



# Legal Services (Scotland) Act 2010

## 2010 asp 16

### PART 2

#### REGULATION OF LICENSED LEGAL SERVICES

### CHAPTER 1

#### APPROVED REGULATORS

##### *Performance and measures*

#### **36 Review of own performance**

- (1) An approved regulator must review annually its performance.
- (2) In particular, a review is to cover the following matters—
  - (a) the approved regulator's compliance with section 77,
  - (b) the exercise of its regulatory functions,
  - (c) the operation of its internal governance arrangements,
  - (d) its compliance with any measures applying to it by virtue of section 38(4)(a) or (b).
- (3) The approved regulator must send a report on the review to the Scottish Ministers.
- (4) The report must contain a copy of the approved regulator's annual accounts (but only so far as they are relevant in connection with its functions under this Part).
- (5) The Scottish Ministers must lay a copy of the report before the Scottish Parliament.
- (6) The Scottish Ministers may by regulations make further provision about—
  - (a) the review of approved regulators' performance,
  - (b) reports on reviews of their performance.

### **37 Monitoring by Ministers**

- (1) The Scottish Ministers may monitor the performance of approved regulators in such manner as they consider appropriate.
- (2) Monitoring the performance of an approved regulator includes (in particular) doing so by reference to—
  - (a) its compliance with section 77,
  - (b) the exercise of its regulatory functions,
  - (c) the operation of its internal governance arrangements,
  - (d) its compliance with any measures applying to it by virtue of section 38(4)(a) or (b).
- (3) An approved regulator must—
  - (a) provide such information about its performance in relation to its regulatory scheme as the Scottish Ministers may reasonably request,
  - (b) do so within 21 days beginning with the date of the request (or such longer period as the Scottish Ministers may allow).

### **38 Measures open to Ministers**

- (1) The Scottish Ministers may, in relation to an approved regulator, take one or more of the measures mentioned in subsection (4) if they consider that to be appropriate in the circumstances of the case.
- (2) When considering the appropriateness of taking any of those measures, or a combination of them, the Scottish Ministers must (except in the case of a measure mentioned in paragraph (f) of that subsection) have particular regard to the effect that it may have on the approved regulator's observance of the regulatory objectives.
- (3) Schedules 1 to 6 (to which subsection (1) is subject) respectively make provision concerning the measures mentioned in subsection (4).
- (4) The measures are—
  - (a) setting performance targets,
  - (b) directing that action be taken,
  - (c) publishing a statement of censure,
  - (d) imposing a financial penalty,
  - (e) amending an authorisation given under section 10,
  - (f) rescinding an authorisation given under that section.
- (5) The rescission of an authorisation by virtue of subsection (4)(f) has the effect of terminating the associated approval (of the approved regulator) given under section 7, except where it is stated under paragraph 5(3)(b) of schedule 6 that the approval is preserved.
- (6) The Lord President's agreement is required for the taking of any of the measures mentioned in subsection (4) except paragraph (d).
- (7) The Scottish Ministers may by regulations—
  - (a) specify other measures that may be taken by them,
  - (b) make further provision about the measures that they may take (including for the procedures to be followed),

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

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in relation to approved regulators.

- (8) Before making regulations under subsection (7), the Scottish Ministers must—
- (a) have the Lord President’s agreement, and
  - (b) consult every approved regulator.