsection (1), the words ", and shall keep the register at the office of their secretary" are repealed,

(b) for subsection (3) substitute—

"(3) The register must be accessible to, and searchable by, the public, free of charge, by such electronic means as the Council consider appropriate.".

(5) In section 12B (information to be provided by registered European lawyers), for subsection (1) substitute—

"(1) Any registered European lawyer must—

(a) on registration, inform the Council of—

(i) the address of the registered European lawyer's place of business,

(ii) the registered European lawyer's home professional title, and

(iii) the name and address of the competent authority with which the registered European lawyer is registered in the registered European lawyer's home state, and

(b) inform the Council of any change to the information required under paragraph (a) within 28 days of the change.".

(6) In section 12C (removal of name from register on request)—

(a) in subsection (1), for "solicitor" substitute "registered European lawyer",

(b) in subsection (2)(a), for "solicitor", in both places it occurs, substitute "registered European lawyer".

(7) In section 13 (applications for practising certificates), for subsection (2) substitute—

"(2) The register must be accessible to, and searchable by, the public, free of charge, by such electronic means as the Council consider appropriate.".

(8) In section 24A (applications for registration certificates), for subsection (2) substitute—

"(2) The register referred to in subsection (1)(c) must be accessible to, and searchable by, the public, free of charge, by such electronic means as the Council consider appropriate.".

(9) In section 60A (registered foreign lawyers)—

(a) for subsection (4A) substitute—

"(4A) The register of foreign lawyers must be accessible to, and searchable by, the public, free of charge, by such electronic means as the Council consider appropriate.",

(b) in subsection (4B), after "hand" insert "and the Council are satisfied that it is otherwise appropriate to do so".

(10) In schedule 2 (the roll: powers of the Council and ancillary provisions)—

(a) in paragraph 1(b)—

(i) for "send to any solicitor at his address as shown in the roll a letter enquiring" substitute "contact any solicitor to enquire",

(ii) for "6 months" substitute "8 weeks",

(iii) for "of the posting of the letter" substitute "the enquiry is made",

(b) in paragraph 1(c)—

(i) for "send" substitute "contact",

(ii) for "a letter enquiring" substitute "to enquire",

(iii) for "6 months" substitute "8 weeks",

(iv) for "of the posting of the letter" substitute "the enquiry is made",

(c) in paragraph 1(d)—

(i) for "a letter has been so sent" substitute "an enquiry has been made",

(ii) for "a letter sent" substitute "an enquiry made".

(11) In schedule 4 (constitution, procedure and powers of Tribunal)—

(a) in paragraph 18, for the words from "shall" to the end of the paragraph substitute "must be accessible to, and searchable by, the public, free of charge, by such electronic means as the Council consider appropriate.",

(b) in paragraph 18A, for the words from "open" to the end of the paragraph substitute "accessible to, and searchable by, the public, free of charge, by such electronic means as the Council consider appropriate.".

27B(1) The 1990 Act is amended as follows.

(2) In section 17 (conveyancing practitioners)—

(a) in subsection (1), for the words from "shall" to the end of the subsection substitute "must be accessible to, and searchable by, the public, free of charge, by such electronic means as the Council consider appropriate.",

(b) after subsection (9) insert—

"(9A) On application to the Council from a conveyancing practitioner whose name has been removed from the register under subsection (9), the Council may, after such inquiry as they think proper, restore the name of that conveyancing practitioner to the register.

(9B) Rules made by the Tribunal under section 52 of the 1980 Act may—

(a) regulate the making, hearing and determining of applications under subsection (9A),

(b) provide for payment by the applicant to the Council of such fee in respect of restoration to the register as the rules may specify.".

(3) In section 18 (executry practitioners)—

(a) in subsection (1), for the words from "shall" to the end of the subsection substitute "must be accessible to, and searchable by, the public, free of charge, by such electronic means as the Council consider appropriate.",

(b) after subsection (8) insert—

"(8A) On application to the Council from an executry practitioner whose name has been removed from the register under subsection (9), the Council may, after such inquiry as they think proper, restore the name of that executry practitioner, to the register.

(8B) Rules made by the Tribunal under section 52 of the 1980 Act may—

(a) regulate the making, hearing and determining of applications under subsection (8A),

(b) provide for payment by the applicant to the Council of such fee in respect of restoration to the register as the rules may specify.".>

Siobhian Brown

502 In schedule 3, page 110, line 22, at end insert—

<Restoration of name to roll: appeals

27C (1) The 1980 Act is amended as follows.

(2) In section 10 (restoration of name to roll on request)—

(a) after subsection (1ZA), insert—

"(1ZB) Where under subsection (1) or (1ZA) the Tribunal decides not to restore a solicitor's name to the roll, the solicitor may appeal the decision to the Court.

(1ZC) An appeal under subsection (1ZB) must be made before the expiry of the period of 21 days beginning with the day on which the Tribunal's decision is intimated to the solicitor.

(1ZD) On an appeal under subsection (1ZB), the Court may give such directions in the matter as it thinks fit, including directions as to the expenses of the proceedings before the Court and as to any order by the Tribunal relating to expenses.

(1ZE) A decision of the Court under subsection (1ZD) is final.",

(b) after subsection (1A), insert—

"(1B) Where under subsection (1A) the Council decides not to restore a solicitor's name, or annotation against a solicitor's name, to the roll, the solicitor may appeal the decision to the Tribunal.

