



Legal Services (Scotland) Act 2010

2010 asp 16

PART 4

THE LEGAL PROFESSION

CHAPTER 4

OTHER BODIES

Scottish Legal Aid Board

140 Exclusion from giving legal assistance

In section 31 (solicitors and counsel) of the 1986 Act—

- (a) in subsections (3), (4) and (5), for “relevant body” wherever appearing substitute “Board”,
- (b) subsections (6) and (10) are repealed.

141 Availability of legal services

In the 1986 Act—

- (a) in section 1 (the Scottish Legal Aid Board), after subsection (2) insert—
 - “(2A) The Board also has the general function of monitoring the availability and accessibility of legal services in Scotland (including by reference to any relevant factor relating particularly to rural or urban areas).”
- (b) in section 2 (powers of the Board), after subsection (2)(d) insert—
 - “(da) to give the Scottish Ministers such advice as it may consider appropriate in relation to the availability and accessibility of legal services in Scotland;”
- (c) in section 3 (duties of the Board), after subsection (2) insert—
 - “(2A) The Board is, from time to time, to give the Scottish Ministers such information as they may require relating to the availability and accessibility of legal services in Scotland.”

142 Information about legal services

After section 35A of the 1986 Act insert—

“35AA Information about legal services

- (1) For the purpose mentioned in subsection (4)(a), each of the bodies mentioned in subsection (3)(a), (b) and (c) must provide the Board with such information as the Board may reasonably require.
- (2) For the purpose mentioned in subsection (4)(b)—
 - (a) each of the bodies mentioned in subsection (3)(a) and (b) must—
 - (i) inform the Board whenever it upholds a conduct complaint about a solicitor or (as the case may be) an advocate, and
 - (ii) give the Board a summary of the relevant facts,
 - (b) the body mentioned in subsection (3)(d) must—
 - (i) inform the Board whenever it upholds a services complaint about a solicitor or an advocate, and
 - (ii) give the Board a summary of the relevant facts.
- (3) The bodies are—
 - (a) the Law Society,
 - (b) the Faculty of Advocates,
 - (c) the Scottish Court Service,
 - (d) the Scottish Legal Complaints Commission.
- (4) The purposes are the Board’s exercise of its functions under—
 - (a) section 1(2A),
 - (b) section 31(3).
- (5) In subsection (2), a reference to a services or a conduct complaint is to be construed in accordance with Part 1 of the Legal Profession and Legal Aid (Scotland) Act 2007.”.

*Scottish Legal Complaints Commission***143 Relevant practitioners**

In section 46(1) (interpretation of Part 1) of the 2007 Act—

- (a) in the definition of “inadequate professional services”, after paragraph (a)(v) insert—
 - “(vi) a registered European or foreign lawyer, professional services that are in any respect not of the quality which could reasonably be expected of a competent lawyer of that type;”,
- (b) in the definition of “practitioner”, after paragraph (g) insert—
 - “(h) a registered European or foreign lawyer, whether or not registered at that time and notwithstanding that subsequent to that time the lawyer’s registration has ceased to have effect or the lawyer has stopped practising;”,
- (c) after the definition of “practitioner” insert—

- ““registered European or foreign lawyer” is to be construed in accordance with section 65(1) of the 1980 Act;”,
- (d) in the definition of “relevant professional organisation”, after paragraph (d) insert—
- “(e) a registered European or foreign lawyer, the Council;”,
- (e) in the definition of “unsatisfactory professional conduct”, after paragraph (d) insert—
- “(e) a registered European or foreign lawyer, conduct that is not of the standard which could reasonably be expected of a competent and reputable lawyer of that type;”.

144 Minor amendments

In the 2007 Act—

- (a) in section 29—
- (i) in subsection (4), after “members” insert “, and the Scottish Ministers;”,
- (ii) in subsection (9), for “subsection (1)” substitute “subsection (8)”,
- (b) in section 46(1), in paragraph (c) in the definition of “unsatisfactory professional conduct”, for “section 27 of this Act” substitute “section 27 of the 1990 Act”,
- (c) in paragraph 13(2)(a) of schedule 1—
- (i) for “the function of deciding” substitute “a decision”,
- (ii) for “whether” substitute “that”,
- (iii) for “exercised” substitute “taken”,
- (d) in paragraph 1(h)(iii) of schedule 3 for “whether” substitute “that”.

145 The 2007 Act: further provision

- (1) In section 78 (ancillary provision) of the 2007 Act, after subsection (1) insert—

“(1A) The Scottish Ministers may make such further provision as, having regard to the effect of the Legal Services Act 2007 so far as concerning the subject matter of Parts 1 and 2 of this Act (and applying in Scotland), they consider necessary or expedient in connection with this Act or any related provisions of the 1980 Act.”.

- (2) In section 79 (regulations or orders) of the 2007 Act, in subsection (3)(c)(i), after “section 78(1)” insert “or (1A)”.