

LEGAL SERVICES (SCOTLAND) ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2 – Regulation of Licensed Legal Services

Chapter 2 – Licensed Legal Services Providers

Designated persons

Section 59 – Designated persons

Section 61 – Listing and information

135. *Section 59* defines what is meant by “designated person” and indicates who designates such a person. A designated person is a person (whether or not a legal professional, and whether or not paid) who carries out legal work in connection with the provision of legal services by a licensed provider. In order to be eligible to be a designated person the person must be an employee of the licensed provider (or work in it under another arrangement). The designation is made in writing by the Head of Legal Services or the Head of Practice (or Practice Committee).
136. The Head of Practice must keep a list of all such persons and provide a copy to the approved regulator if requested to do so, under section 61. The procedures for disqualification in sections 56 to 58 allow approved regulators to take action against persons who should not be involved in the provision of legal services.

Section 60 – Working context

137. *Section 60* makes the Head of Legal Services responsible for ensuring that designated persons carrying out legal work are adequately supervised in doing so, and ensures that only designated persons can carry out legal work within a licensed provider. It also provides that nothing in this Part of the Act affects the provisions in any other enactment as to who may (or may not) carry out any particular sort of legal work. See, for example, the restrictions in section 32 of the 1980 Act which make it an offence for unqualified persons to draw or prepare certain writs in relation to property, court action, and executries. Also, it does not affect rules of professional practice, conduct or discipline to which those in licensed providers might be subject.