

LEGAL SERVICES (SCOTLAND) ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2 – Regulation of Licensed Legal Services

Chapter 1 – Approved Regulators

Relationship with other bodies

Section 34 – Steps open to Society

69. *Section 34* makes provision for the situation where the Society suspects that the approved regulator of a licensed provider making contributions to the Guarantee Fund is failing in its enforcement role in relation to the financial procedures of the licensed provider. In those circumstances, the Society must first make representations to the approved regulator in question. If it is not satisfied with the response (or none has been received within a reasonable time), the Society may refer the matter to the Scottish Ministers. In such a referral, the Society may request that the Scottish Ministers take such action as they consider appropriate.
70. The Society may also seek the consent of the Scottish Ministers to inspect a licensed provider's documents, records, and other information at its premises which relate to the licensed provider's client account or any other financial account held by it. The Society may only seek the consent if it suspects that the approved regulator's failure is risking a claim being made on the Guarantee Fund. The Scottish Ministers may only give their consent where they are satisfied that the Society's suspicions are reasonable and that the inspection is necessary.