



# Regulation of Legal Services (Scotland) Act 2025

2025 asp 8

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Explanatory Notes have been produced to assist in the  
understanding of this Act and are available separately

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# Regulation of Legal Services (Scotland) Act 2025 2025 asp 8

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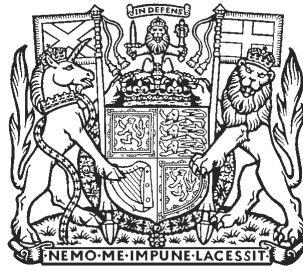
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# Regulation of Legal Services (Scotland) Act 2025 2025 asp 8

**The Bill for this Act of the Scottish Parliament was passed by the Parliament on 20th May 2025 and received Royal Assent on 27th June 2025**

An Act of the Scottish Parliament to make provision in relation to the regulation of legal services.

## **PART 1**

### **REGULATORY FRAMEWORK**

#### **CHAPTER 1**

##### **OBJECTIVES, PRINCIPLES AND KEY DEFINITIONS**

###### *Overview of Part*

### **1 Overview of the regulatory framework**

- (1) Chapter 1 makes provision in respect of—
  - (a) the objectives of regulating legal services and how they are to be applied (see sections 2 and 3),
  - (b) the professional principles (see section 4),
  - (c) defining key expressions for the purposes of this Act (see sections 5 and 6).
- (2) Chapter 2 makes provision in respect of regulators of legal services, which includes—
  - (a) establishing two categories of regulator and assigning the existing regulators to one of those categories (see section 7),
  - (b) setting the requirements for a category 1 regulator, which include—
    - (i) having an independent regulatory committee (where necessary) which is responsible for exercising its regulatory functions (see sections 8 to 11),
    - (ii) preparing an annual report (see section 12),
    - (iii) having a compensation fund (see section 13),

- (c) setting the requirements for a category 2 regulator, which include—
    - (i) exercising its regulatory functions independently of any other functions it has and properly in all respects (see section 14),
    - (ii) preparing an annual report (see section 15),
  - (d) requiring both category 1 and category 2 regulators to—
    - (i) maintain a publicly available register of the legal services providers that it regulates (see section 16), and
    - (ii) have rules in respect of professional indemnity insurance (see section 17),
  - (e) setting out the role and powers of the Lord President in respect of regulators and the regulatory framework (see sections 18 and 19 and schedule 2),
  - (f) conferring power on regulators to make special rule changes in relation to a particular legal services provider where it is appropriate to do so (see sections 20 to 22).
- (3) Paragraph 40 of schedule 3 provides for category 1 regulators to be subject to the Freedom of Information (Scotland) Act 2002 in respect of the exercise of their regulatory functions.
- (4) Chapter 3 makes provision about the process for a body to become accredited to authorise persons and acquire and exercise rights to provide legal services, which includes—
- (a) applications and the application process (see sections 23 and 26),
  - (b) requiring the applicant to produce a draft regulatory scheme, which must meet certain requirements (see section 24),
  - (c) the manner in which applications are to be considered and approved (see sections 27 and 28),
  - (d) how any rights acquired by persons authorised by the accredited regulator are to be exercised (see section 29),
  - (e) how the rights may be surrendered or revoked (and what happens to the providers affected) (see sections 30, 34 and 35),
  - (f) the review of regulatory schemes (see sections 32 and 33).
- (5) Part 1 of schedule 1 makes amendments to enactments relating to the Law Society in consequence of the Society being a category 1 regulator and Part 1 of schedule 3 makes other consequential amendments relating to the Society.

### *Regulatory objectives*

## **2 Regulatory objectives**

- (1) The objectives of regulating legal services are—
- (a) to support the constitutional principles of the rule of law and the interests of justice,
  - (b) to protect and promote the interests of consumers and the wider public interest,
  - (c) to promote—
    - (i) access to justice,

- (ii) an independent, strong and diverse legal profession,
  - (iii) quality, innovation and competition in the provision of legal services,
  - (iv) effective communication between regulators and legal services providers, and
  - (v) effective communication between regulators and bodies that represent the interests of consumers, and
- (d) for those regulating legal services to—
  - (i) use and promote best practice in relation to assessing and improving the quality of regulation and compliance with applicable legislation and rules,
  - (ii) adhere to the regulatory principles described in section 3(4), and
  - (iii) promote and maintain adherence to the professional principles.
- (2) In this Act, the “regulatory objectives” are the objectives described in subsection (1).

### **3 Application of the regulatory objectives**

- (1) A regulatory authority must so far as practicable exercise its regulatory functions (see section 6) in a manner which—
  - (a) is compatible with the regulatory objectives, and
  - (b) it considers most appropriate to meet those objectives.
- (2) For the purpose of section 2(1)(b) and (c), a regulatory authority must take into account the principles that—
  - (a) a consumer should have access to a range of legal services that are affordable and suited to the consumer’s needs,
  - (b) a consumer should receive sufficient information about the consumer’s rights and the services that are available,
  - (c) a consumer should be treated fairly at all times,
  - (d) a consumer should be able to access a means of redress when services are not of a suitable standard, and
  - (e) the views of consumers should be understood and taken into account.
- (3) Without limit to the generality of section 2(1)(c)(ii), a regulatory authority must encourage equal opportunities (as defined in Section L2 of Part 2 of schedule 5 of the Scotland Act 1998).
- (4) For the purpose of section 2(1)(d)(ii), the regulatory principles are—
  - (a) that regulatory functions should be—
    - (i) exercised in a way that is transparent, accountable, proportionate and consistent, and
    - (ii) targeted only at cases in which action is needed, and
  - (b) that regulatory functions should be exercised in a way that contributes to achieving sustainable economic growth, except to the extent that it would be inconsistent with the regulatory objectives to do so.

- (5) For the purpose of this section, the regulatory authorities are—
- (a) the Court of Session,
  - (b) the Lord President,
  - (c) the Commission,
  - (d) the Scottish Solicitors' Discipline Tribunal,
  - (e) each category 1 and category 2 regulator, and
  - (f) each approved regulator of licensed providers.

*Professional principles*

**4 Professional principles**

- (1) A person providing legal services should—
- (a) support the proper administration of justice,
  - (b) act with independence (in the interests of justice),
  - (c) act with integrity,
  - (d) act in the best interests of the person's clients (and keep clients' affairs confidential),
  - (e) maintain good standards of work,
  - (f) where—
    - (i) exercising a right of audience before any court, or
    - (ii) conducting litigation in relation to proceedings in any court,comply with such duties as are normally owed to the court by such persons,
  - (g) meet the person's obligations under any relevant professional rules,
  - (h) act in conformity with professional ethics.
- (2) In this Act, the “professional principles” are the principles described in subsection (1).

