

**The 1980 Act** – The Solicitors (Scotland) Act 1980

**The 1990 Act** – The Law Reform (Miscellaneous Provisions) (Scotland) Act 1990

**The 2007 Act** – The Legal Profession and Legal Aid (Scotland) Act 2007

**The 2005 Rules** – Scottish Solicitors' Discipline Tribunal Rules 2005

**The 2008 Rules** – Scottish Solicitors' Discipline Tribunal Rules 2008

**The 2008 Order** – Legal Profession and Legal Aid (Scotland) Act 2007 (Transitional, Savings and Consequential Provisions) Order 2008

**Affidavit** – A signed statement made on oath. In some cases evidence may be dealt with by Affidavit evidence where the Respondent has not lodged Answers.

**Answers** – a statement setting out the factual and legal response to the Complaint

**Appellant** – In relation to any Appeal to which Part 3 of the 2008 Rules applies, the practitioner, complainer or legal practice making the appeal.

**Applicant** – In relation to any application to which Part 4 of the 2008 Rules applies, the solicitor, registered European lawyer or registered foreign lawyer, who wishes to have his name restored to the Roll of Solicitors or Register, as the case may be.

**Auditor of Court** – A person responsible for examining legal accounts. The Auditors of the Court of Session and sheriff courts, Respectively, examine and “tax” accounts of expenses incurred by parties in civil accounts in the respective courts.

**Avizandum** – To be considered. Judgment is deferred, an oral or written decision to be given later.

**Brevitatis Causa** – For the sake of brevity.

**Case** – Means a complaint, appeal or application under Part 2, 3 or 4 of the 2008 Rules and “part of a case” includes, without prejudice to that generality, the holding of any procedural meeting or preliminary hearing or the determination of any procedural or substantive issue about the case.

**Caution** – Security (pronounced ‘Kayshun’; it rhymes with station). A party or other person may be required to find caution, this is security, against the occurrence of a certain event. e.g. for the expenses of an action.

**Chairman** – includes any other person presiding at the proceedings of the Tribunal.

**Cite / Citation** – To summon to the Tribunal a party or a witness.

**Clerk** – The Clerk to the Tribunal and includes any depute clerk appointed by the Tribunal.

**Commission** - The Scottish Legal Complaints Commission (SLCC)

**Compensation Order** – An order requiring the Respondent to pay compensation to a Secondary Complainer for loss, inconvenience or stress resulting from the misconduct.

**Complainer** – the person who makes the Complaint and, where the Complaint is made by the person on behalf of another person, includes that other person.

**Complaint** - The formal document alleging professional misconduct lodged with the Tribunal by the Law Society.

**Conduct Complaint** – meaning given by Section 2(1)(a) of the 2007 Act.

**Conveyancing Practitioner** – a person registered under Section 17 of the 1990 Act in the Register of Conveyancing Practitioners.

**Council** – Means the Council of the Law Society of Scotland.

**Counsel** - A member of the Faculty of Advocates practising at the Scottish Bar. An advocate has the right to appear before any court in Scotland or the UK Supreme Court.

**Court of Session** – The supreme civil court. The judges of the Court of Session are also the judges of the High Court of Justiciary, the supreme criminal court.

**Cross Examination** – Questions asked of a witness on behalf of a party who has not led the witness are referred to as cross-examination.

**Decision** – includes any decision, order, determination or direction of the Tribunal.

**De facto** – According to the fact; in point of fact.

**Debate** – Intermediate step in procedure when legal points are considered in a Complaint against a Respondent before the facts are determined and which can result in the conclusion of the case or part of it without evidence being led.

**Desert *Pro Loco Et Tempore*** – To stop the particular Complaint proceeding further without facts being determined.

**Desert *Simpliciter*** – To bring the prosecution of the Complaint to an end without the facts being determined.

**Evidence in Chief** – This is the evidence given by a witness on behalf of the Complainers or the Respondent. Questions asked of a witness by the other side are referred to as cross-examination.

**Executry Practitioner** – a person registered under Section 18 of the 1990 Act in the Register of Executry Practitioners.

**Expenses** – The costs of the proceedings that the Tribunal may order successful party to recover from the unsuccessful party.

***Ex Proprio Motu*** – On the Tribunal's own initiative.

**Functions** – includes powers and duties of the Tribunal.

**Hearing** – Any proceedings called before the Tribunal.

**Inhibition** – A procedure which prohibits a debtor from burdening his heritable property or parting with it, or part of it, to the detriment of a creditor.

***Inter Alia*** - This means “among others”.

**Interlocutor** – A formal order made by the Tribunal containing its decision.

**Inventory of Productions** – A list of the documents lodged by either party to the Complaint.

**Judicial Review** – A remedy whereby the Court of Session may review and if necessary set aside or rectify the decision of public officials or bodies where no other form of appeal is available.

