

LEGAL SERVICES (SCOTLAND) ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2 – Regulation of Licensed Legal Services

Chapter 1 – Approved Regulators

Performance and measures

Section 38 – Measures open to Ministers

74. **Section 38** describes the options open to the Scottish Ministers should they feel that an approved regulator is not performing its functions adequately. Subsection (4) sets out the measures which can be taken, which include the rescission of a regulator's authorisation to regulate. The measures in (4)(a), (b), (c), (e) and (f) can only be taken by the Scottish Ministers if they have the agreement of the Lord President.
75. More detail as to when these measures will apply and on the procedures relating to these measures can be found in schedules 1 to 6 to this Act.
76. The Scottish Ministers, with the agreement of the Lord President, have the power under subsection (7) to make further provision by regulations regarding the measures that may be taken in relation to approved regulators. This could be used to give further detail around the specifics of the measures, and the procedure involved. This subsection also gives the Scottish Ministers the power to specify, by regulations, additional measures which can be taken should this be considered necessary. Before making regulations under subsection (6), the Scottish Ministers must consult every approved regulator.