(1C) An appeal under subsection (1B) must be made before the expiry of the period of 21 days beginning with the day on which the Council's decision is intimated to the solicitor.

(1D) On an appeal to the Tribunal under subsection (1B), the Tribunal may—

(a) restore the solicitor's name, or annotation against the solicitor's name, to the roll, or

(b) confirm the Council's decision.".

(3) In schedule 4 (constitution, procedure and powers of Tribunal)—

(a) in paragraph 23, in the opening words, after "appeal to the Tribunal under section" insert "10(1B),",

(b) in paragraph 25, at the beginning, insert "Subject to paragraph 26,",

(c) after paragraph 25 insert—

"26 In an appeal to the Tribunal under section 10(1B), the Tribunal must—

(a) give notice of the appeal to the solicitor and to the Council, and

(b) enquire into the matter, giving the solicitor and the Council reasonable opportunity to make representations to the Tribunal.".

Restoration of name to register of European lawyers: appeals

27D(1) The 1980 Act is amended as follows.

(2) In section 12D (restoration of name to register on request), after subsection (2) insert—

"(2A) Where under subsection (2) the Council decides not to restore a registered European lawyer's name, or annotation against a registered European lawyer's name, to the register, the registered European lawyer may appeal the decision to the Tribunal.

(2B) An appeal under subsection (2A) must be made before the expiry of the period of 21 days beginning with the day on which the Council's decision is intimated to the registered European lawyer.

(2C) On an appeal to the Tribunal under subsection (2A), the Tribunal—

(a) if the Tribunal considers that a registered European lawyer's name should be restored to the register, must direct the Council—

(i) to restore the registered European lawyer's name to the register, and

(ii) to issue to the registered European lawyer a registration certificate, subject to such conditions, if any, as the Tribunal thinks fit,

(b) if the Tribunal considers that an annotation against the registered European lawyer's name should be restored to the register, must direct the Council to restore the annotation to the register,

(c) may confirm the Council's decision.".

(3) In section 52 (procedure on complaints and appeals to Tribunal), in subsection (2)(aa), after "section" insert "10(1B), 12D(2A),".

Restoration of name to register of foreign lawyers: appeals

27E (1) The 1980 Act is amended as follows.

(2) In section 60A (registered foreign lawyers), after subsection (4F) insert—

"(4FA) Where under subsection (4C) the Council decides not to restore a foreign lawyer's name to the register, the foreign lawyer may appeal the decision to the Court.

(4FB) Where under subsection (4D) the Tribunal decides not to restore a foreign lawyer's name to the register, the foreign lawyer may appeal the decision to the Court.

(4FC) An appeal under subsection (4FA) or (4FB) must be made before the expiry of the period of 21 days beginning with the day on which the Council's decision or, as the case may be, the Tribunal's decision, is intimated to the foreign lawyer.

(4FD) On an appeal to the Court under subsection (4FA) or (4FB), the Court may—

(a) restore the foreign lawyer's name to the register, or

(b) confirm the decision of the Council or, as the case may be, the Tribunal.".>

Siobhian Brown

506 In schedule 3, page 110, line 22, at end insert—

<Previous findings of record

27J After section 42E of the 1980 Act (powers relating to regulatory complaints) as inserted by this Act insert—

"42F Previous findings of record

(1) This section applies where the Council are exercising their functions under this Part.

(2) Where a person has been convicted of a criminal offence committed in the United Kingdom—

(a) an extract conviction of the crime bearing to have been issued by an officer whose duties include the issue of extract convictions is conclusive proof of—

(i) the conviction, and

(ii) the findings of fact upon which the conviction is based, and

(b) the only evidence which may be adduced by the person in rebuttal of the conviction is evidence for the purpose of proving that the person is not the person referred to in the extract conviction.

(3) Where the Council have made a finding based upon an extract conviction for a conviction which is subsequently quashed the Council may, on the application of the person who was convicted of the criminal offence, revoke their finding.

(4) The judgment of any civil court in or outside Scotland may be proved by producing a certified copy of the judgment and the findings of fact upon which that judgment was based are admissible as proof but not conclusive proof of those facts.

(5) In this section, "extract conviction" includes a copy of a certificate of conviction issued from any court of justice of the United Kingdom.".>

Siobhian Brown

509 In schedule 3, page 110, line 22, at end insert—

<Investment business certificates

27O (1) The 1980 Act is amended as follows.

(2) In section 53 (powers of Tribunal)—

(a) in subsection (2)(g), for "an investment business certificate" substitute "a licence to carry on incidental financial business",

(b) in subsection (7A), for the words from ""investment" to the end of the subsection substitute ""licence to carry on incidental financial business" means a licence issued by the Society as a designated professional body under section 326(1) of the Financial Services and Markets Act 2000.",

(c) for subsection (8)(b) substitute—

"(b) the definition of "licence to carry on incidental financial business" in subsection (7A) by substituting for the reference to the Society's Practice Rule C2: Incidental Financial Business, or such reference replacing that reference as may for the time being be specified in that subsection, a reference to such Practice Rule as may from time to time replace Practice Rule C2.",

(d) after subsection (8) insert—

"(8A) The power in subsection (8)(b) includes the power to make supplementary, incidental, consequential, transitional, transitory or saving provision.".

(3) In section 53D (suspension etc. of investment business certificates: appeal to Tribunal)—

(a) in subsection (1), for "an investment business certificate" substitute "a licence to carry on incidental financial business",

(b) the title of section 53D becomes "**Suspension etc. of licence to carry on incidental financial business: appeal to Tribunal**".

