



Legal Services (Scotland) Act 2010

2010 asp 16

PART 2

REGULATION OF LICENSED LEGAL SERVICES

CHAPTER 2

LICENSED LEGAL SERVICES PROVIDERS

Professional practice etc.

72 Employing disqualified lawyer

- (1) Subsection (2) applies in relation to—
- (a) a person who has been struck off the roll of solicitors or suspended from practice as a solicitor,
 - (b) a person—
 - (i) who has been suspended from practice as a registered European lawyer or whose registration as a registered European lawyer has been withdrawn, or
 - (ii) who has been suspended from practice as a registered foreign lawyer or whose registration as a registered foreign lawyer has been withdrawn,
 - (c) a person who has been prohibited (including by reason of a disqualification or another removal of a right to provide services) from—
 - (i) practising as an advocate,
 - (ii) acting as a conveyancing or executry practitioner,
 - (iii) acting as a litigation practitioner, or
 - (iv) acting as a confirmation agent or will writer within the meaning of Part 3,
 - (d) a body whose certificate of recognition as an incorporated practice has been revoked.

Status: This is the original version (as it was originally enacted).

- (2) A licensed legal services provider must not employ or remunerate as a designated person—
- (a) the person while the person is so debarred (however described in subsection (1)), or
 - (b) the body while the revocation subsists.
- (3) But subsection (2) is inoperative in relation to the person or (as the case may be) body if the licensed provider has its approved regulator’s written authority that it is so inoperative in the circumstances of the particular case.
- (4) Any authority under subsection (3) may be given—
- (a) for a specified period,
 - (b) with conditions attached.
- (5) A licensed provider may appeal to the Court of Session if it is aggrieved by—
- (a) the withholding of any such authority, or
 - (b) any conditions attached under subsection (4)(b).
- (6) On an appeal under subsection (5)—
- (a) the Court may direct the approved regulator on the matter as the Court considers appropriate,
 - (b) the Court’s determination is final.
- (7) If a licensed provider wilfully contravenes—
- (a) subsection (2), or
 - (b) any conditions attached under subsection (4)(b),
- its approved regulator may revoke or suspend its licence.

73 Concealing disqualification

- (1) Subsection (2) applies to—
- (a) a person who has been struck off the roll of solicitors or suspended from practice as a solicitor,
 - (b) a person—
 - (i) who has been suspended from practice as a registered European lawyer or whose registration as a registered European lawyer has been withdrawn, or
 - (ii) who has been suspended from practice as a registered foreign lawyer or whose registration as a registered foreign lawyer has been withdrawn,
 - (c) a person who has been prohibited (including by reason of a disqualification or another removal of a right to provide services) from—
 - (i) practising as an advocate,
 - (ii) acting as a conveyancing or executry practitioner,
 - (iii) acting as a litigation practitioner, or
 - (iv) acting as a confirmation agent or will writer within the meaning of Part 3.
- (2) The person is guilty of an offence if, while the person is so debarred (however described in subsection (1)), the person seeks or accepts employment by a licensed provider without previously informing it of the debarment.

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

- (3) A person who commits an offence under subsection (2) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (4) Subsection (5) applies to a body whose certificate of recognition as an incorporated practice has been revoked.
- (5) The body is guilty of an offence if, while the revocation subsists, the body seeks or accepts employment by a licensed provider without previously informing it of the revocation.
- (6) A body which commits an offence under subsection (5) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

74 Pretending to be licensed

- (1) A person commits an offence if the person—
 - (a) pretends to be a licensed provider, or
 - (b) takes or uses any name, title, addition or description implying falsely that the person is a licensed provider.
- (2) A person who commits an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

75 Professional privilege

- (1) Subsection (2) applies to any communication made to or by—
 - (a) a licensed provider in the course of its acting as such in its provision of legal services for any of its clients,
 - (b) a designated person (apart from a solicitor or advocate) within the licensed provider who is acting—
 - (i) in connection with its provision of such legal services, and
 - (ii) at the direction, and under the supervision, of a solicitor.
- (2) The communication is, in any legal proceedings, privileged from disclosure as if the licensed provider or (as the case may be) the person had at all material times been a solicitor acting for the client.
- (3) Subsection (4) applies to any special provision which—
 - (a) is contained in an enactment or otherwise,
 - (b) relates to a solicitor, and
 - (c) concerns—
 - (i) the disclosure of information with respect to which a claim of professional privilege could be maintained, or
 - (ii) the production, seizure or removal of documents with respect to which such a claim could be maintained.
- (4) The provision has effect in relation to a licensed provider, and any designated person (apart from a solicitor) within a licensed provider, as it does in relation to a solicitor but with any necessary modifications.
- (5) This section is without prejudice to any other enactment or rule of law concerning professional or other privilege from disclosure (in particular, as applicable in relation to a solicitor).