



Legal Services (Scotland) Act 2010

2010 asp 16

PART 2

REGULATION OF LICENSED LEGAL SERVICES

CHAPTER 3

FURTHER PROVISION

Complaints

81 Complaints about providers

In the 2007 Act, after Part 2 insert—

“PART 2A

SPECIAL PROVISION FOR LICENSED PROVIDERS

57A Complaints about licensed providers

- (1) Parts 1 and 2 apply in relation to complaints made about licensed legal services providers as they apply in relation to complaints made about practitioners.
- (2) Subsection (1) is subject to—
 - (a) subsections (3) and (4), and
 - (b) such further modification to the operation of Parts 1 and 2 as the Scottish Ministers may by regulations make for the purposes of—
 - (i) subsection (1),
 - (ii) section 57B(4) and (5).
- (3) In relation to a services complaint about a licensed provider, its approved regulator is to be regarded as the relevant professional organisation.

Status: This is the original version (as it was originally enacted).

- (4) A conduct complaint may not be made about a licensed provider, but—
 - (a) such a complaint may be made about a practitioner within such a provider,
 - (b) the provisions relating to such a complaint remain (subject to such modification as to those provisions as is made under subsection (2)(b)) applicable for the purposes of section 57B(4) and (5).
- (5) Where an approved regulator receives (from a person other than the Commission) a complaint about the conduct of, or any services provided by, a practitioner within one of its licensed providers, the approved regulator must without delay send to the Commission the complaint and any material that accompanies it.

57B Regulatory complaints

- (1) There is an additional type of complaint which applies only in relation to licensed providers (a “regulatory complaint”).
- (2) A regulatory complaint is where any person suggests that a licensed provider is failing (or has failed) to—
 - (a) have regard to the regulatory objectives,
 - (b) adhere to the professional principles,
 - (c) comply with—
 - (i) its approved regulator’s regulatory scheme,
 - (ii) the terms and conditions of its licence.
- (3) In relation to a regulatory complaint about a licensed provider, its approved regulator is to be regarded as the relevant professional organisation.
- (4) The procedure in respect of a regulatory complaint is (by virtue of section 57A(4)(b)) the same as it would be for a conduct complaint about a licensed provider, subject to such modification as to that procedure as is made under section 57A(2)(b).
- (5) The Commission and the approved regulator have (by virtue of section 57A(4)(b)) the same functions in relation to a regulatory complaint as they would have in relation to a conduct complaint about a licensed provider, subject to such modification as to those functions as is made under section 57A(2)(b).

57C Levy, advice and guidance

- (1) A licensed provider must pay to the Commission—
 - (a) the annual general levy, and
 - (b) the complaints levy (if arising),
 in accordance with Part 1 (and in addition to any levy payable under that Part by a solicitor or other person within the licensed provider).
- (2) Section 29 applies for the purposes of subsection (1) as it applies for the purposes of sections 27(1) and 28(1).
- (3) For the application of sections 27(1), 28(1) and 29 by virtue of subsections (1) and (2)—

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

- (a) an approved regulator is to be regarded as a relevant professional organisation whose members are its licensed providers,
 - (b) a licensed provider is to be regarded—
 - (i) in connection with the annual general levy, as an individual person falling within the relevant category,
 - (ii) in connection with the complaints levy, as an individual practitioner of the relevant type.
- (4) But the amount of the annual general levy for a licensed provider may be—
- (a) different from the amount to be paid by individuals,
 - (b) of different amounts (including nil) in different circumstances.
- (5) The Commission—
- (a) must (so far as practicable) provide advice to any person who requests it as respects the process of making a regulatory complaint to the Commission,
 - (b) may issue guidance under section 40 to approved regulators and licensed providers as respects how licensed providers are to deal with regulatory complaints.

57D Recovery of levy

- (1) An approved regulator must—
- (a) secure the collection by it, from its licensed providers, of the annual general levy due by them, and
 - (b) pay to the Commission a sum representing the total amount which falls to be collected by it under paragraph (a) in respect of each financial year.
- (2) Subsection (3) of section 27 applies in relation to any sum due under subsection (1)(b) (including interest) as it applies in relation to any sum due under subsection (2)(b) of section 27.
- (3) Subsection (4) of section 27 applies in relation to any sum due under section 57C(1)(a) (including interest) as it applies in relation to any sum due under subsection (1) of section 27.
- (4) Subsection (3) of section 28 applies in relation to any sum due under section 57C(1)(b) (including interest) as it applies in relation to any sum due under subsection (1) of section 28.
- (5) For the application of sections 27(3) and (4) and 28(3) by virtue of subsections (2) to (4)—
- (a) the approved regulator is to be regarded as the relevant professional organisation,
 - (b) each of its licensed providers is to be regarded—
 - (i) in relation to section 27(4), as an individual person falling within the relevant category,
 - (ii) in relation to section 28(3), as an individual practitioner of the relevant type.
- (6) Section 57C(1) is subject to subsection (1).

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

57E Handling complaints

- (1) Parts 1 and 2 apply in relation to any complaint made about how an approved regulator has dealt with a regulatory complaint as they apply in relation to a handling complaint (relating to a conduct complaint) made about a relevant professional organisation.
- (2) Subsection (1) is subject to such modification to the operation of those Parts as the Scottish Ministers may by regulations make for the purposes of that subsection.

57F Effectiveness of compensation fund

- (1) Section 39 also applies in relation to a compensation fund of its own that is maintained by an approved regulator in furtherance of section 24(2) of the Legal Services (Scotland) Act 2010.
- (2) For the application of section 39 by virtue of subsection (1)—
 - (a) any such compensation fund is to be regarded as falling within subsection (1)(c) of that section,
 - (b) the approved regulator is to be regarded as the relevant professional organisation.

57G Interpretation of Part 2A

For the purposes of this Part—

“approved regulator”

“licensed legal services provider” (or “licensed provider”),

“professional principles”,

“regulatory objectives”

“regulatory scheme”

are to be construed in accordance with Part 2 of the Legal Services (Scotland) Act 2010.”.