(4) In schedule 4 (constitution, procedure and powers of Tribunal), in paragraph 16(h), for "an investment business certificate" substitute "a licence to carry on incidental financial business".>

Siobhian Brown

510 In schedule 3, page 110, line 22, at end insert—

<Appeals from decisions of Tribunal

27P (1) Section 54 of the 1980 Act (appeals from decisions of Tribunal) is amended as follows.

(2) After subsection (1B) insert—

"(1BA) Section 43 of the Regulation of Legal Services (Scotland) Act 2023 does not apply to an appeal under subsection (1B)(c).".

(3) In subsection (1C)—

(a) for "a decision by the Tribunal under section 53(2) or (5)" substitute "any decision by the Tribunal mentioned in subsection (1CA)",

(b) the words "; but the Council may not appeal to the Court against a decision of the Tribunal under section 53(2)(bb) or (bc)" are repealed.

(4) After subsection (1C) insert—

"(1CA) The decision is—

(a) the finding that the solicitor has been not guilty of professional misconduct,

(b) a decision under section 53(2), (5) or (5A).".>

Siobhian Brown

511 In schedule 3, page 110, line 22, at end insert—

<Constitution of Tribunal

27Q (1) Schedule 4 of the 1980 Act (constitution, procedure and powers of Tribunal) is amended as follows.

(2) In paragraph 1A—

(a) in paragraph (a), after "Council" insert "after consultation with the Tribunal", and

(b) in paragraph (b), after "the Scottish Ministers" insert "and the Tribunal".

(3) After paragraph 1A insert—

"1AA Each solicitor member must have in force a practising certificate when appointed under paragraph 1A(a) or re-appointed under paragraph 2(b).

1AB The Council must notify the Tribunal where—

(a) a solicitor member has been suspended from practice as a solicitor,

(b) a solicitor member's practising certificate ceases to have effect,

(c) the Council have—

(i) issued a solicitor member's practising certificate subject to conditions, or

(ii) placed a condition on, added a condition to, removed a condition from or varied a condition of a solicitor member's practising certificate.

1AC When notifying the Tribunal under paragraph 1AB, the Council must give reasons for, as the case may be—

(a) the solicitor member's suspension,

(b) the solicitor member's practising certificate ceasing to have effect,

(c) the solicitor member's practising certificate being issued subject to conditions,

(d) the condition being placed on or added to the solicitor member's practising certificate,

(e) the condition of the solicitor member's practising certificate being varied, or

(f) the condition being removed from the solicitor member's practising certificate.

1AD Where the Tribunal has been notified about a solicitor member under paragraph 1AB, the Chair (see paragraph 4) may request that the Lord President terminates the appointment of the solicitor member (see paragraph 3).".

(4) In paragraph 2—

(a) in paragraph (a), after "the Secretary of State" insert "and the Tribunal",

(b) in paragraph (b), after "Council" insert "after consultation with the Tribunal".

(5) In paragraph 3—

(a) after "Council" insert "after consultation with the Tribunal", and

(b) after "the Secretary of State" insert "and the Tribunal".

(6) In paragraph 4, for "chairman" substitute "Chair".

(7) After paragraph 4 insert—

"4A The Tribunal may appoint one or more of their number to be vice-Chair and, subject to the provisions of this Act, may regulate their procedure in such a way as they may think fit.

4B The Chair may arrange for any of the Chair's functions to be discharged on the Chair's behalf by a vice-Chair.".

(8) In paragraph 14, for "chairman" substitute "Chair".>

Siobhian Brown

512 In schedule 3, page 110, line 22, at end insert—

<Procedure of Tribunal

27R (1) The 1980 Act is amended as follows.

(2) In section 52 (procedure on complaints and appeals to Tribunal), after subsection (2)(ab) insert—

"(ac) for regulating an arrangement under paragraph 6A of schedule 4,".

(3) In schedule 4 (constitution, procedure and powers of Tribunal), after the title to Part 2 insert—

"Procedure

6A The Tribunal may arrange for any of their functions (other than an excepted function) to be discharged on their behalf by one of their number.

6B An "excepted function" is the making of a decision under—

(a) section 10,

(b) section 12D,

(c) section 42ZD,

(d) section 47,

(e) section 52,

(f) section 53,

(g) section 53ZAA,

(h) section 53ZB,

(i) section 53ZD,

(j) section 53ZE,

(k) section 53D,

(l) section 54,

(m) section 60A.".>

Siobhian Brown

513 In schedule 3, page 110, line 22, at end insert—

<Communicating and giving effect to Tribunal decisions

27S(1) The 1980 Act is amended as follows.

