

*Status: Point in time view as at 02/07/2012.*

*Changes to legislation: There are currently no known outstanding effects for the Legal Services (Scotland) Act 2010, SCHEDULE 8. (See end of Document for details)*

## SCHEDULE 8

*(introduced by section 67(1))*

### INVESTORS IN LICENSED PROVIDERS

#### *Initial notification requirements*

- 1 (1) An applicant for a licence (issuable in accordance with an approved regulator's licensing rules) must give the approved regulator the standard information about non-solicitor investors when applying for the licence.
- (2) The applicant must also—
  - (a) give (as soon as practicable) the approved regulator any standard information subsequently coming to light,
  - (b) notify (as soon as practicable) the approved regulator of any other change in the standard information.
- (3) The standard information is—
  - (a) the name and other details of—
    - (i) every non-solicitor investor in the applicant,
    - (ii) any other person whom the applicant expects to be a non-solicitor investor in the applicant at such time as the licence may be issued,
  - (b) in each case, a description of the nature of the person's interest.

#### **Commencement Information**

**I1** [Sch. 8 para. 1](#) in force at 1.4.2011 for specified purposes by [S.S.I. 2011/180, art. 3, Sch.](#)

**I2** [Sch. 8 para. 1](#) in force at 2.7.2012 in so far as not already in force by [S.S.I. 2012/152, art. 2, Sch.](#)

- 2 (1) It is an offence for a person to fail to comply with a requirement imposed on the person by paragraph 1.
- (2) A person who commits an offence under sub-paragraph (1) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (3) It is a defence for a person prosecuted for an offence under sub-paragraph (1) to show that at the relevant time the person had no knowledge, and could not reasonably be expected to have knowledge, of the information in question.

#### **Commencement Information**

**I3** [Sch. 8 para. 2](#) in force at 1.4.2011 for specified purposes by [S.S.I. 2011/180, art. 3, Sch.](#)

**I4** [Sch. 8 para. 2](#) in force at 2.7.2012 in so far as not already in force by [S.S.I. 2012/152, art. 2, Sch.](#)

#### *Continuing notification requirements*

- 3 (1) This paragraph applies where—
  - (a) a person takes, or proposes to take, a step to acquire such an interest as would result in the person becoming a non-solicitor investor in a licensed provider,
  - (b) a non-solicitor investor takes, or proposes to take, a step which would—
    - (i) significantly change the investor's interest in the licensed provider,or

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- (ii) acquire an additional kind of interest in the licensed provider, or
- (c) a person becomes a non-solicitor investor in a licensed provider—
  - (i) as a new investor, or
  - (ii) because the person, having ceased to be entitled to practise as mentioned in section 67(6)(b) (while remaining as an investor), comes within the definition there.
- (2) In a case falling within sub-paragraph (1)(a) or (b), the licensed provider must (as soon as practicable) notify the approved regulator of the proposal including by giving it—
  - (a) the name and other details of the person concerned,
  - (b) the details of the interest concerned.
- (3) In a case falling within sub-paragraph (1)(c)(i), the licensed provider must (as soon as practicable) notify the approved regulator of the acquisition including by giving it the name and other details of the investor.
- (4) In a case falling within sub-paragraph (1)(c)(ii), the licensed provider must (as soon as practicable) notify the approved regulator of the fact.
- (5) Sub-paragraph (3) does not apply where sub-paragraph (2) has been complied with in relation to the acquisition.
- (6) It is an offence for a person to fail to comply with a requirement imposed on the person by sub-paragraph (2), (3) or (4).
- (7) A person who commits an offence under sub-paragraph (6) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (8) It is a defence for a person prosecuted for an offence under sub-paragraph (6) to show that at the relevant time the person had no knowledge, and could not reasonably be expected to have knowledge, of the information in question.

#### **Commencement Information**

- I5** Sch. 8 para. 3 in force at 1.4.2011 for specified purposes by S.S.I. 2011/180, art. 3, Sch.
- I6** Sch. 8 para. 3 in force at 2.7.2012 in so far as not already in force by S.S.I. 2012/152, art. 2, Sch.

#### *Exemption from notification requirements*

- 4 (1) An approved regulator may in relation to any exemptible investor in a licensed provider waive the requirements to give it information (or notification) under paragraphs 1 and 3.
- (2) Licensing rules must explain—
- (a) any circumstances in which the approved regulator proposes to rely on sub-paragraph (1),
  - (b) any threshold below the percentage specified in sub-paragraph (3) by reference to which it proposes to rely on sub-paragraph (1),
  - (c) where it proposes to rely on sub-paragraph (1), its reasons.
- (3) In sub-paragraph (1), an “exemptible investor” is (as the case may be)—

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- (a) an investor who has less than a 10% stake in the total ownership or control of the licensed provider, or
- (b) a person whose intended acquisition of an interest in the licensed provider is of less than a 10% stake in the total ownership or control of the licensed provider.

#### Commencement Information

**I7** Sch. 8 para. 4 in force at 1.4.2011 for specified purposes by S.S.I. 2011/180, art. 3, Sch.

**I8** Sch. 8 para. 4 in force at 2.7.2012 in so far as not already in force by S.S.I. 2012/152, art. 2, Sch.

#### *Requirement to notify investors*

- 5
- (1) Where an applicant gives information under paragraph 1, the applicant must notify any person whom the information concerns—
    - (a) of—
      - (i) the making of the application, and
      - (ii) the fact that the identity of the person has been disclosed to the approved regulator,
    - (b) of the effect of paragraph 6.
  - (2) Where a licensed provider gives notification under paragraph 3(2) or (3), the licensed provider must notify any person whom the notification concerns—
    - (a) of—
      - (i) the giving of that notification, and
      - (ii) the fact that the identity of the person has been disclosed to the approved regulator,
    - (b) of the effect of paragraph 6.
  - (3) It is an offence for a person to fail without reasonable excuse to comply with a requirement imposed on the person by sub-paragraph (1) or (2).
  - (4) A person who commits an offence under sub-paragraph (3) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

#### Commencement Information

**I9** Sch. 8 para. 5 in force at 1.4.2011 for specified purposes by S.S.I. 2011/180, art. 3, Sch.

**I10** Sch. 8 para. 5 in force at 2.7.2012 in so far as not already in force by S.S.I. 2012/152, art. 2, Sch.

#### *Approved regulator may obtain information*

- 6
- (1) An approved regulator may require a person whose identity has been disclosed to it under paragraph 1 or 3 to provide it with such documents and other information as it may reasonably require.
  - (2) It is an offence for a person who is required to provide information by virtue of sub-paragraph (1)—
    - (a) to fail without reasonable excuse to comply with the requirement, or
    - (b) knowingly to provide false or misleading information.

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- (3) A person who commits an offence under sub-paragraph (2) is liable—
- (a) on summary conviction to a fine not exceeding the statutory maximum,
  - (b) on conviction on indictment to a term of imprisonment not exceeding 2 years or a fine (or both).

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**Commencement Information**

**I11** Sch. 8 para. 6 in force at 1.4.2011 for specified purposes by S.S.I. 2011/180, art. 3, **Sch.**

**I12** Sch. 8 para. 6 in force at 2.7.2012 in so far as not already in force by S.S.I. 2012/152, art. 2, **Sch.**

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