Status: *Point in time view as at 01/04/2011.*
Changes to legislation: *There are currently no known outstanding effects for the Legal Services (Scotland) Act 2010, SCHEDULE 8. (See end of Document for details)*

SCHEDULE 8

(introduced by section 67(1))

INVESTORS IN LICENSED PROVIDERS

Initial notification requirements

1 (1) An applicant for a licence (issuable in accordance with an approved regulator's licensing rules) must give the approved regulator the standard information about non-solicitor investors when applying for the licence.

(2) The applicant must also—

(a) give (as soon as practicable) the approved regulator any standard information subsequently coming to light,

(b) notify (as soon as practicable) the approved regulator of any other change in the standard information.

(3) The standard information is—

(a) the name and other details of—

(i) every non-solicitor investor in the applicant,

(ii) any other person whom the applicant expects to be a non-solicitor investor in the applicant at such time as the licence may be issued,

(b) in each case, a description of the nature of the person's interest.

Commencement Information

I1 Sch. 8 para. 1 in force at 1.4.2011 for specified purposes by S.S.I. 2011/180, art. 3, **Sch.**

2 (1) It is an offence for a person to fail to comply with a requirement imposed on the person by paragraph 1.

(2) A person who commits an offence under sub-paragraph (1) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(3) It is a defence for a person prosecuted for an offence under sub-paragraph (1) to show that at the relevant time the person had no knowledge, and could not reasonably be expected to have knowledge, of the information in question.

Commencement Information

I2 Sch. 8 para. 2 in force at 1.4.2011 for specified purposes by S.S.I. 2011/180, art. 3, **Sch.**

Continuing notification requirements

3 (1) This paragraph applies where—

(a) a person takes, or proposes to take, a step to acquire such an interest as would result in the person becoming a non-solicitor investor in a licensed provider,

(b) a non-solicitor investor takes, or proposes to take, a step which would—

(i) significantly change the investor's interest in the licensed provider, or

(ii) acquire an additional kind of interest in the licensed provider, or

(c) a person becomes a non-solicitor investor in a licensed provider—

(i) as a new investor, or

(ii) because the person, having ceased to be entitled to practise as mentioned in section 67(6)(b) (while remaining as an investor), comes within the definition there.

(2) In a case falling within sub-paragraph (1)(a) or (b), the licensed provider must (as soon as practicable) notify the approved regulator of the proposal including by giving it—

(a) the name and other details of the person concerned,

(b) the details of the interest concerned.

(3) In a case falling within sub-paragraph (1)(c)(i), the licensed provider must (as soon as practicable) notify the approved regulator of the acquisition including by giving it the name and other details of the investor.

(4) In a case falling within sub-paragraph (1)(c)(ii), the licensed provider must (as soon as practicable) notify the approved regulator of the fact.

(5) Sub-paragraph (3) does not apply where sub-paragraph (2) has been complied with in relation to the acquisition.

(6) It is an offence for a person to fail to comply with a requirement imposed on the person by sub-paragraph (2), (3) or (4).

(7) A person who commits an offence under sub-paragraph (6) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(8) It is a defence for a person prosecuted for an offence under sub-paragraph (6) to show that at the relevant time the person had no knowledge, and could not reasonably be expected to have knowledge, of the information in question.

Commencement Information

I3 Sch. 8 para. 3 in force at 1.4.2011 for specified purposes by S.S.I. 2011/180, art. 3, **Sch.**

Exemption from notification requirements

4 (1) An approved regulator may in relation to any exemptible investor in a licensed provider waive the requirements to give it information (or notification) under paragraphs 1 and 3.

(2) Licensing rules must explain—

(a) any circumstances in which the approved regulator proposes to rely on sub-paragraph (1),

(b) any threshold below the percentage specified in sub-paragraph (3) by reference to which it proposes to rely on sub-paragraph (1),

(c) where it proposes to rely on sub-paragraph (1), its reasons.

(3) In sub-paragraph (1), an “exemptible investor” is (as the case may be)—

(a) an investor who has less than a 10% stake in the total ownership or control of the licensed provider, or

(b) a person whose intended acquisition of an interest in the licensed provider is of less than a 10% stake in the total ownership or control of the licensed provider.

Commencement Information

I4 Sch. 8 para. 4 in force at 1.4.2011 for specified purposes by S.S.I. 2011/180, art. 3, **Sch.**

Requirement to notify investors

5 (1) Where an applicant gives information under paragraph 1, the applicant must notify any person whom the information concerns—

(a) of—

(i) the making of the application, and

(ii) the fact that the identity of the person has been disclosed to the approved regulator,

(b) of the effect of paragraph 6.

(2) Where a licensed provider gives notification under paragraph 3(2) or (3), the licensed provider must notify any person whom the notification concerns—

(a) of—

(i) the giving of that notification, and

(ii) the fact that the identity of the person has been disclosed to the approved regulator,

(b) of the effect of paragraph 6.

(3) It is an offence for a person to fail without reasonable excuse to comply with a requirement imposed on the person by sub-paragraph (1) or (2).

(4) A person who commits an offence under sub-paragraph (3) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Commencement Information

I5 Sch. 8 para. 5 in force at 1.4.2011 for specified purposes by S.S.I. 2011/180, art. 3, **Sch.**

Approved regulator may obtain information

6 (1) An approved regulator may require a person whose identity has been disclosed to it under paragraph 1 or 3 to provide it with such documents and other information as it may reasonably require.

(2) It is an offence for a person who is required to provide information by virtue of sub-paragraph (1)—

(a) to fail without reasonable excuse to comply with the requirement, or

(b) knowingly to provide false or misleading information.

(3) A person who commits an offence under sub-paragraph (2) is liable—

(a) on summary conviction to a fine not exceeding the statutory maximum,

(b) on conviction on indictment to a term of imprisonment not exceeding 2 years or a fine (or both).

Commencement Information

I6 Sch. 8 para. 6 in force at 1.4.2011 for specified purposes by S.S.I. 2011/180, art. 3, **Sch.**

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Changes to legislation:
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