(2) In schedule 4 (constitution, procedure and powers of tribunal)—

(a) in paragraph 15, after "of appeal" insert ", if any,",

(b) after paragraph 15, insert—

"15A A copy of every decision by the Tribunal certified by the clerk must be sent to the Commission.",

(c) in paragraph 16—

(i) after paragraph (d), insert—

"(da) directing a solicitor to undertake education or training, or

(db) ordering that the practising certificate of a solicitor be subject to such conditions as they may direct, or",

(ii) in the closing words, for the words "shall forthwith" to the end of the closing words substitute "must comply with paragraph 16A.",

(d) after paragraph 16, insert—

"16A When the Council receives a copy of a decision by virtue of paragraph 16, the Council must—

(a) give effect to any order as to striking the solicitor off the roll,

(b) give effect to any conditions directed by the Tribunal under section 53(5), 53ZAA(4)(c), 53ZB(2)(a)(iii), 53ZD(2)(b) or 53ZE(1)(h) or (2)(g),

(c) give effect to any direction requiring a solicitor to undertake education or training,

(d) in any other case in relation to a solicitor, cause a note of the effect of the decision to be entered against the name of the solicitor in the roll,

(e) give effect to any order revoking the recognition under section 34(1A) of an incorporated practice, or

(f) give effect to the withdrawal of, or imposition of conditions in relation to, the authorisation of a legal business to provide legal services.

16B In the case of a decision by the Tribunal—

(a) relating to the discontinuation of an investigation of a conduct complaint or a regulatory complaint,

(b) relating to the reinstatement of a discontinued investigation of a conduct complaint or a regulatory complaint,

(c) directing the Council to carry out their duties under section 42ZA(1),

(d) directing the Council to propose a new settlement under section 42ZA(1A)(a),

(e) under section 53ZD,

(f) under section 53ZE,

on the expiration of the days of appeal without an appeal being lodged or, where an appeal has been lodged, as soon as the appeal is withdrawn or a decision by the Court confirming the decision of the Tribunal is given, the clerk of the Tribunal must send a certified copy of the decision of the Tribunal to the Council, and where relevant the Council must give effect to the decision.".

(3) In section 53, in subsection (5), the words "terms and" are repealed.>

Siobhian Brown

514 In schedule 3, page 110, line 22, at end insert—

<Appeal against decision of Tribunal to dismiss before enquiry

27T (1) The 1980 Act is amended as follows.

(2) In schedule 4 (constitution, procedure and powers of Tribunal)—

(a) after paragraph 9 insert—

"9A(1) Where under paragraph 9 the Tribunal dismisses a complaint against a solicitor or an authorised legal business, a person mentioned in sub-paragraph (2) may appeal the decision to the Court.

(2) The persons are—

(a) in the case of a decision under paragraph 9(a)(i), the Council,

(b) in the case of a decision under paragraph 9(a)(ii), the complainer,

(c) in the case of a decision under paragraph 9(b), the Council.

(3) An appeal under sub-paragraph (1) must be made before the expiry of the period of 21 days beginning with the day on which the Tribunal's decision is intimated to the Council or, as the case may be, the complainer.",

(b) after paragraph 24, insert—

"24A(1) Where under paragraph 24 the Tribunal dismisses an appeal the appellant may appeal the decision to the Court.

(2) An appeal under sub-paragraph (1) must be made before the expiry of the period of 21 days beginning with the day on which the Tribunal's decision is intimated to the appellant.".>

Siobhian Brown

515 In schedule 3, page 110, line 22, at end insert—

<Finality of decisions

27U(1) The 1980 Act is amended as follows.

(2) In section 16 (appeals from decisions of Council), after subsection (3) insert—

"(4) A decision of the Court under subsection (1), (1A), (2) or (2A) is final.".

(3) In section 19 (further provisions relating to suspension of practising certificates), after subsection (8) insert—

"(9) A decision of the Court under subsection (8) is final.".

(4) In section 24D (appeals from decisions of Council), after subsection (3) insert—

"(4) A decision of the Court under subsection (1), (2) or (2A) is final.".

(5) In section 24G (further provisions relating to suspension of registration certificate), after subsection (7) insert—

"(8) A decision of the Court under subsection (7) is final.".

(6) In section 47 (restriction on employing solicitor struck off or suspended), after subsection (4) insert—

"(5) A decision of the Court under subsection (3) or (4) is final.".>

Siobhian Brown

516 In schedule 3, page 110, line 22, at end insert—

<Other modifications

27V(1) The 1980 Act is amended as follows.

(2) In section 16 (appeals from decisions of Council), after subsection (1) insert—

"(1A) Where the Council refuse to recognise a body corporate as being suitable in terms of section 34(1A)(b), the body corporate may apply to the Court, who may make such order in the matter as it thinks fit.".

(3) In section 18 (suspension of practising certificates)—

(a) in subsection (2), the words "in writing" are repealed,

(b) in subsection (3), the words "in writing" are repealed.

(4) In section 19 (further provisions relating to suspension of practising certificates), in subsection (5C), the words "in writing" are repealed.

(5) In section 24D (appeals from decisions of Council), subsection (1)(b) is repealed.

(6) In section 24F (suspension of registration certificate)—

(a) in subsection (2), the words "in writing" are repealed,

(b) in subsection (3), the words "in writing" are repealed.

(7) In section 24G (further provisions relating to suspension of registration certificate), in subsection (4B), the words "in writing" are repealed.

(8) In section 26 (offence for solicitors to act as agents for unqualified persons), in subsection (2), the words "employed full-time on a fixed salary by a body corporate or" are repealed.

(9) In section 30 (liability for fees of other solicitor)—

(a) after "employs" insert "or otherwise engages",

(b) for "employed" substitute "other",

(c) after "employment" insert "or engagement".