*Meaning of key expressions*

**5 Meaning of “legal services” and “legal services provider”**

- (1) For the purposes of this Act, legal services are services which consist of (at least one of)—
- (a) the provision of legal advice or assistance in connection with—
    - (i) any contract, deed, writ, will or other legal document,
    - (ii) the application of the law, or
    - (iii) any form of resolution of legal disputes,
  - (b) the provision of legal representation in connection with—
    - (i) the application of the law, or
    - (ii) any form of resolution of legal disputes.

- (2) But, for those purposes, legal services do not include—
  - (a) judicial activities,
  - (b) any other activity of a judicial nature,
  - (c) any activity of a quasi-judicial nature, or
  - (d) any activity which involves acting as a third party decision-maker or facilitator in a type of alternative dispute resolution.
- (3) In subsection (1)(a)(iii) and (b)(ii), “legal disputes” includes disputes as to any matter of fact the resolution of which is relevant to determining the nature of any person’s legal rights or obligations.
- (4) In this Act, “legal services provider” means a person or body that provides legal services (whether or not directly to the public and whether or not the person’s provision of such legal services is regulated).

## **6 Meaning of regulatory functions**

For the purposes of this Act, a reference to the regulatory functions of a regulatory authority is a reference to its functions of regulating legal services providers in relation to any matter of professional practice, conduct or discipline including, as appropriate—

- (a) setting standards for admission or authorisation and the ongoing training of its providers,
- (b) handling complaints about its providers,
- (c) making regulatory rules under any relevant enactment, and
- (d) complying with the requirements imposed on the regulatory authority under this Act (for example, in relation to keeping a register of its providers) and, if applicable, Part 2 of the 2010 Act.

## **CHAPTER 2**

### **REGULATORS**

#### *Regulatory categories*

## **7 Regulatory categories**

- (1) For the purposes of this Act, a regulator of legal services providers is subject to different requirements according to whether it is—
  - (a) assigned as—
    - (i) a category 1 regulator,
    - (ii) a category 2 regulator, or
  - (b) in relation to licensed legal services providers, an approved regulator of such providers (for which, see Part 2 of the 2010 Act).
- (2) The Law Society of Scotland is assigned as a category 1 regulator.
- (3) The Faculty of Advocates (acting on behalf of the Court of Session) and the Association of Construction Attorneys are assigned as category 2 regulators.

- (4) A body that has been approved under section 28 as an accredited regulator is, until such time as the Scottish Ministers make regulations under subsection (6) of that section, deemed to be assigned as a category 2 regulator.
- (5) The Scottish Ministers may by regulations amend this section to—
  - (a) reassign a body that is for the time being mentioned in this section to a different regulatory category, but only if the body is—
    - (i) an accredited regulator, or
    - (ii) a body which has had an application under section 25 of the 1990 Act granted under section 26 of that Act,
  - (b) add a body which is approved under section 28 as an accredited regulator and assign its regulatory category,
  - (c) remove a body that has ceased to be a regulator,
  - (d) update the name or description of a regulator.
- (6) When considering whether a regulator should be assigned (or reassigned) as a category 1 or a category 2 regulator, the Scottish Ministers must have regard to—
  - (a) the type and range of legal services that are (or are to be) regulated,
  - (b) whether the legal services are (or are to be) provided directly to members of the public, and
  - (c) the number of legal services providers that the regulator regulates (or is likely to regulate).
- (7) Regulations under subsection (5) are subject to the affirmative procedure.
- (8) But the Scottish Ministers may exercise the power to make regulations under subsection (5)(a) only following, and in accordance with, a request to exercise the power received from the Lord President.
- (9) Before making a request referred to in subsection (8), the Lord President—
  - (a) must consult—
    - (i) the body whose category the Lord President is proposing to be reassigned,
    - (ii) the independent advisory panel of the Commission,
    - (iii) the other category 1 and category 2 regulators, and
    - (iv) each approved regulator of licensed providers (if not otherwise consulted), and
  - (b) may consult—
    - (i) the Scottish Ministers, and
    - (ii) such other person or body as the Lord President considers appropriate.
- (10) A request under subsection (8) must include—
  - (a) a document setting out the reasons for the request, and
  - (b) copies of any written representations received in response to the consultation under subsection (9).

- (11) As soon as reasonably practicable after making a request under subsection (8), the Lord President must publish the documents included with the request in such manner as the Lord President considers appropriate (having regard to the desirability of the documents being accessible to those likely to have an interest in them).
- (12) For the purposes of subsection (1), “regulator” means—
  - (a) the Law Society,
  - (b) the Faculty of Advocates,
  - (c) an approved regulator of licensed providers,
  - (d) an accredited regulator, or
  - (e) a body which has had an application under section 25 of the 1990 Act granted under section 26 of that Act.

*Requirements of category 1 regulators*

**8 Exercise of regulatory functions**

- (1) A category 1 regulator must exercise its regulatory functions—
  - (a) independently of its other functions or activities (if any),
  - (b) properly in all respects (in particular, with a view to achieving public confidence).
- (2) Where a category 1 regulator has functions other than regulatory functions, it must—
  - (a) establish and maintain a regulatory committee to discharge its regulatory functions,
  - (b) ensure that the governing body of the regulator does not interfere with the committee’s discharge of those functions,
  - (c) when consulted on a matter relating to its regulatory functions, delegate responsibility for responding to the committee (in so far as the matter relates to those functions).
- (3) A category 1 regulator must—
  - (a) consult its regulatory committee before making decisions affecting the committee’s funding and resources, and
  - (b) ensure that the committee is adequately funded and resourced to be able to discharge its functions.
- (4) A regulatory committee—
  - (a) must (in accordance with this Act or any other enactment) determine its composition, governance arrangements and priorities,
  - (b) may arrange for the exercise of its functions by a sub-committee or an individual (which may be a member of staff of the regulator).
- (5) But, an arrangement under subsection (4)(b)—
  - (a) may not delegate—
    - (i) the regulatory committee’s function of making regulatory rules under this Act or any other enactment,

- (ii) to an individual, the committee's function of determining what action it proposes to take in respect of a conduct or regulatory complaint remitted under section 6 or 7A of the 2007 Act or, as the case may be, initiated in accordance with section 33A or 33B of that Act, and
- (b) does not affect or limit the regulatory committee's—
  - (i) responsibility for the exercise of the delegated functions, or
  - (ii) ability to exercise those functions.
- (6) A regulatory committee must maintain and publish a document setting out its—
  - (a) composition, membership and governance arrangements,
  - (b) regulatory functions (including powers and duties) and procedures,
  - (c) arrangements (if any) for the delegation of functions.
- (7) A regulatory committee of a category 1 regulator must consult the governing body of the regulator before making any material change to its governance arrangements.
- (8) Except where provided for in an enactment, the governing body and regulatory committee of a category 1 regulator are to agree arrangements for resolving any disputes that may arise between them.
- (9) In this Part, a reference to the governing body of a category 1 regulator is a reference to the group of persons (however described) who are responsible for the direction, management and control of the regulator and the exercise of its statutory functions.

