



Legal Services (Scotland) Act 2010

2010 asp 16

PART 2

REGULATION OF LICENSED LEGAL SERVICES

CHAPTER 2

LICENSED LEGAL SERVICES PROVIDERS

Non-solicitor investors

64 Factors as to fitness

- (1) This section applies for the purposes of section 62.
- (2) The following are examples of things relevant as respects a non-solicitor investor's fitness for having an interest in a licensed provider—
 - (a) the investor's—
 - (i) financial position and business record,
 - (ii) probity and character,
 - (iii) family, business or other associations (so far as bearing on character),
 - (b) whether—
 - (i) the investor has ever caused, or substantially contributed to, a material breach of the terms or conditions of any licensed provider's licence,
 - (ii) the investor's involvement in the licensed provider may (in the approved regulator's opinion) be detrimental to the observance of the regulatory objectives or adherence to the professional principles, or to the compliance with this Part or any other enactment, by any person or body,
 - (iii) the investor has ever contravened section 66(1) or (2) or there is (in the approved regulator's opinion) a significant risk that the investor will ever contravene that section.
- (3) A non-solicitor investor is to be presumed to be unfit for having an interest in a licensed provider if one or more of the following conditions is met—

Changes to legislation: There are currently no known outstanding effects for the Legal Services (Scotland) Act 2010, Section 64. (See end of Document for details)

- (a) the first condition is that the investor—
 - (i) is subject to a trust deed granted by the investor for the benefit of the investor's creditors,
 - (ii) is subject to an individual voluntary arrangement under the Insolvency Act 1986, to repay the investor's creditors,
 - (iii) has been adjudged bankrupt and has not been discharged from bankruptcy, or
 - (iv) has been sequestrated (that is, sequestration of the investor's estate has been awarded) and the sequestration has not been discharged,
 - (b) the second condition is that the investor is subject to a bankruptcy restrictions order ^{F1}... under the Bankruptcy (Scotland) Act 1985, [^{F2}the Bankruptcy (Scotland) Act 2016,] the Insolvency Act 1986 or corresponding Northern Ireland legislation,
 - (c) the third condition is that the investor—
 - (i) is subject to a disqualification order or undertaking under the Company Directors Disqualification Act 1986 or corresponding Northern Ireland legislation,
 - (ii) is disqualified by a court from holding, or otherwise has been removed by a court from, a position of business responsibility (for example, from being a director of a charity),
 - (d) the fourth condition is that the investor—
 - (i) has been convicted of an offence involving dishonesty, or
 - (ii) in respect of an offence, has been fined an amount equivalent to level 4 on the standard scale or more (whether on summary or solemn conviction) or sentenced to imprisonment for a term of 12 months or more.
- (4) Where a non-solicitor investor is a body, it is relevant as respects the investor's fitness for having an interest in a licensed provider whether or not the persons having (to any extent)—
- (a) ownership or control of the body, or
 - (b) any other material interest in it,
- would (if they were investors in the licensed provider in their own right) be held to be fit in that regard.
- (5) In subsection (3)(b) and (c)(i), “Northern Ireland legislation” has the meaning given in section 24(5) of the Interpretation Act 1978.

Textual Amendments

- F1** Words in s. 64(3)(b) omitted (30.11.2016) by virtue of Bankruptcy (Scotland) Act 2016 (asp 21), s. 237(2), **sch. 8 para. 26(3)(a)** (with ss. 232, 234(3), 235, 236); S.S.I. 2016/294, reg. 2
- F2** Words in s. 64(3)(b) inserted (30.11.2016) by Bankruptcy (Scotland) Act 2016 (asp 21), s. 237(2), **sch. 8 para. 26(3)(b)** (with ss. 232, 234(3), 235, 236); S.S.I. 2016/294, reg. 2

Commencement Information

- I1** S. 64 in force at 2.7.2012 by S.S.I. 2012/152, art. 2, **Sch.**

Changes to legislation:

There are currently no known outstanding effects for the Legal Services (Scotland) Act 2010, Section 64.