(10) In section 32 (offence for unqualified persons to prepare certain documents), for subsection (2B) substitute—

"(2B) Subsection (1)(b) does not apply to—

(a) a person who is, by virtue of an act of sederunt made under section 104(1) of the Courts Reform (Scotland) Act 2014 (power to regulate procedure etc. in the sheriff court and the Sheriff Appeal Court) permitted to represent—

(i) a party to a simple procedure case,

(ii) a debtor or hirer in proceedings for—

(A) a time order under section 129 of the Consumer Credit Act 1974 (time orders), or

(B) variation or revocation, under section 130(6) of that Act (variation and revocation of time orders), of a time order made under section 129,

(b) an approved lay representative within the meaning of section 5F of the Heritable Securities (Scotland) Act 1894 or section 24E of the Conveyancing and Feudal Reform (Scotland) Act 1970 (lay representation in proceedings by creditors for repossession of residential property) while acting in pursuance of the section in question.".

(11) In section 44 (professional indemnity), in subsection (5)—

(a) in paragraph (a), for "Part 4" substitute "Part 4A",

(b) in paragraph (b), for "Part 4" substitute "Part 4A",

(c) paragraphs (c) and (d) are repealed.

(12) In section 55 (powers of Court), in subsection (2), after "(3)" insert "and (3A)".

(13) In section 61A (solicitors' fees), in subsection (1), for paragraphs (a) and (b) substitute—

"(a) section 103(2)(j) of the Courts Reform (Scotland) Act 2014, or

(b) section 104(2)(j) of that Act,".

(14) In section 63, subsections (3) and (4) are repealed.

(15) After section 63, insert—

"63A Individual culpability for offending by an organisation

(1) Subsection (2) applies where—

(a) an offence under this Act is committed by a relevant organisation, and

(b) the commission of the offence involves the connivance or consent of, or is attributable to the neglect of—

(i) a responsible official of the organisation, or

(ii) an individual purporting to act in the capacity of a responsible official.

(2) The responsible official (or, as the case may be, the individual purporting to act in that capacity), as well as the organisation, commits the offence.

(3) "Relevant organisation" means—

(a) a company,

(b) a partnership (including a limited liability partnership),

(c) another body or association.

(4) "Responsible official" means—

(a) in the case of a company—

(i) a director, secretary, manager or similar officer, or

(ii) where the affairs of the company are managed by its members, a member,

(b) in the case of a limited liability partnership, a member,

(c) in the case of a partnership other than a limited liability partnership, a partner,

(d) in the case of another body or association, a person who is concerned in the management or control of its affairs.".

(16) In section 65 (interpretation)—

(a) after the definition of "building society" insert—

""category 1 regulator" means a body that regulates the provision of legal services and which has been assigned as a category 1 regulator in or under section 8 of the Regulation of Legal Services (Scotland) Act 2023,

"category 2 regulator" means a body that regulates the provision of legal services and which has been assigned as or deemed a category 2 regulator in or under section 8 of the Regulation of Legal Services (Scotland) Act 2023,",

(b) after the definition of "law centre" insert—

""legal services" has the meaning given by section 6 of the Regulation of Legal Services (Scotland) Act 2023,".>

Siobhian Brown

517 In schedule 3, page 111, line 25, leave out paragraph 32 and insert—

<32 (1) The Disclosure (Scotland) Act 2020 is amended as follows.

(2) In schedule 1 (list A offences)—

(a) after paragraph 43 (insolvency), insert—

"Legal professions etc.

43A An offence under the Solicitors (Scotland) Act 1980.

43B An offence under either of the following provisions of the Legal Services (Scotland) Act 2010—

(a) section 73 (offence of concealing disqualification),

(b) section 74 (offence of pretending to be licensed).

43C An offence under any of the following provisions of the Regulation of Legal Services (Scotland) Act 2023—

(a) section 32(1) (offence of pretending to have acquired rights),

(b) section 39(4) (offence of owning or operating a legal business without authorisation),

(c) section 40(1) (offence of pretending to be an authorised legal business),

(d) section 82(1) (offence of taking or using the title of lawyer),

(e) section 83(1) (offence of pretending to be a regulated provider of legal services),

(f) section 84(1) (offence of pretending to be a member of the Faculty of Advocates).",

(b) paragraph 60 (solicitors) and the heading immediately preceding it are repealed.>

Siobhian Brown

518 In schedule 3, page 112, line 12, at end insert—

<32CA An offence under either of the following provisions of the Legal Services (Scotland) Act 2010—

(a) section 73 (offence of concealing disqualification),

(b) section 74 (offence of pretending to be licensed).>

Siobhian Brown

519 In schedule 3, page 112, line 15, at end insert—

<(aa) section 39(4) (offence of owning or operating a legal business without authorisation),>

Siobhian Brown

520 In schedule 3, page 112, line 24, leave out paragraph 34

Siobhian Brown

521 In section 90, page 76, line 26, leave out <and> and insert <any>

Powers of Law Society of Scotland relating to conditions upon or suspension from practice

Siobhian Brown

503 In schedule 3, page 110, line 22, at end insert—

<Practising certificates

27F (1) The 1980 Act is amended as follows.

(2) In section 15 (discretion of Council in special cases)—

(a) in subsection (2)(i)(i), for "6(2)(a) or 15(5)(a) of the 2007 Act" substitute "6(2) of the 2007 Act (or is treated as having been so remitted by virtue of section 33A(2) of that Act)",

(b) after subsection (2)(j) insert—

"(k) where the solicitor's practising certificate is subject to conditions.",

(c) in subjection (3), for "or (h)" substitute ", (h) or (k)",

(d) after subsection (3) insert—

"(3A) Where the Council decide to issue a practising certificate subject to conditions, the Council may, at the request of the solicitor to whom the certificate is issued or on their own initiative—

(a) vary the conditions,

(b) remove conditions, or

(c) impose further conditions.

