



# Legal Services (Scotland) Act 2010

## 2010 asp 16

### PART 5

#### GENERAL

#### 146 Regulations

- (1) Any power of the Scottish Ministers to make regulations under the preceding Parts of this Act is exercisable by statutory instrument.
- (2) The regulations may—
  - (a) make different provision for different purposes,
  - (b) include such incidental, consequential, transitional, transitory or saving provision as the Scottish Ministers consider necessary or expedient for the purposes of or in connection with the regulations.
- (3) But—
  - (a) a statutory instrument containing regulations under—
    - (i) section 6(6),
    - (ii) section 12(2)(c) or (5),
    - (iii) section 38(7),
    - (iv) section 44(1),
    - (v) section 45(1),
    - (vi) section 48(6)(a)(i),
    - (vii) section 49(4),
    - (viii) section 67(3),
    - (ix) section 70(10),
    - (x) section 93(2)(f),
    - (xi) section 100(5)(b),
    - (xii) section 104(2)(f),
    - (xiii) section 111(5)(b), or
    - (xiv) section 112(1),

is not to be made unless a draft of the instrument has been laid before, and approved by resolution of, the Scottish Parliament,

- (b) a statutory instrument containing any other regulations under the preceding Parts of this Act is subject to annulment in pursuance of a resolution of the Parliament.

#### **147 Further modification**

- (1) The Scottish Ministers may by regulations made by statutory instrument—
  - (a) amend the percentage specified in subsection (1) of section 49, or
  - (b) repeal section 49 (and consequentially the references in this Act to that section).
- (2) But regulations may be made under subsection (1) only if the Scottish Ministers believe that the effect of the amendment or (as the case may be) repeal would be—
  - (a) compatible with the regulatory objectives, and
  - (b) appropriate in any other relevant respect.
- (3) Before making regulations under subsection (1), the Scottish Ministers must consult—
  - (a) the Lord President,
  - (b) the Law Society,
  - (c) every approved regulator,
  - (d) the OFT, and such other organisation (appearing to them to represent the interests of consumers in Scotland) as they consider appropriate,
  - (e) such other person or body as they consider appropriate.
- (4) A statutory instrument containing regulations under subsection (1) is not to be made unless a draft of the instrument has been laid before, and approved by resolution of, the Scottish Parliament.

#### **148 Ancillary provision**

- (1) The Scottish Ministers may by regulations made by statutory instrument make such—
  - (a) supplemental provision, or
  - (b) incidental, consequential, transitional, transitory or saving provision,as they consider necessary or expedient for the purposes of or in connection with this Act.
- (2) But—
  - (a) a statutory instrument containing regulations under subsection (1) which adds to, replaces or omits any part of the text of an Act (including this Act) is not to be made unless a draft of the instrument has been laid before, and approved by resolution of, the Scottish Parliament,
  - (b) a statutory instrument containing any other regulations under that subsection is subject to annulment in pursuance of a resolution of the Parliament.

#### **149 Definitions**

- (1) In this Act (unless the context otherwise requires)—
  - “the 1980 Act” means the Solicitors (Scotland) Act 1980,
  - “the 1986 Act” means the Legal Aid (Scotland) Act 1986,
  - “the 1990 Act” means the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990,

“the 2007 Act” means the Legal Profession and Legal Aid (Scotland) Act 2007,  
“Faculty” means Faculty of Advocates,  
“Law Society” means Law Society of Scotland,  
“Lord President” means Lord President of the Court of Session,  
“OFT” means Office of Fair Trading.

- (2) In this Act (unless the context otherwise requires)—
- (a) the following expressions are to be construed in accordance with section 65(1) (interpretation) of the 1980 Act—
    - “advocate”,
    - “incorporated practice”,
    - “practising certificate”,
    - “registered European lawyer”,
    - “registered foreign lawyer”,
    - “solicitor”,
  - (b) the following expressions are to be construed in accordance with section 23 (interpretation) of the 1990 Act—
    - “conveyancing practitioner”,
    - “executry practitioner”,
  - (c) a reference to a litigation practitioner is to a person having a right to conduct litigation, or a right of audience, by virtue of section 27 of the 1990 Act.
- (3) In this Act (unless the context otherwise requires), a reference to a professional association or body includes—
- (a) the Law Society,
  - (b) any other organisation which serves a profession (for example, the Institute of Chartered Accountants of Scotland).
- (4) Schedule 9 is an index of expressions introduced for—
- (a) the whole Act,
  - (b) Parts 2 and 3.

## **150 Commencement and short title**

- (1) This section and sections 146 to 149 come into force on the day after Royal Assent.
- (2) The other provisions of this Act come into force on the day that the Scottish Ministers by order made by statutory instrument appoint.
- (3) An order under subsection (2) may appoint different days for different provisions.
- (4) An order under subsection (2) may—
  - (a) make different provision for different purposes,
  - (b) include such transitional, transitory or saving provision as the Scottish Ministers consider necessary or expedient in connection with the commencement of this Act.
- (5) The short title of this Act is the Legal Services (Scotland) Act 2010.