## **9 Regulatory committee: composition and membership**

- (1) It is for the regulatory committee of a category 1 regulator to appoint its members.
- (2) But a category 1 regulator may appoint members to its regulatory committee if, at the time of appointment, the regulatory committee is unable to do so (for example, if it is appointing the members of the first regulatory committee).
- (3) A member of a regulatory committee—
  - (a) may be a person regulated by the regulator as a legal services provider, but
  - (b) must not be, or have been for at least two years, involved in the governing body of the regulator or the exercise of the regulator's non-regulatory functions.
- (4) A person may not be a member of the regulatory committee if the person—
  - (a) has had a right to practise (in law or otherwise) removed as a result of a finding of misconduct by a professional or disciplinary body,
  - (b) is suspended from practising (in law or otherwise) by a professional or disciplinary body,
  - (c) is subject to a disqualification order or disqualification undertaking under the Company Directors Disqualification Act 1986 or the Company Directors Disqualification (Northern Ireland) Order 2002 (S.I. 2002/3150 (N.I. 4)), or
  - (d) has been convicted of an offence involving dishonesty.
- (5) The regulatory committee may determine that a person may not be a member of the regulatory committee if the person has been convicted of an offence other than one referred to in subsection (4)(d).



- (6) At least 50% of the members of a regulatory committee (and any sub-committee of it) of a category 1 regulator are to be lay members (see section 10).
- (7) The regulatory committee may co-opt persons who are not members of the regulatory committee (subject to subsections (3)(b) and (4)).
- (8) The validity of any proceedings of a regulatory committee (or any subcommittee of it) is not affected by a vacancy in membership.
- (9) For the purpose of subsection (4), a professional or disciplinary body is a body which, in the opinion of the category 1 regulator, regulates the provision of professional services (such as law or accountancy) by means of requiring persons who wish to provide those services to meet certain standards and criteria and adhere to rules governing acceptable practice and conduct.
- (10) A category 1 regulator must publish guidance in respect of how it applies subsection (4) in such a manner as to bring it to the attention of persons who are likely to be interested in the membership of its regulatory committee.

## **10 Regulatory committee: lay and legal members**

- (1) To be appointable as a lay member of a regulatory committee, a person must meet the criteria in subsections (2) and (3).
- (2) The person must appear to the regulatory committee (or, in a case where the committee is unable to do so, the category 1 regulator) to be—
  - (a) qualified to represent the interests of the public in relation to the provision of legal services in Scotland, or
  - (b) having regard to the regulator’s regulatory functions, suitable in other respects.
- (3) The person must not be, and must not have been for at least 10 years, eligible for appointment as a legal member.
- (4) A person may be appointed as a legal member of a regulatory committee only if the person is (any of)—
  - (a) a solicitor or a person training to become a solicitor in accordance with regulations made under section 5 of the 1980 Act,
  - (b) an advocate or a person who has matriculated as an intransit with a view to becoming an advocate,
  - (c) a conveyancing or executry practitioner as defined in section 23 of the 1990 Act,
  - (d) a person who has acquired a right to provide legal services by virtue of Chapter 3 (or under section 27 of the 1990 Act),
  - (e) regulated or represented by—
    - (i) a regulatory body authorised by the Legal Services Board established under section 2 of the Legal Services Act 2007 with the exception of those authorised to regulate chartered accountants,
    - (ii) the Law Society of Northern Ireland,
    - (iii) the Bar of Northern Ireland.

## **11 Regulatory committee: convener, sub-committees and minutes**

- (1) The regulatory committee of a category 1 regulator is to appoint one of its lay members as its convener.
- (2) If the convener is not present at a meeting of the committee, another of its lay members is to chair the meeting.
- (3) A sub-committee of the regulatory committee may—
  - (a) be chaired by a person other than a lay member,
  - (b) co-opt persons who are not members of the regulatory committee (subject to section 9(3)(b) and (4)),
  - (c) with the approval of the regulatory committee, arrange for the exercise of any function, other than the function described in section 8(5)(a)(ii), by an individual (which may be a member of staff of the regulator).
- (4) On the request of any person for a copy of the minutes of a meeting of the regulatory committee of a category 1 regulator, the committee must, if the request is reasonable, give the person a copy of those minutes within the period of 28 days beginning with the day of the request.
- (5) Where a request for a copy of minutes is made under subsection (4), the regulatory committee—
  - (a) may withhold information contained in the minutes, and
  - (b) if it does so, must inform the person requesting a copy of the minutes of its reasons for doing so.

## **12 Annual reports of category 1 regulators**

- (1) A category 1 regulator or, where section 8(2) applies, its regulatory committee, must prepare a report on the exercise of its regulatory functions as soon as practicable after the end of each reporting year.
- (2) The report must include—
  - (a) information demonstrating how the category 1 regulator or, where section 8(2) applies, its regulatory committee, is complying with the regulatory objectives,
  - (b) information as to how the regulator or, where section 8(2) applies, its regulatory committee, is carrying out its regulatory functions,
  - (c) a statement on the strategic priorities of the regulator or, where section 8(2) applies, its regulatory committee, for the next reporting year in relation to its regulatory functions,
  - (d) a copy of the regulator's or, where section 8(2) applies, its regulatory committee, annual accounts (in so far as they are relevant to the carrying out of regulatory functions),
  - (e) a summary of decisions to pay out from the compensation fund, including details on—
    - (i) how decisions on claims are made,
    - (ii) the criteria for making decisions,