**Legal Practice** – means (a) a firm of solicitors; (b) an incorporated practice; (c) a multi-national practice as defined in the 2008 Rules.

***Mens Rea*** – Guilty purpose.

**Missives** – Letters passing between seller and purchaser setting out terms of agreement of the sale of property.

***Mora*** – Undue delay.

**Motion** - An application made in the Tribunal for an order during the course of the Tribunal proceedings.

**Oath** – Witnesses giving evidence before the Tribunal give a sworn undertaking to give truthful evidence. They can also give evidence by way of affirmation.

**Obtemper** – To obey a direction or order of the Tribunal.

**Parole Evidence** – Oral evidence of witnesses, as distinct from documentary evidence including affidavit evidence.

**Particular Tribunal** - shall be construed in accordance with rule 54(1) of the 2008 Rules.

**Parties to a case** – means (a) in the case of a Complaint, the principal complainer and the respondent or respondents; (b) in the case of an appeal, the appellant and the respondent or respondents; and (c) in the case of an application, the applicant and any objector or objectors;

**Perjury** – Crime committed by a witness in Tribunal proceedings if they lie on oath or on affirmation.

**Plea in Law** – A short proposition at the end of a written case showing exactly the legal remedy sought.

**Practising Certificate** - has the meaning given by section 4 of the 1980 Act;

**Practitioner** - means (a) a conveyancing practitioner; (b) an executry practitioner; (c) a registered European lawyer; (d) a registered foreign lawyer; and (e) a solicitor, as defined in the 2008 Rules.

**Precedent** – The decision of a court regarded as a source of law or authority in the decision of a later case.

**Precognition** – A formal statement of a witness taken or written by another person.

**Preliminary Hearing** - shall be construed in accordance with Rule 42 of the 2008 Rules.

**President, Lord** – The head of the judiciary. He or she presides over the First Division of the Inner House of the Court of Session, the supreme civil court. As Lord Justice General of Scotland he or she is the senior judge of the High Court of Justiciary.

**Principal Complainer** - means the person who made the complaint but does not include any person on whose behalf the complaint is made;

**Procedural Hearing** - shall be construed in accordance with Rule 41 of the 2008 Rules.

**Production** – An article produced and lodged as evidence in the Tribunal.

**Pro Forma** – A document used as a form or style.

**Proof** – In addition to its general meaning, this word has the formal sense of a hearing of a case by a Tribunal at which evidence is led orally or by affidavit.

**Queen's Counsel** – A senior and experienced lawyer on whom the Queen has conferred this honour.

**Quoad Ultra** – As regards everything else.

**Record** – This consists of the Complaint and the Answers in one document.

**Register of Sasines** – The Register of deeds constituting or transferring rights in land and heritable property.

**Remit** – To transfer the matter from the Tribunal to another place e.g. the Law Society.

**Repel** – Where the Tribunal does not uphold a plea or an objection.

**Res Ipsa Loquitor** – The thing done or the transaction speaks for itself. Proof of an event raises a rebuttable presumption of liability.

**Res Judicata** - A question decided in competent legal proceedings, which cannot again be raised.

**Respondent** – The solicitor/practitioner whom the Complaint is taken against as defined in the 2008 Rules.

**the Roll** - means the roll of solicitors kept by the Council by virtue of section 7(1) of the 1980 Act;

**Secondary Complainer** - means any person on whose behalf a complaint is made.

**Separatim** – Apart from anything already advanced or pleaded.

**Sequestration** – to render bankrupt. Strictly, it is a person's estate which is sequestered or set aside for the use of his creditors.

**Sist** – (1) to stay or stop proceedings from continuing in the meantime. (2) To summon or call someone as a party e.g. sisting a mandatory, or a person seeking to become a party to civil proceedings.

**Solatium** – The damages sought and awarded in actions for personal injuries or death of a relative primarily for pain and suffering.

**Statute** – An Act of Parliament.

**Style** – A form of a document used as a model for similar documents.

**Taxation** – As applied to solicitors’ or advocates’ fees, including those incurred in court proceedings, means the scrutiny of the account by the Auditor of Court to exclude or amend items unjustifiably included or excessively charged.

**Tribunal** - means the Scottish Solicitors’ Discipline Tribunal and includes, in relation to a particular case or part of a case, a particular tribunal;

**Tribunal Member** – Solicitor or a Lay Member sitting on the Tribunal.

*Ultra Vires* – Without authority.

**Unsatisfactory Professional Conduct** - has the same meaning as it has in section 46(1) of the 2007 Act.

**Vexatious Litigant** – A person who takes proceedings primarily for the annoyance or embarrassment of the defender and whose activities in raising actions may be restrained by the Court of Session.