

LEGAL SERVICES (SCOTLAND) ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1 – the Regulatory Objectives Etc.

Section 3 – Legal services

16. This section defines legal services for the purposes of this Act. The definition is broad, and includes services currently provided by people other than solicitors and advocates (for example, tax and planning specialists, and voluntary bodies providing advice on social welfare issues). However, the Act does not seek to regulate all these various service providers. Apart from Part 3 (confirmation and will writing services), the Act is restricted to legal services provided by businesses involving legal professionals (meaning solicitors, advocates, licensed conveyancers and executry practitioners, and those with rights to conduct litigation and/or rights of audience by virtue of section 27 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (“the 1990 Act”). In particular, a body can only be a licensed provider if a solicitor is involved (see section 47(2)).
17. Subsection (2) sets out exclusions from the definition of legal services for the purposes of this Act. Judges are excluded as are persons who exercise judicial functions. Arbitrators also fit within this exclusion as do chairs of tribunals.