- (iii) the average length of time it has taken to make a payment following the making of a claim,
    - (iv) the proportion of claims that have been paid out, whether in part or in full, compared to the number of claims made,
  - (f) information, in relation to legal services providers that the regulator regulates, about—
    - (i) the number of conduct complaints remitted (or treated as having been remitted) to it under the 2007 Act, and the number of those complaints that are determined, discontinued or reinstated by it or, where section 8(2) applies, its regulatory committee,
    - (ii) the number of regulatory complaints remitted (or treated as having been remitted) to it under the 2007 Act, and the number of those complaints that are determined, discontinued or reinstated by it or, where section 8(2) applies, its regulatory committee,
  - (g) information on any measures taken or financial penalties imposed by the regulator on legal services providers that it regulates as a result of complaints remitted (or treated as having been remitted) to it under the 2007 Act (including information as to compliance with the measures and the actions taken to enforce them),
  - (h) information about directions (if any) given under section 20, including—
    - (i) the number of directions given in pursuance of each of the purposes in section 20(3),
    - (ii) a summary of which types of rules are being disapplied or modified (and how frequently they are being disapplied or modified),
    - (iii) any trends in the kinds of directions that were applied for, rejected or granted,
    - (iv) the changes in such trends (if any) from the previous report,
  - (i) where the Commission has given a direction in relation to the handling of complaints, details of how the regulator or, where section 8(2) applies, its regulatory committee, has complied with it,
  - (j) where the Commission has given a direction in relation to the compensation fund, details of how the regulator or, where section 8(2) applies, its regulatory committee, has complied with it,
  - (k) details of steps taken by the regulator or, where section 8(2) applies, its regulatory committee, to ensure compliance with any measures taken under section 19 by the Lord President,
  - (l) except in the case where the regulator is the Law Society, a statement indicating whether the regulator or, where section 8(2) applies, its regulatory committee, considers the category which it has been assigned is appropriate for the purposes of section 7 (having regard to section 7(6)).
- (3) Where section 8(2) applies—
  - (a) the category 1 regulator must make available to its regulatory committee such information as the committee may require to prepare an annual report under this section,

- (b) the report must include such information as the committee considers relevant about—
  - (i) the committee’s internal governance arrangements, and
  - (ii) the relationship between the committee and the regulator’s governing body, and
- (c) the regulatory committee must involve the governing body of the regulator in the preparation of the report.
- (4) When preparing an annual report, a category 1 regulator, or where section 8(2) applies, its regulatory committee must consult the independent advisory panel of the Commission.
- (5) A category 1 regulator, or where section 8(2) applies, its regulatory committee, must—
  - (a) publish its annual report by such electronic means as the regulator (or regulatory committee) considers appropriate, and
  - (b) send a copy of its annual report to the Lord President,
 as soon as practicable after the end of the reporting year to which the annual report relates.
- (6) In this section—
  - “conduct complaint” is to be construed in accordance with Part 1 of the 2007 Act,
  - “regulatory complaint” is to be construed in accordance with Part 1 of the 2007 Act,
  - “reporting year” means, in relation to a category 1 regulator, a 12 month period that coincides with the regulator’s financial year.

### **13 Compensation funds**

- (1) A category 1 regulator must establish and maintain a fund for the purpose of making grants to compensate persons who suffer financial loss by reason of dishonesty by a legal services provider regulated by the regulator (or a provider it regulated at the time the dishonesty occurred).
- (2) Where section 8(2) applies, the fund must be under the management and control of the regulatory committee.
- (3) It is for the category 1 regulator or, where section 8(2) applies, its regulatory committee, to determine whether to make payments from the fund.
- (4) A category 1 regulator or, where section 8(2) applies, its regulatory committee must have rules in relation to the fund which—
  - (a) state the minimum monetary amount to be contained in the fund,
  - (b) describe the way in which the fund is administered,
  - (c) specify the criteria for a grant being made from the fund, which may include—
    - (i) limiting the claims that may be made by a person in respect of an act of dishonesty by a legal services provider,
    - (ii) making payments from the fund to other persons (such as judicial factors) in connection with mitigating risks to the clients of a provider arising through the actions of the provider,

- (d) provide the procedures for making and determining a claim,
  - (e) require the making of contributions to that fund by the legal services providers it regulates,
  - (f) make provision for the destination or distribution of the fund in the event that the regulator ceases to operate.
- (5) The rules for the fund may also include such further provision as the category 1 regulator or, where section 8(2) applies, its regulatory committee considers necessary or expedient for the operation of the fund.
- (6) Before making or amending rules in pursuance of subsection (4), the category 1 regulator, or where section 8(2) applies, its regulatory committee must consult the independent advisory panel of the Commission.
- (7) Where section 8(2) applies, when making or amending rules in pursuance of subsection (4), the regulatory committee of a category 1 regulator must have regard to the views of the governing body of the regulator.
- (8) The Scottish Ministers may by regulations make further provision in connection with funds established under this section and the rules a category 1 regulator or, where section 8(2) applies, its regulatory committee, must have for such funds.
- (9) The Scottish Ministers may exercise the power to make regulations under subsection (8) only if they have received a request to exercise the power from—
  - (a) the Lord President,
  - (b) the regulatory committee of a category 1 regulator,
  - (c) a category 1 regulator that has no functions other than regulatory functions, or
  - (d) the independent advisory panel of the Commission.
- (10) Before making a request under subsection (9), the person making the request (“the requester”) must—
  - (a) consult—
    - (i) the regulatory committee (if any) of each category 1 regulator,
    - (ii) each category 1 regulator that has no functions other than regulatory functions,
    - (iii) the independent advisory panel of the Commission, and
    - (iv) such other person or body as the requester considers appropriate, and
  - (b) except where the requester is the Lord President, secure the Lord President’s agreement to the making of the request.
- (11) But a body mentioned in subsection (10)(a)(i) to (iii) does not need to be consulted if the body is the requester.
- (12) For the purpose of seeking the Lord President’s agreement under subsection (10)(b), the requester must provide to the Lord President—
  - (a) a document setting out—
    - (i) an explanation of the change sought by the proposed exercise of the power, and

- (ii) the reasons for seeking the change, and
  - (b) copies of any written representations received in response to the consultation under subsection (10)(a).
- (13) A request under subsection (9) must include—
- (a) a document setting out—
    - (i) an explanation of the change sought by the proposed exercise of the power, and
    - (ii) the reasons for seeking the change,
  - (b) copies of any written representations received in response to the consultation under subsection (10)(a), and
  - (c) except where the requester is the Lord President, written confirmation of the Lord President's agreement to the making of the request.
- (14) As soon as reasonably practicable after making a request under subsection (9), the requester must publish the documents included with the request in such manner as the requester considers appropriate (having regard to the desirability of the documents being accessible to those likely to have an interest in them).
- (15) Regulations under subsection (8) are subject to the affirmative procedure.

*Requirements of category 2 regulators*

**14 Exercise of regulatory functions**

- (1) A category 2 regulator must exercise its regulatory functions—
  - (a) independently of its other functions or activities (if any),
  - (b) properly in all respects (in particular, with a view to achieving public confidence).
- (2) The internal governance arrangements of a category 2 regulator must incorporate such provision as is necessary with a view to ensuring that the regulator—
  - (a) always exercises its regulatory functions in accordance with subsection (1),
  - (b) allocates sufficient resources (financial and otherwise) to the exercise of its regulatory functions,
  - (c) regularly reviews how effectively it is exercising its regulatory functions (in particular, by reviewing the effectiveness of its regulatory scheme).