(3B) Before making a decision to vary, remove or impose conditions under subsection (3A), the Council must—

(a) notify the solicitor of their intention to exercise the power,

(b) give the solicitor an opportunity to make representations within 14 days of being notified,

and when exercising that power, must take into account any representations made by the solicitor.

(3C) The Council must notify the solicitor to whom the practising certificate is issued of the decision to vary, remove or impose conditions and the reasons for the decision as soon as practicable after making the decision.",

(e) in subsection (4), after "conditions," insert "or vary, remove or impose conditions under subsection (3A),",

(f) after subsection (4) insert—

"(5) If a solicitor fails to comply with any condition of the solicitor's practising certificate, that failure may be treated as professional misconduct or unsatisfactory professional conduct.".

(3) After section 15 insert—

"15A Discretion of Council in other cases

(1) Except in a case where section 15 has effect, the Council may, subject to subsection (2), take any of the following steps in relation to the practising certificate of a solicitor—

(a) vary any conditions imposed by the Council,

(b) remove conditions, or

(c) impose conditions.

(2) The Council may take any of the steps mentioned in subsection (1) only if they consider it necessary to do so—

(a) in the public interest, or

(b) for the protection of the public.

(3) Before making a decision to vary, remove or impose conditions by virtue of subsection (2)(a), the Council must—

(a) notify the solicitor of their intention to exercise the power,

(b) give the solicitor an opportunity to make representations within 14 days of being notified,

and when exercising that power, must take into account any representations made by the solicitor.

(4) Where the Council have made a decision to vary, remove or impose conditions by virtue of subsection (2)(b), the Council—

(a) when notifying the solicitor under subsection (5), must give the solicitor an opportunity to make representations within 14 days of being notified, and

(b) taking into account any representations made, may vary their decision.

(5) The Council must notify the solicitor to whom the practising certificate is issued of their decision to vary, remove or impose conditions and the reasons for the decision as soon as practicable after making the decision.

(6) Where the Council decide to vary, remove or impose conditions, they may, if they think fit, postpone the issue of the certificate pending the hearing and determination of an appeal under section 16.

(7) If a solicitor fails to comply with any condition of the solicitor's practising certificate, that failure may be treated as professional misconduct or unsatisfactory professional conduct.".

(4) In section 16 (appeals from decisions of Council)—

(a) in subsection (2), after "conditions," insert "or decide to vary, remove or impose conditions,",

(b) after subsection (2) insert—

"(2A) Where the Council have varied conditions of, removed conditions from or imposed conditions on a practising certificate under section 15A, the solicitor to whom the certificate is issued may appeal to the Court against that decision within 14 days of being notified of it.",

(c) in subsection (3), in the opening words, after "(2)" insert "or (2A)".

(5) In section 17 (date and expiry of practising certificates), in subsection (2), after "(1)" insert "or a different date specified on the certificate".

(6) In section 18 (suspension of practising certificates)—

(a) after subsection (1ZA) insert—

"(1ZB) The Council may suspend a solicitor from practice as a solicitor if the Council consider it necessary to do so—

(a) in the public interest, or

(b) for the protection of the public.

(1ZC) Before making a decision to suspend a solicitor from practice by virtue of subsection (1ZB)(a), the Council must—

(a) notify the solicitor of their intention to make a decision,

(b) give the solicitor an opportunity to make representations within 14 days of being notified,

and when making a decision, must take into account any representations made by the solicitor.

(1ZD) Where the Council have made a decision to suspend a solicitor from practice by virtue of subsection (1ZB)(b), the Council—

(a) when notifying the solicitor under subsection (1ZE), must give the solicitor an opportunity to make representations within 14 days of being notified, and

(b) taking into account any representations made, may vary their decision.

(1ZE) Where the Council have made a decision to suspend a solicitor from practice under subsection (1ZB), the Council must notify the solicitor of the suspension as soon as practicable and give reasons for the suspension.",

(b) after subsection (3A) insert—

"(4) Where the Council have been notified by the Commission that a solicitor has failed to comply with a direction under section 10 of the 2007 Act, the Council may, when considering a suspension under this section, contact the Commission to ascertain whether the solicitor has since complied with the direction.",

(c) the title of section 18 becomes "**Suspension from practice as solicitor**".

(7) In section 19 (further provisions relating to suspension of practising certificates)—

(a) subsection (1) is repealed,

(b) for subsections (4) and (5) substitute—

"(4) Where a solicitor has been suspended from practice as a solicitor by virtue of section 18(1)(c) or (d), the suspension expires on the solicitor being granted a discharge.

(5) Where a solicitor has been suspended from practice as a solicitor by virtue of section 18(1)(e), the suspension expires on the judicial factor being granted a discharge.",

(c) subsection (5B) is repealed,

(d) in subsection (5C), for "(5B)" substitute "(5A)",

(e) after subsection (5C), insert—

"(5D) Where a solicitor is suspended from practice as a solicitor by virtue of paragraphs (c), (d) or (e) of section 18(1) or by virtue of section 18(1ZA) or (1ZB), the Council may, on their own initiative, decide to terminate the suspension with or without conditions.",

(f) in subsection (6), after "section 18(1ZA)" insert "or (1ZB)",

(g) after subsection (7), insert—

"(7A) Where the Council have made a decision—

(a) to terminate the suspension of a solicitor under subsection (5D),

(b) to grant an application to terminate the suspension of a solicitor under subsection (7)(a), or

(c) to refuse an application to terminate the suspension of a solicitor under subsection (7)(b),

the Council must notify the solicitor of the decision and the reasons for the decision as soon as practicable after making the decision.",

(h) the title of section 19 becomes "**Further provisions relating to suspension from practice as solicitor**".

