EXECUTIVE NOTE

DRAFT : THE LEGAL PROFESSION AND LEGAL AID (SCOTLAND) ACT 2007 (MEMBERSHIP OF THE SCOTTISH LEGAL COMPLAINTS COMMISSION) AMENDMENT ORDER 2010

The above instrument was made in exercise of the powers conferred by section 1(2) of, and paragraph 2(7) of schedule 1 to, the Legal Profession and Legal Aid (Scotland) Act 2007 and all other powers enabling them to do so. The instrument is subject to approval by resolution of the Scottish Parliament.

Policy objectives

The purpose of the instrument is to increase the number of non-lawyer members and lawyer members of the Scottish Legal Complaints Commission to enable three additional members to gain knowledge and experience from other existing members before these other members (except the chair) demit office on 31 December 2011.

The Commission has 9 existing members (5 non-lawyer and 4 lawyer). With the exception of the chair (a non-lawyer member), the 8 other members are required to demit office on 31 December 2011 and cannot be reappointed for 3 years.

The instrument will therefore increase the number of non-lawyer members by 2 and the number of lawyer members by 1 to enable these three additional members to be appointed for at least one year prior to the departure of the 8 other members. There would otherwise be limited opportunity transfer existing knowledge and experience to ensure continued effective oversight and determination of complaints.

Regulatory impact

No regulatory impact assessment is required. The changes in the order are technical and have no impact on business.

Consultation

The Commission, the Faculty of Advocates and the Law Society of Scotland were consulted (with the latter two bodies representing those who fund the Commission). The Law Society of Scotland had no objections to the proposals. The Faculty of Advocates questioned the need for an increase in the number of members which it believes will increase the costs to its members without any long-term benefit.

Financial effects

Each of the 3 additional members will be entitled to the same fee rate and expenses as other members. The Commission estimates that this is likely to amount to about £10k pa for each additional member. This will be paid by the Commission which is funded by an annual levy and complaints levy on members of the legal profession.

Justice Directorate
September 2010