**15 Annual reports of category 2 regulators**

- (1) A category 2 regulator must prepare a report on the exercise of its regulatory functions as soon as practicable after the end of each reporting year.
- (2) The report must include—
  - (a) information demonstrating how the regulator is complying with the regulatory objectives,
  - (b) information as to how the regulator is carrying out its regulatory functions,
  - (c) a statement on the regulator's strategic priorities for the next reporting year in relation to its regulatory functions,

- (d) a summary of the costs incurred by the regulator in carrying out its regulatory functions,
  - (e) information, in relation to legal services providers that the regulator regulates, about the number of conduct complaints remitted (or treated as having been remitted) to it under the 2007 Act, and the number of those complaints that are determined, discontinued or reinstated by it,
  - (f) information on any measures taken or financial penalties imposed by the regulator on the legal services providers that it regulates as a result of complaints remitted (or treated as having been remitted) to it under the 2007 Act (including information as to compliance with the measures and the actions taken to enforce them),
  - (g) information about directions (if any) given under section 20, including—
    - (i) the number of directions given in pursuance of each of the purposes in section 20(3),
    - (ii) a summary of which types of rules are being disapplied or modified (and how frequently they are being disapplied or modified),
    - (iii) any trends in the kinds of directions that were applied for, rejected or granted,
    - (iv) any changes in such trends (if any) from the previous report,
  - (h) where the Commission has given a direction in relation to the handling of complaints, details of how the regulator has complied with it,
  - (i) details of steps taken by the regulator to ensure compliance with any measures taken under section 19 by the Lord President,
  - (j) except in the case where the regulator is the Faculty of Advocates, a statement indicating whether the regulator considers the category to which it has been assigned is appropriate for the purposes of section 7 (having regard to section 7(6)).
- (3) When preparing an annual report, a category 2 regulator must consult the independent advisory panel of the Commission.
- (4) A category 2 regulator must—
- (a) publish its annual report by such electronic means as the regulator considers appropriate, and
  - (b) send a copy of its annual report to the Lord President,
- as soon as practicable after the end of the reporting year to which the annual report relates.
- (5) In this section—
- “conduct complaint” is to be construed in accordance with Part 1 of the 2007 Act,
  - “reporting year” means, in relation to a category 2 regulator, a 12 month period that coincides with the regulator’s financial year.

*Requirements of both category 1 and category 2 regulators*

**16 Register of regulated legal services providers**

- (1) Each category 1 and category 2 regulator must establish and maintain a register of the legal services providers that it regulates which are authorised to provide legal services.
- (2) The register must contain—
  - (a) in relation to each legal services provider that is an individual—
    - (i) the name of the individual,
    - (ii) the address of the place of business (or primary place of business) of the individual as most recently notified to the regulator by or on behalf of the legal services provider,
    - (iii) the length of time that the individual has been regulated by the regulator in connection with providing legal services,
    - (iv) details of any sanction resulting from disciplinary action taken against the individual, for the period of 3 years beginning with the date of its imposition,
  - (b) in relation to each legal services provider that is not an individual—
    - (i) the name of the body and what type of body it is (for example, a partnership),
    - (ii) the address of its principal place of business as most recently notified to the regulator by or on behalf of the legal services provider,
    - (iii) the length of time that the body has been regulated by the regulator in connection with providing legal services,
    - (iv) details of any sanction resulting from disciplinary action taken against the body, for the period of 3 years beginning with the date of its imposition.
- (3) The register must also contain the details of any person or body that it regulates who or which—
  - (a) is not authorised to provide legal services but is entitled to be so authorised, and
  - (b) wishes to continue to appear in the register.
- (4) An entry for a legal services provider that appears in the register by virtue of subsection (3) must state that the provider is not providing legal services at that time.
- (5) The register may contain such other information relating to any person or body it regulates as the regulator considers appropriate.
- (6) During any period where a legal services provider's authorisation to provide legal services is suspended, the entry for that provider must be removed from the register (and, if such suspension is removed, the entry must be restored).
- (7) The register must be accessible to, and searchable by, the public, free of charge, by such electronic means as the regulator considers appropriate.
- (8) In this section, a reference to a legal services provider being authorised includes a reference to—
  - (a) a solicitor who has in force a practising certificate (within the meaning of section 4 of the 1980 Act),



- (b) a practising advocate (who is not suspended),
- (c) a legal business that is authorised to provide legal services by a category 1 regulator.

## **17 Professional indemnity insurance**

- (1) Each category 1 and category 2 regulator must have rules concerning indemnity for the legal services providers it regulates against any kind of professional liability.
- (2) In particular, the rules may—
  - (a) require the regulator to establish and maintain a fund or funds for the purpose of such indemnity,
  - (b) require the regulator to take out and maintain insurance with an authorised insurer,
  - (c) require legal services providers or any specified type or description of such providers to take out and maintain insurance with an authorised insurer.
- (3) Failure to comply with rules made under this section may be treated as professional misconduct or unsatisfactory professional conduct.
- (4) Before making or amending rules in pursuance of subsection (1), the regulator (or, where section 8(2) applies, its regulatory committee) must—
  - (a) consult—
    - (i) in the case where the rules are being made or amended by a regulatory committee, the governing body of the regulator, and
    - (ii) the independent advisory panel of the Commission, and
  - (b) obtain the agreement of the Lord President to the making of the rules or, as the case may be, the amendments.
- (5) In this section, an “authorised insurer” is—
  - (a) a person who has permission under Part 4A of the Financial Services and Markets Act 2000 to effect or carry out contracts of general liability insurance,
  - (b) a person who has permission under Part 4A of that Act to effect or carry out contracts of insurance relating to accident, sickness, credit, suretyship, miscellaneous financial loss and legal expenses.
- (6) The definition of “authorised insurer” must be read with—
  - (a) section 22 of the Financial Services and Markets Act 2000,
  - (b) any relevant order under that section, and
  - (c) schedule 2 of that Act.
- (7) In this section, “professional liability” means any civil liability incurred by a legal services provider (or former legal services provider) in connection with the provision of legal services or other services (in addition to legal services) that form part of the professional practice of the solicitors or qualifying individuals within the legal business (within the meaning of section 39(2)) that provides the legal services.