(8) In section 20 (Council's duty to supply lists of solicitors holding practising certificates), after subsection (1)(b) insert—

"(c) any other body the Council consider necessary for the fulfilment of the Council's regulatory duties,".

Registration certificates

27G (1) The 1980 Act is amended as follows.

(2) In section 24C (discretion of Council in special cases)—

(a) in subsection (2)(h)—

(i) in the opening words, the words ", after a complaint has been made" are repealed,

(ii) in sub-paragraph (i), for "relating to his conduct of the business of a client" substitute "the Council are investigating a conduct complaint remitted to them under section 6(2) of the 2007 Act (or is treated as having been so remitted by virtue of section 33A(2) of that Act),"

(iii) in sub-paragraph (ii), at beginning insert "after a complaint has been made",

(b) after subsection (2)(i) insert—

"(j) where the registered European lawyer's registration certificate is subject to conditions.",

(c) in subsection (3), for "or (g)" substitute ", (g) or (j)",

(d) after subsection (3) insert—

"(3A) Where the Council decide to issue a registration certificate subject to conditions, the Council may, at the request of the registered European lawyer to whom the certificate is issued or on their own initiative—

(a) vary the conditions,

(b) remove conditions, or

(c) impose further conditions.

(3B) Before making a decision to vary, remove or impose conditions under subsection (3A), the Council must—

(a) notify the registered European lawyer of their intention to exercise the power,

(b) give the registered European lawyer an opportunity to make representations within 14 days of being notified,

and when exercising that power, must take into account any representations made by the registered European lawyer.

(3C) The Council must notify the registered European lawyer to whom the registration certificate is issued of the decision to vary, remove or impose conditions and the reasons for the decision as soon as practicable after making the decision.",

(e) in subsection (4), after "conditions," insert "or vary, remove or impose conditions under subsection (3A),",

(f) after subsection (4) insert—

"(5) If a registered European lawyer fails to comply with any condition of the lawyer's registration certificate, that failure may be treated as professional misconduct or unsatisfactory professional conduct.".

(3) After section 24C insert—

"24CA Discretion of Council in other cases

(1) Except in a case where section 24C has effect, the Council may, subject to subsection (2), take any of the following steps in relation to the registration certificate of a registered European lawyer—

(a) vary any conditions imposed by the Council,

(b) remove conditions, or

(c) impose conditions.

(2) The Council may take any of the steps mentioned in subsection (1) only if they consider it necessary to do so—

(a) in the public interest, or

(b) for the protection of the public.

(3) Before making a decision to vary, remove or impose conditions by virtue of subsection (2)(a), the Council must—

(a) notify the registered European lawyer of their intention to exercise the power,

(b) give the registered European lawyer an opportunity to make representations within 14 days of being notified,

and when exercising that power, must take into account any representations made by the registered European lawyer.

(4) Where the Council have made a decision to vary, remove or impose conditions by virtue of subsection (2)(b), the Council—

(a) when notifying the registered European lawyer under subsection (5), must give the registered European lawyer an opportunity to make representations within 14 days of being notified, and

(b) taking into account any representations made, may vary their decision.

(5) The Council must notify the registered European lawyer to whom the registration certificate is issued of their decision to vary. remove or impose conditions and the reasons for their decision.

(6) Where the Council decide to vary, remove or impose conditions, they may, if they think fit, postpone the issue of the certificate pending the hearing and determination of an appeal under section 16.".

(4) In section 24D (appeals from decisions of Council)—

(a) in subsection (2), after "conditions," insert "or decide to vary, remove or impose conditions,"

(b) after subsection (2) insert—

"(2A) Where the Council have varied conditions of, removed conditions from or imposed conditions on a registration certificate under section 12D(2C) or 24CA, the registered European lawyer to whom the certificate is issued may appeal to the Court against that decision within 14 days of being notified of it.",

(c) subsection (3), in the opening words, after "(2)" insert "or (2A)".

(5) In section 24E (date and expiry of registration certificate), in subsection (2), after "(1)" insert "or a different date specified on the certificate".

(6) In section 24F (suspension of registration certificate)—

(a) after subsection (1A) insert—

"(1B) The Council may suspend a registered European lawyer from practice as a registered European lawyer if the Council consider it necessary to do so—

(a) in the public interest, or

(b) for the protection of the public.

(1C) Before making a decision to suspend a registered European lawyer from practice by virtue of subsection (1B)(a), the Council must—

(a) notify the lawyer of their intention to make a decision,

(b) give the lawyer an opportunity to make representations within 14 days of being notified,

and when making a decision, must take into account any representations made by the lawyer.

(1D) Where the Council have made a decision to suspend a registered European lawyer from practice by virtue of subsection (1B)(b), the Council—

(a) when notifying the lawyer under subsection (1E), must give the lawyer an opportunity to make representations within 14 days of being notified, and

(b) taking into account any representations made, may vary their decision.

