



Legal Services (Scotland) Act 2010

2010 asp 16

PART 3

CONFIRMATION AND WILL WRITING SERVICES

CHAPTER 2

WILL WRITING SERVICES

Regulation of will writers

104 Regulatory schemes

- (1) An approving body must—
 - (a) make a regulatory scheme for—
 - (i) conferring on any of the individual persons within its membership the right to provide will writing services, and
 - (ii) regulating the provision of will writing services by the persons on whom (in accordance with the scheme) that right is conferred, and
 - (b) apply the scheme in relation to them.
- (2) The regulatory scheme is to—
 - (a) describe the training requirements to be met by a prospective will writer,
 - (b) incorporate a code of practice to which a will writer (and anyone acting on behalf of the will writer in relation to will writing services) is subject,
 - (c) require that a will writer keep in place sufficient arrangements for professional indemnity,
 - (d) include rules about—
 - (i) the making and handling of any complaint about a will writer,
 - (ii) the measures that may be taken by the approving body, in relation to a will writer, if a conduct complaint (as construed by reference to section 2(1)(a) of the 2007 Act (and as if the will writer were a practitioner to whom that section relates)) about the will writer is upheld,

Changes to legislation: There are currently no known outstanding effects for the Legal Services (Scotland) Act 2010, Section 104. (See end of Document for details)

- (e) allow a will writer to make representations to the approving body before it takes any of the measures available to it by virtue of paragraph (d)(ii),
 - (f) cover such other regulatory matters as the Scottish Ministers may by regulations specify (and in such manner as they may so specify).
- (3) The code of practice mentioned in subsection (2)(b) must—
- (a) set out the standards to be met by will writers (and persons acting on their behalf in relation to will writing services),
 - (b) except in such circumstances as the approving body considers appropriate, prohibit the drawing or preparation of a will or other testamentary writing by a will writer which provides for the writer to be a beneficiary,
 - (c) require a will writer who provides the service of storing wills or other testamentary writings to keep in place sufficient arrangements for the storage of such documents (including arrangements in the event of the writer ceasing to provide will writing services),
 - (d) make such further arrangements as to the professional practice, conduct or discipline of will writers for which provision is (in the approving body's opinion) necessary or expedient,
 - (e) provide that it is a breach of the code of practice for a will writer to fail to comply with the writer's duties under any enactment specified in the code,
 - (f) provide that a breach of the code of practice by a person acting on behalf of a will writer in relation to will writing services constitutes a breach of the code of practice by the writer,
 - (g) allow for—
 - (i) the rescission or suspension of, or attaching of conditions to the exercise of, the right of a will writer to provide will writing services if the writer contravenes the code of practice,
 - (ii) the suspension of that right of a will writer if a complaint, suggesting that the writer is guilty of professional misconduct in relation to the provision of will writing services, is made about the writer.
- (4) A will writer may appeal against a decision taken under the regulatory scheme to rescind or suspend, or attach conditions to the exercise of, the writer's right to provide will writing services—
- (a) to the sheriff,
 - (b) within the period of 3 months beginning with the date on which that decision is intimated to the writer.
- (5) An approving body must, so far as practicable when exercising its functions under this Chapter, observe the regulatory objectives.

Commencement Information

II S. 104 in force at 1.4.2011 for specified purposes by S.S.I. 2011/180, art. 3, Sch.

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