*Powers of the Lord President in relation to regulators*

**18 Review of regulatory performance by the Lord President**

- (1) If the condition in subsection (2) is met, the Lord President may review the performance of a category 1 or category 2 regulator's regulatory functions—
  - (a) on the Lord President's own initiative, or
  - (b) if the Lord President is requested to do so by—
    - (i) the Scottish Parliament following a resolution of the Parliament that the request should be made (whether or not following consideration of the regulator's annual report),
    - (ii) the independent advisory panel of the Commission, or
    - (iii) Consumer Scotland.
- (2) The condition is that the Lord President is concerned that the regulator is failing or is likely to fail—
  - (a) to exercise its regulatory functions in a manner that is compatible with the regulatory objectives, or
  - (b) to comply with the requirements imposed on the regulator under this Act or any other enactment.
- (3) A request for a review may be made under subsection (1)(b) by a requesting body only where the requesting body—
  - (a) is concerned that the regulator may be failing, or may be likely to fail—
    - (i) to exercise its regulatory functions in a manner that is compatible with the regulatory objectives, or
    - (ii) to comply with the requirements imposed on the regulator under this Act or any other enactment, and
  - (b) has—
    - (i) given notice to the regulator of its reasons for proposing to make the request based on its concerns, and
    - (ii) given the regulator a reasonable opportunity (which must be no fewer than 28 days from the date of the notice) to respond to the notice and address the requesting body's concerns (or commit to addressing those concerns).
- (4) A request for a review made under subsection (1)(b)—
  - (a) must specify each regulatory function or other function of the regulator to which the request relates, and
  - (b) must be accompanied by—
    - (i) a copy of the requesting body's notice sent to the regulator under subsection (3), and
    - (ii) either—
      - (A) a copy of any written response (or a written summary of any verbal response) by the regulator to the notice given under subsection (3)

which the requesting body considers to be insufficient to address its reasons for proposing to make a request for a review, or

(B) written confirmation from the requesting body that the regulator has failed to respond to its notice given under subsection (3) within the required period for a response.

- (5) Reviewing the performance of a category 1 or category 2 regulator includes (in particular) doing so by reference to—
- (a) its compliance with the regulatory objectives,
  - (b) the exercise of its regulatory functions,
  - (c) its compliance with the requirements imposed on it under this Act or any other enactment,
  - (d) the operation of its regulatory committee (if any) or other internal governance arrangements,
  - (e) its compliance with—
    - (i) any direction to it by the Commission under the 2007 Act, or
    - (ii) any measures applying to it by virtue of section 19(4).
- (6) A category 1 or 2 regulator must—
- (a) provide such information about its performance of its regulatory functions as the Lord President may reasonably request (whether in connection with a review under subsection (1) or a decision as to whether to conduct such a review), and
  - (b) do so within the period of 28 days beginning with the date of the request (or such longer period as the Lord President may allow).
- (7) Subsection (8) applies if—
- (a) the Lord President requests information from a category 1 or category 2 regulator in connection with an existing review under subsection (1) relating to the regulator, and
  - (b) the regulator fails, without a reasonable excuse, to provide some or all of the requested information within the 28 day period mentioned in subsection (6) (or within such longer period allowed by the Lord President to respond).
- (8) The Lord President may add the failure to the matter (or matters) being considered as part of the existing review but, before doing so, the Lord President must notify the regulator in writing of the proposal and give the regulator an opportunity to respond within the period specified in the notice (which must be no fewer than 14 days from the date of the notice) to—
- (a) provide all of the information requested under subsection (6), or
  - (b) provide a reasonable excuse for the failure to provide all of the requested information within the period specified in that subsection (or within such longer period allowed by the Lord President to respond to the notice under that subsection).

- (9) If the Lord President considers that any person other than a category 1 or category 2 regulator may hold information relating to the performance of a category 1 or category 2 regulator's regulatory functions—
  - (a) the Lord President may ask the person to confirm whether they hold such information as the Lord President may specify in the request, and
  - (b) the person must respond to the request as soon as practicable and the response must include—
    - (i) confirmation of whether or not the person holds the information specified in the request, and
    - (ii) if any such information is held by the person, details of the nature of the information that is held.
- (10) Any person other than a category 1 or category 2 regulator who holds information relating to the performance of a category 1 or category 2 regulator's regulatory functions must—
  - (a) provide such of that information as the Lord President may reasonably request, and
  - (b) do so within the period of 28 days beginning with the date of the request (or such longer period as the Lord President may allow).
- (11) In conducting a review under subsection (1), the Lord President must consult such persons or bodies as the Lord President considers appropriate.
- (12) Following a review under subsection (1), the Lord President must—
  - (a) prepare a report detailing the Lord President's findings and any measures the Lord President intends to take under section 19,
  - (b) publish the report in such manner as the Lord President considers appropriate (having regard to the desirability of it being accessible to those likely to have an interest in the report), and
  - (c) send a copy of the report to—
    - (i) the regulator to which the review relates, and
    - (ii) if the review was conducted following a request under subsection (1)(b), the requesting body.
- (13) If a request for a review is made under subsection (1)(b) and the Lord President decides not to conduct a review under subsection (1), the Lord President must inform the requesting body in writing of the reasons for the Lord President's decision.

## **19 Measures open to the Lord President**

- (1) The Lord President may, in relation to a category 1 or category 2 regulator, take one or more of the measures mentioned in subsection (4) if the Lord President considers that to be necessary following a review under section 18(1).
- (2) When considering whether it is necessary to take any of those measures, or a combination of them, the Lord President must take account of the effect that it may have on the regulator's observance of the regulatory objectives.

- (3) Schedule 2 (to which subsection (1) is subject) makes provision concerning the measures mentioned in subsection (4) and the procedure to be followed in taking them.
- (4) The measures are—
  - (a) setting performance targets,
  - (b) directing that action be taken,
  - (c) publishing a statement of censure,
  - (d) making changes to the regulatory functions exercised by the regulator,
  - (e) making changes to the way in which any of the regulatory functions of the regulator are to be exercised by it,
  - (f) removing all of the regulatory functions exercised by—
    - (i) an accredited regulator, or
    - (ii) a body which has had an application under section 25 of the 1990 Act granted under section 26 of that Act.
- (5) The Scottish Ministers may by regulations—
  - (a) specify other measures that may be taken by the Lord President in relation to category 1 and category 2 regulators,
  - (b) make further provision about the measures that the Lord President may take (including for the procedures to be followed).
- (6) But the Scottish Ministers may exercise the power to make regulations under subsection (5) only following, and in accordance with, a request to exercise the power received from the Lord President.
- (7) Before making a request mentioned in subsection (6), the Lord President must consult—
  - (a) each category 1 and category 2 regulator,
  - (b) the independent advisory panel of the Commission, and
  - (c) such other person or body as the Lord President considers appropriate.
- (8) A request under subsection (6) must include—
  - (a) a document setting out the reasons for the request, and
  - (b) copies of any written representations received in response to the consultation under subsection (7).
- (9) As soon as reasonably practicable after making a request under subsection (6), the Lord President must publish the documents included with the request in such manner as the Lord President considers appropriate (having regard to the desirability of the documents being accessible to those likely to have an interest in them).
- (10) Regulations under subsection (5) are subject to the affirmative procedure.