(1E) Where the Council have made a decision to suspend a registered European lawyer from practice under subsection (1B), the Council must notify the lawyer of the suspension as soon as practicable and give reasons for the suspension.",

(b) after subsection (3) insert—

"(4) Where the Council have been notified by the Commission that a registered European lawyer has failed to comply with a direction under section 10 of the 2007 Act, the Council may, when considering a suspension under this section, contact the Commission to ascertain whether the lawyer has since complied with the direction.",

(c) title of section 24F becomes "**Suspension from practice as registered European lawyer**".

(7) In section 24G (further provisions relating to suspension of registration certificate)—

(a) subsection (1) is repealed,

(b) for subsection (2) substitute—

"(2A) Where a registered European lawyer has been suspended from practice as a registered European lawyer by virtue of section 24F(1)(c) or (d), the suspension expires on the lawyer being granted a discharge.",

(c) for subsection (3), substitute—

"(3A) Where a registered European lawyer has been suspended from practice as a registered European lawyer by virtue of section 24F(1)(e), the suspension expires on the judicial factor being granted a discharge.",

(d) subsection (4A) is repealed,

(e) in subsection (4B), for "(4A)" substitute "(4)",

(f) after subsection (4B), insert—

"(4C) Where a registered European lawyer is suspended from practice as a registered European lawyer by virtue of paragraphs (c), (d) or (e) of section 24F(1) or by virtue of section 24F(1A) or (1B), the Council may, on their own initiative, decide to terminate the suspension with or without conditions.",

(g) in subsection (5), after "section 24F(1A)" insert "or (1B)",

(h) after subsection (6), insert—

"(6A) Where the Council have made a decision—

(a) to terminate the suspension of a registered European lawyer under subsection (4C),

(b) to grant an application to terminate the suspension of a registered European lawyer under subsection (6)(a), or

(c) to refuse an application to terminate the suspension of a registered European layer under subsection (6)(b),

the Council must notify the registered European lawyer of the decision and the reasons for the decision as soon as practicable after making the decision.",

(i) the title of section 24G becomes "**Further provisions relating to suspension from practice as registered European lawyer**".>

Siobhian Brown

504 In schedule 3, page 110, line 22, at end insert—

<Powers where excessive fees etc. charged

27H (1) Section 39A of the 1980 Act (powers where excessive fees etc. charged) is amended as follows.

(2) After subsection (2), insert—

"(2A) On their own initiative the Council may decide to terminate the suspension of a solicitor under subsection (2) and, where they do so, must restore to the solicitor any practising certificate held by the solicitor for the practice year then current and may impose conditions on the certificate.

(2B) Where the Council have made a decision to terminate the suspension of a solicitor under subsection (2A), the Council must notify the solicitor of the decision and the reasons for the decision as soon as practicable after making the decision.".

(3) In subsection (3)—

(a) for the words ", unless they are of the opinion that the solicitor or incorporated practice is liable to disciplinary proceedings under Part IV, shall" substitute "may",

(b) for the words "and shall" substitute "and, where they do so, must",

(c) after "current" insert "and may impose conditions on the certificate".

(4) In subsection (8), after "certificate" insert "or a decision under subsection (2A) to restore a solicitor's practising certificate subject to conditions or a decision under subsection (3) to refuse to terminate the solicitor's suspension from practice".

(5) After subsection (8) insert—

"(8A) Nothing in subsection (8) prevents a solicitor or authorised legal business from subsequently satisfying the Council under subsection (3).".>

Siobhian Brown

505 In schedule 3, page 110, line 22, at end insert—

<Powers where failure to comply with rules

27I (1) Section 40 of the 1980 Act (power where failure to comply with accounts rules etc.) is amended as follows.

(2) After subsection (1) insert—

"(1A) On their own initiative the Council may decide to terminate the suspension of a solicitor under subsection (1) and, where they do so, must restore to the solicitor any practising certificate held by the solicitor for the practice year then current and may impose conditions on the certificate.

(1B) Where the Council have made a decision to terminate the suspension of a solicitor under subsection (1A), the Council must notify the solicitor of the decision and the reasons for the decision as soon as practicable after making the decision.".

(3) In subsection (2)—

(a) after "provisions" insert "or has complied with the provisions",

(b) for the words ", unless they are of opinion that the solicitor or, as the case may, the incorporated practice is liable to disciplinary proceedings under Part IV, shall" substitute "may",

(c) for "shall" where it second occurs substitute ", where they do so, must",

(d) after "current" insert "and may impose conditions on the certificate".

(4) After subsection (2), insert—

"(2A) If the Council make a decision under subsection (2) to terminate the suspension of a solicitor from practice on the basis that the solicitor (or the authorised legal business) is willing and able to comply with the applicable provisions—

(a) the Council must specify the period within which the solicitor or authorised legal business is to comply with the provisions, and

(b) the solicitor or authorised legal business must, before the end of that period, notify the Council of having complied with the provisions.

(2B) If a solicitor or authorised legal business, without reasonable excuse, fails to comply with the requirements of subsection (2A), the Council may, as the case may be—

(a) withdraw the practising certificate held by the solicitor, or

(b) withdraw the practising certificate or certificates of any or all of the solicitors who are members, owners, partners or, as the case may be, directors of the authorised legal business,

and suspend the solicitor from practice as a solicitor.".

(5) In subsection (3), after "certificate" insert "or a decision under subsection (1A) to restore a solicitor's practising certificate subject to conditions".>

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