

2008 No. 428

LEGAL PROFESSION

**The Legal Profession and Legal Aid (Scotland) Act 2007
(Handling Complaints and Specification of Interest Rates)
Order 2008**

Made - - - - - *18th December 2008*
Laid before the Scottish Parliament *22nd December 2008*
Coming into force *30th January 2009*

The Scottish Ministers make the following Order in exercise of the powers conferred by sections 23(4)(b), 27(3)(b) and 28(3)(b) of the Legal Profession and Legal Aid (Scotland) Act 2007^(a) and all other powers enabling them to do so.

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Legal Profession and Legal Aid (Scotland) Act 2007 (Handling Complaints and Specification of Interest Rates) Order 2008 and comes into force on 30th January 2009.

(2) In this Order “the Act” means the Legal Profession and Legal Aid (Scotland) Act 2007.

Handling Complaints: Specified date in connection with investigation by the Scottish Legal Complaints Commission

2. For the purposes of section 23(4)(b) of the Act the specified date is the date on which the relevant professional organisation sent its written decision on its investigations of the conduct complaint to the complainer and practitioner concerned.

Specified interest rate for the annual general levy

3. For the purposes of section 27(3)(b) of the Act the specified interest rate is a rate equivalent to the base rate of the Bank of England plus two per cent per annum.

^(a) 2007 asp 5.

Specified interest rate for the complaints levy

4. For the purposes of section 28(3)(b) of the Act the specified interest rate is a rate equivalent to the base rate of the Bank of England plus four per cent per annum.

St Andrew's House,
Edinburgh
18th December 2008

KENNY MACASKILL
A member of the Scottish Executive

EXPLANATORY NOTE

(This note is not part of the Order)

This Order is made under the Legal Profession and Legal Aid (Scotland) Act 2007 (“the Act”). It specifies interest rates for the purposes of the annual general levy and the complaints levy, and also sets a time limit for investigation of handling complaints by the Scottish Legal Complaints Commission (“the Commission”).

Section 23(4)(a) of the Act provides that the Commission must not investigate a handling complaint where the relevant professional organisation has not completed its investigation of the conduct complaint to which the handling complaint relates. The effect of article 2 of this Order is that under section 23(4)(b) of the Act the Commission must not also investigate a handling complaint where it is made after the expiry of the period of 6 months after the date on which the relevant professional organisation sent its written decision on its investigations of the conduct complaint to the complainer and practitioner concerned.

Section 27 of the Act provides for the payment of the annual general levy to the Commission. Article 3 of this Order specifies that the interest rate for any sums due but late is two per cent per annum above the base rate of the Bank of England. As provided by section 27(3)(b) of the Act, any interest which is due on a sum may be recovered by the Commission as a debt from the relevant professional organisation which is liable under 27(2)(b) of the Act to pay the sum. Interest runs from the date it is due under rules made under section 32(1) of the Act until it is paid.

Section 28 of the Act provides for the payment of the complaints levy to the Commission. Article 4 of this Order specifies that the interest rate for any sums due but late is four per cent per annum above the base rate of the Bank of England. As provided by section 28(3)(b) of the Act, any interest which is due on a sum may be recovered by the Commission as a debt from the practitioner. Interest runs from the date it is due under rules made under section 32(1) of the Act until it is paid.

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