*Special rule changes*

**20 Power to direct special rule changes**

- (1) A regulator may, on the application of a legal services provider that it regulates, direct that any rule of the regulator—
  - (a) does not apply to the provider, or
  - (b) applies to the provider with such modifications as may be specified in the direction.
- (2) A regulator may give a direction only if it is satisfied the direction is compatible with the regulatory objectives.
- (3) A direction may be given where the regulator considers it—
  - (a) desirable for the purpose of enabling a new or alternative way of providing or regulating legal services to be piloted,
  - (b) reasonable and proportionate for the purpose of—
    - (i) avoiding a regulatory conflict,
    - (ii) removing an unnecessary rule, or
    - (iii) making a rule less onerous, or
  - (c) necessary or appropriate in the circumstances.
- (4) A direction may not disapply or modify a requirement under this Act or any other enactment.
- (5) Where a regulator considers that giving a direction for the purpose described in subsection (3)(a) could have the effect of restricting, distorting or preventing competition to any significant extent, it must, before giving the direction, consult the Competition and Markets Authority on the effect of the direction.
- (6) A copy of a direction must be given to—
  - (a) the legal services provider to whom the direction relates, and
  - (b) if the direction falls within subsection (7), the Lord President.
- (7) A direction falls within this subsection if—
  - (a) it disapplies or modifies such rules or types of rules as the Lord President may specify for the purpose of this section, and
  - (b) the Lord President has notified the regulator that copies of directions relating to such rules (or types of rules) are to be given.
- (8) A direction—
  - (a) must specify—
    - (i) the day on which it comes into force, and
    - (ii) the day on which it ceases to have effect or whether it is to have effect for an indefinite period,
  - (b) may be subject to conditions, and
  - (c) may make different provision for different purposes.

- (9) A legal services provider to whom a direction relates must inform the regulator of any change of circumstances relevant to the direction.
- (10) A direction ceases to have effect on whichever day is the earlier of—
  - (a) if the direction specifies that it ceases to have effect on a particular day, that day,
  - (b) if the direction is revoked under section 21, the day on which the revocation comes into force.
- (11) An application under this section must be made in such manner as the regulator may direct.
- (12) In this section—
  - “direction” means, in relation to a regulator, a direction given (or to be given) by the regulator under subsection (1) (including as it may be amended under section 21),
  - “regulator” means a category 1 or category 2 regulator or an approved regulator of licensed providers,
  - “rule” means, in relation to a regulator, a rule (including a rule in a scheme) made in the exercise of the regulator’s regulatory functions.
- (13) A function conferred on a regulator by this section or section 21 is a regulatory function of the regulator (see also sections 3 and 6).

## **21 Powers to amend or revoke directions**

- (1) A regulator may—
  - (a) amend a direction on the application of the legal services provider to whom it relates, or
  - (b) revoke a direction.
- (2) The Lord President may revoke a direction given for the purpose described in section 20(3)(a) at any time by giving notice to—
  - (a) the regulator that gave the direction, and
  - (b) the legal services provider to whom the direction relates.
- (3) Section 20(3) to (11) applies to an amendment under subsection (1) as it applies to a direction.
- (4) Section 20(6) and (8)(a) applies to a revocation under subsection (1) as it applies to a direction.
- (5) Section 20(8)(a) applies to a revocation under subsection (2) as it applies to a direction.
- (6) In this section, “direction” and “regulator” have the meanings given in section 20(12).

## **22 Register of directions**

- (1) A regulator must establish and maintain a register of relevant directions.

- (2) The register must for each direction—
  - (a) contain a copy of—
    - (i) the direction, and
    - (ii) any amendments to the direction, and
  - (b) specify—
    - (i) the day on which the direction will cease to have effect (if not revoked earlier), or
    - (ii) whether the direction is to have effect for an indefinite period.
- (3) A regulator—
  - (a) must withhold information in a document mentioned in subsection (2) if satisfied that its disclosure would or would be likely to breach the data protection legislation,
  - (b) may withhold information in such a document if satisfied that its disclosure would or would be likely to—
    - (i) prejudice substantially the commercial interests of any person, or
    - (ii) breach an obligation of confidence owed by any person.
- (4) The register must be accessible to, and searchable by, the public, free of charge, by such electronic means as the regulator considers appropriate.
- (5) In this section—
  - “the data protection legislation” has the meaning given by section 3(9) of the Data Protection Act 2018,
  - “regulator” has the meaning given by section 20(12),
  - “relevant direction” means, in relation to a regulator, a direction given by the regulator under section 20(1) for the purpose described in section 20(3)(a) that is still in force.

### CHAPTER 3

#### NEW REGULATORS OF LEGAL SERVICES

##### *Applications*

## 23 **Right to provide legal services**

- (1) A body may apply to the Lord President for the purpose of the body being accredited to—
  - (a) authorise persons to exercise (any or all of) the rights listed in subsection (2), and
  - (b) regulate those persons’ exercise of the acquired rights.
- (2) The rights are—
  - (a) the right to conduct litigation on behalf of members of the public,
  - (b) rights of audience,
  - (c) the right to provide other types of legal services.



- (3) Only natural persons may be authorised to exercise the rights listed in paragraphs (a) and (b) of subsection (2).
- (4) An application for accreditation under this section must include—
  - (a) a draft regulatory scheme,
  - (b) a statement that the body will comply with the requirements of section 26, and
  - (c) confirmation that the body has consulted its members in relation to the application and copies of any written representations received in response to the consultation.

