



# Legal Services (Scotland) Act 2010

## 2010 asp 16

### PART 2

#### REGULATION OF LICENSED LEGAL SERVICES

#### CHAPTER 1

##### APPROVED REGULATORS

##### *Compensation arrangements*

#### **24 Choice of arrangements**

- (1) An approved regulator must proceed with either option A or option B as regards a compensation fund from which to make good such relevant losses as may be suffered by reason of dishonesty on the part of its licensed legal services providers.
- (2) Option A is for the approved regulator to maintain its own compensation fund (separate from the Guarantee Fund) in relation to its licensed providers.
- (3) If option A is proceeded with, the compensation fund is to be—
  - (a) held by the approved regulator for such purpose as corresponds to the purpose for which the Guarantee Fund is held under section 43(2)(c) of the 1980 Act in relation to licensed providers,
  - (b) administered by it in such way as corresponds to the administration of the Guarantee Fund in accordance with section 43(3) to (7) of, and Part I of Schedule 3 to, the 1980 Act (so far as applicable in relation to licensed providers).
- (4) Option B is for the approved regulator, by not maintaining its own compensation fund as mentioned in option A, to cause the Guarantee Fund to be administered as respects its licensed providers.
- (5) For the purpose of option B, see section 43(2)(c) to (8) of, and Part I of Schedule 3 to, the 1980 Act.

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*Status: This is the original version (as it was originally enacted).*

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- (6) As soon as it has decided which of options A and B to proceed with, the approved regulator (where not the Law Society) must inform the Law Society of its decision.

## **25 Compensation rules: general**

- (1) For the purposes of this Part, the compensation rules are rules in pursuance of (as the case may be)—
- (a) option A in section 24, or
  - (b) option B in that section.
- (2) In pursuance of option A, the rules must—
- (a) state—
    - (i) the purpose of the approved regulator’s compensation fund,
    - (ii) as a minimum, the monetary amount to be contained in that fund,
  - (b) describe the way in which that fund is to be administered by the approved regulator,
  - (c) specify the criteria for qualifying for payment out of that fund,
  - (d) provide for the procedure for—
    - (i) making claims for such payment,
    - (ii) determining such claims,
  - (e) require the making of contributions to that fund by a licensed provider in accordance with the relevant scale of annual contributions fixed by virtue of section 24(3)(b),
  - (f) make provision for the destination (or distribution) of that fund in the event that the approved regulator ceases to operate.
- (3) In pursuance of option B, the rules must require the making of contributions to the Guarantee Fund by a licensed provider in accordance with the relevant scale of annual contributions fixed under paragraph 1(3) of Schedule 3 to the 1980 Act.

## **26 More about compensation arrangements**

- (1) Compensation rules may include such further compensation arrangements as to licensed providers for which provision is (in the approved regulator’s opinion) necessary or expedient.
- (2) The Scottish Ministers may by regulations make further provision about compensation arrangements as to licensed providers, including (in particular)—
- (a) for the content of compensation rules,
  - (b) in connection with a compensation fund, for functions of approved regulators and licensed providers.
- (3) In sections 24 and 25 and this section, the references to the Guarantee Fund are to the Scottish Solicitors Guarantee Fund (which is vested in the Law Society under section 43(1) of the 1980 Act).