EXECUTIVE NOTE

THE LEGAL PROFESSION AND LEGAL AID (SCOTLAND) ACT 2007 (HANDLING COMPLAINTS and SPECIFICATION OF INTEREST RATES) ORDER 2008 (SSI 2008/428)

The above instrument was made 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 ("the Act").

Policy Objectives

Part 1 of the Act establishes the Scottish Legal Complaints Commission ("the SLCC") which, from 1 October 2008, replaced the Scottish Legal Services Ombudsman ("the SLSO") and took over responsibility for the investigation of complaints arising from the legal profession in Scotland. In addition to complaints relating to the professional service provided by a legal practitioner, the SLCC will investigate complaints relating to the manner in which a conduct complaint has been dealt with by the professional organisations ("handling complaint") following investigation by the professional organisations.

Section 23 provides that the SLCC must not investigate a handling complaint where either (a) the relevant professional organisation has not completed its investigation of the conduct complaint to which the handling complaint relates; or (b) the handling complaint is made after the expiry of the period of 6 months after such date as the Scottish Ministers may specify by order. For the purposes of (b), this Order specifies that date as being the date on which the relevant professional organisation sent its written decision on its investigations of the conduct compliant to the complainer and practitioner concerned.

The Act provides that the SLCC will be funded by means of:

- an annual general levy to be collected by the relevant professional organisations and passed to the SLCC, and
- a complaints levy to be paid to the Commission by a practitioner found to be liable following investigation of a services complaint.

Sections 27(3)(b) and 28(3)(b) provide that the Scottish Ministers will specify the interest rate due on any sums that are paid late to the SLCC in respect of these levies. This Order specifies that:

- the rate of interest for late payment of the general levy will be 2% above the base lending rate set by the Bank of England; and
- the rate of interest for late payment of the complaints levy will be 4% above the base lending rate set by the Bank of England.

Consultation

The SLCC, SLSO, Law Society of Scotland, Faculty of Advocates and the Finance Justice Team of the Finance Directorate have been consulted during the preparation of the Order.

Financial Effect

The instrument has no financial implications for local government or on business.

Regulatory Impact Assessment

A Regulatory Impact Assessment has not been prepared since the changes introduced by the instrument do not impose new burdens on industry.

Equality Impact Assessment

An Equalities Impact Assessment has not been carried out because there is no differential impact on any individual or groups as a result of this Order.