

## SCHEDULE 5

(introduced by section 38(3))

### AMENDMENT OF AUTHORISATION

#### *Application*

- 1 This schedule applies where the Scottish Ministers are satisfied that—
- (a) an act or omission of an approved regulator (or a series of acts or omissions) has had, or is likely to have, an adverse impact on the observance of any of the regulatory objectives, and
  - (b) the matter cannot be addressed adequately by the Scottish Ministers taking any of the measures mentioned in section 38(4)(a) to (d).

#### *Power to amend*

- 2 (1) The Scottish Ministers may amend the authorisation of the approved regulator (given under section 10).
- (2) In particular, the Scottish Ministers may—
- (a) impose restrictions as respects the authorisation by reference to particular categories of—
    - (i) licensed provider,
    - (ii) legal services,
  - (b) alter the duration of the authorisation (including by imposing a limit of time),
  - (c) impose new conditions, or vary any existing conditions, to which the authorisation is subject.

#### *Notice of intention*

- 3 (1) Before amending the approved regulator's authorisation, the Scottish Ministers must give it a notice (a "notice of intention") of their intention to do so.
- (2) The notice of intention must—
- (a) state that the Scottish Ministers intend to amend the approved regulator's authorisation,
  - (b) specify the proposed amendments to the authorisation, and
  - (c) explain why they are satisfied as mentioned in paragraph 1.

#### *Consultation*

- 4 (1) The approved regulator has 28 days beginning with the date of receipt of the notice of intention (or such longer period as the approved regulator and the Scottish Ministers may agree) to make representations to the Scottish Ministers about the proposed amendments.
- (2) The Scottish Ministers must—
- (a) publish the notice of intention in such manner as they consider most appropriate for bringing it to the attention of any relevant person or body,
  - (b) give a copy of the notice of intention to—
    - (i) the OFT,
    - (ii) such other person or body as they consider appropriate,

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*Status: This is the original version (as it was originally enacted).*

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- (c) after the expiry of the period for representations—
  - (i) give the recipients under paragraph (b) a copy of any representations received from the approved regulator,
  - (ii) consult them accordingly in relation to the proposed amendments.
- (3) When consulted under sub-paragraph (2)(c), the Lord President is to—
  - (a) give the Scottish Ministers such advice in respect of the proposed amendments as the Lord President thinks fit,
  - (b) in deciding what advice to give, have regard (in particular) to the likely impact of the proposed amendments on the operation of the Scottish courts.
- (4) For the purpose of sub-paragraph (3)—
  - (a) the approved regulator, or
  - (b) any other person who holds information relevant in relation to proposed amendments,must provide the Lord President with such information about the proposed amendments (or their likely consequences) as the Lord President may reasonably require.

#### *Decision*

- 5 (1) The Scottish Ministers must have regard to any representations made to them by the approved regulator, or any consultee under paragraph 4(2)(c), when deciding whether to proceed with amending the authorisation.
- (2) The Scottish Ministers must—
  - (a) give a notice of their decision (a “decision notice”) to the approved regulator,
  - (b) give reasons in the decision notice for their decision,
  - (c) notify the consultees under paragraph 4(2)(c) of their decision,
  - (d) publish the decision notice in such manner as they consider most appropriate for bringing it to the attention of any relevant person or body.
- (3) If the Scottish Ministers decide to amend the authorisation, the decision notice must specify the date from which the amendments are to be effective (which may be the date on which that notice is given).
- (4) For the purposes of this schedule, relevant persons or bodies include—
  - (a) other approved regulators,
  - (b) providers of legal services,
  - (c) organisations representing the interests of consumers,
  - (d) members of the public.