



Legal Services (Scotland) Act 2010

2010 asp 16

PART 2

REGULATION OF LICENSED LEGAL SERVICES

CHAPTER 1

APPROVED REGULATORS

Ceasing to regulate

39 Surrender of authorisation

- (1) An approved regulator may, with the prior agreement of the Scottish Ministers, surrender the authorisation given to it under section 10.
- (2) Schedule 7 (to which subsection (1) is subject) makes provision concerning the surrender of such an authorisation.
- (3) An approved regulator must take all reasonable steps to ensure that the effective regulation of its licensed providers is not interrupted by the surrender of such an authorisation.
- (4) The surrender of an authorisation by virtue of subsection (1) has the effect of terminating the associated approval (of the approved regulator) given under section 7.

40 Cessation directions

- (1) This section applies where—
 - (a) an approved regulator amends its regulatory scheme so as to exclude the regulation of particular categories of licensed providers or legal services, or
 - (b) the authorisation of an approved regulator is to be (or has been)—
 - (i) amended by virtue of section 38(4)(e) so as to exclude the regulation of certain categories of licensed providers or legal services,
 - (ii) rescinded by virtue of section 38(4)(f), or

Status: This is the original version (as it was originally enacted).

(iii) surrendered by virtue of section 39(1).

- (2) The Scottish Ministers may direct the approved regulator to take specified action (or refrain from doing something) if they consider that to be necessary or expedient for the continued effective regulation of a licensed provider.
- (3) The approved regulator must (so far as practicable) comply with a direction given to it under subsection (2).
- (4) For the purposes of this section, a reference to an approved regulator includes (as the context requires) a former approved regulator.

41 Transfer arrangements

- (1) This section applies where—
 - (a) an approved regulator has amended its regulatory scheme so as to exclude the regulation of particular categories of licensed provider or legal services,
 - (b) the authorisation of an approved regulator is to be (or has been)—
 - (i) amended by virtue of section 38(4)(e) so as to exclude the regulation of particular categories of licensed provider or legal services,
 - (ii) rescinded by virtue of section 38(4)(f), or
 - (iii) surrendered by virtue of section 39(1), or
 - (c) the approved regulator is otherwise unable to continue to regulate some or all of its licensed providers.
- (2) The approved regulator must (as soon as reasonably practicable)—
 - (a) notify each of its licensed providers of the relevant situation within subsection (1),
 - (b) do so by reference to any effective date.
- (3) A notification under subsection (2) must inform each licensed provider as to whether it requires, in consequence of the relevant situation, to transfer to the regulation of a different approved regulator (a “new regulator”) from the one which issued its current licence (the “current regulator”).
- (4) Each licensed provider that is so required to transfer to a new regulator must—
 - (a) within 28 days beginning with the date of the notification, or failing which as soon as practicable, take all reasonable steps so as to transfer to the regulation of a new regulator, and
 - (b) where it does so transfer, take (as soon as practicable) such steps as are necessary to ensure that it complies with the new regulator’s regulatory scheme before the end of the changeover period.
- (5) For the purpose of subsection (4)(b), the changeover period is the period of 6 months beginning with the date on which the new regulator takes over the regulation of the licensed provider.
- (6) On the coming into effect of a licence issued to the licensed provider by a new regulator, the licence issued to it by the current regulator ceases to have effect.

42 Extra arrangements

- (1) The Scottish Ministers may by regulations make provision in connection with section 41 as to the arrangements for the transfer of licensed providers to the regulation of a different approved regulator (a “new regulator”).
- (2) Regulations under subsection (1) may (in particular)—
 - (a) provide for a licensed provider which has not transferred to the regulation of a new regulator to be regulated by such new regulator as may be appointed by the Scottish Ministers with the new regulator’s consent,
 - (b) provide for the Scottish Ministers to recover on behalf of the new regulator, or a licensed provider, any fee (or a part of it) paid by the licensed provider to the former approved regulator in connection with the licensed provider’s current licence.