## **24 Regulatory scheme**

- (1) The draft regulatory scheme to accompany an application for accreditation under section 23(4) must—
  - (a) specify the rights that it is proposed persons authorised by the body may acquire,
  - (b) contain the body's proposed—
    - (i) authorisation rules,
    - (ii) practice rules, and
    - (iii) if applicable, its ALB rules for the purposes of Part 2,
  - (c) set out—
    - (i) how the body will exercise its regulatory functions compatibly with the regulatory objectives,
    - (ii) the regulatory category to which the body thinks it should be assigned,
  - (d) deal with such other regulatory matters as the Scottish Ministers may by regulations specify (and in such manner as the regulations may specify).
- (2) For the purpose of subsection (1)(a), an application to acquire (either or both of) the rights listed in paragraph (a) or (b) of section 23(2) must specify—
  - (a) the courts in which authorised providers are to be able to practise, and
  - (b) the categories of proceedings authorised providers are to be able to undertake.
- (3) The authorisation rules are rules about—
  - (a) the procedure for a person to become an authorised provider of the body, including—
    - (i) the making of applications for authorisation,
    - (ii) the criteria to be met by applicants,
    - (iii) the determination of applications,
    - (iv) the grant of authorisation to exercise acquired rights,
  - (b) the terms of the authorisation including, in particular, the imposition of conditions or restrictions,
  - (c) circumstances in which the authorisation may be suspended or withdrawn,
  - (d) fees that the body intends to charge in connection with the authorisation,

- (e) how the body will review any decision—
    - (i) refusing an application for authorisation,
    - (ii) granting an application subject to conditions or restrictions,
    - (iii) suspending or withdrawing the authorisation.
- (4) The authorisation rules must provide—
  - (a) that only persons that the body considers to be fit and proper may be authorised,
  - (b) for the suspension or withdrawal of authorisation where an authorised provider is breaching (or has breached) the regulatory scheme or other rules of professional practice that apply to it.
- (5) The practice rules are rules about—
  - (a) the standards to be met by authorised providers in the exercise of acquired rights,
  - (b) accounting and auditing,
  - (c) professional indemnity (in respect of which, see section 17),
  - (d) the making and handling of complaints and, in particular, how the body will deal with complaints remitted (or treated as having been remitted) to it under the 2007 Act in relation to its authorised providers,
  - (e) the measures the body may take, in relation to its authorised providers, if—
    - (i) there is a breach of the regulatory scheme, or
    - (ii) a complaint referred to in paragraph (d) is upheld.
- (6) The practice rules must include provision enabling the body to comply with the provisions of section 29(4).
- (7) For the purpose of subsection (5)(d), the practice rules must—
  - (a) include rules relating to reviews of final decisions of the body made in relation to complaints remitted (or treated as having been remitted) to the body under the 2007 Act in relation to its authorised providers,
  - (b) require publication of a final decision relating to a conduct complaint suggesting professional misconduct of an authorised provider of the body that is remitted to the body by the Commission (or is treated as having been so remitted by virtue of section 33A(2) of the 2007 Act),
  - (c) require such a decision to include—
    - (i) detail of any facts established,
    - (ii) a statement of reasons for the making of the decision, and
    - (iii) where the complaint is upheld, information about any penalty imposed,
  - (d) where such a complaint is upheld, allow the body to omit any information from the published decision which it considers would be likely to damage the interests of persons other than—
    - (i) the authorised provider against whom the complaint is made, and
    - (ii) where the authorised provider is a natural person, the partner or family of that person,

(but subject to the body publishing its reasons for any such omission),

- (e) where such a complaint is not upheld, allow the body to omit the name of the authorised provider against whom the complaint is made from the published decision where it considers that to be appropriate.
- (8) In relation to draft regulatory schemes which seek a right of audience, the practice rules must also include provision—
  - (a) stating general criteria to which authorised providers should have regard in determining whether to accept instructions to represent a person or provide legal services in particular circumstances,
  - (b) stating the order of precedence of courts,
  - (c) securing that, where reasonably practicable, any person wishing to be represented before any court by one of its providers holding an appropriate right of audience is so represented.
- (9) For the purposes of the rules required under subsection (8), the Inner and Outer Houses of the Court of Session and the High Court of Justiciary exercising its appellate jurisdiction may be treated as separate courts.
- (10) Regulations under subsection (1) are subject to the affirmative procedure.

## **25 Regulatory scheme - additional matters to be included: further provision**

- (1) The Scottish Ministers may exercise the power to make regulations under section 24(1) only if they have received a request to exercise the power from—
  - (a) the Lord President,
  - (b) an accredited regulator, or
  - (c) the independent advisory panel of the Commission.
- (2) Before making a request under subsection (1), the person making the request (“the requester”) must—
  - (a) consult—
    - (i) each accredited regulator (or each other accredited regulator if the requester is an accredited regulator),
    - (ii) the independent advisory panel of the Commission unless the panel is the requester,
    - (iii) the Competition and Markets Authority, and
    - (iv) such other person or body as the requester considers appropriate, and
  - (b) except where the requester is the Lord President, secure the Lord President’s agreement to the making of the request.
- (3) For the purpose of seeking the Lord President’s agreement under subsection (2)(b), the requester must provide to the Lord President—
  - (a) a document setting out—
    - (i) an explanation of the change sought by the proposed exercise of the power, and

- (ii) the reasons for seeking the change,
  - (b) copies of any written representations received in response to the consultation under subsection (2)(a).
- (4) A request under subsection (1) must include—
  - (a) a document setting out—
    - (i) an explanation of the change sought by the proposed exercise of the power, and
    - (ii) the reasons for seeking the change,
  - (b) copies of any written representations received in response to the consultation under subsection (2)(a), and
  - (c) except where the requester is the Lord President, written confirmation of the Lord President's agreement to the making of the request.
- (5) As soon as reasonably practicable after making a request under subsection (1), the requester must publish the documents included with the request in such manner as the requester considers appropriate (having regard to the desirability of the documents being accessible to those likely to have an interest in them).

## **26 Publication of draft regulatory scheme and representations**

- (1) A body making an application under section 23 must—
  - (a) make a copy of its draft regulatory scheme available electronically for the duration of the relevant period,
  - (b) send a copy of its draft regulatory scheme to the following persons (and inform them that they may make written representations concerning the draft scheme in accordance with subsection (4))—
    - (i) the Competition and Markets Authority,
    - (ii) the Commission, and
    - (iii) the independent advisory panel of the Commission,
  - (c) at the time of making the application, place an advertisement containing the information described in subsection (2) in the Edinburgh Gazette and in a daily newspaper circulating throughout Scotland.
- (2) An advertisement required under subsection (1)(c) must state that—
  - (a) a copy of the draft regulatory scheme is available electronically during the relevant period,
  - (b) written representations concerning the draft scheme may be made to the Lord President, and
  - (c) for such representations to be considered, they must meet the requirements described in subsection (4).
- (3) Any person may make written representations concerning a draft regulatory scheme during the relevant period.

- (4) Representations under subsection (3) must—
  - (a) be made to the Lord President, and
  - (b) be received by the Lord President before the expiry of the relevant period.
- (5) In this section—
  - “draft regulatory scheme” in relation to an application made under section 23, means the draft regulatory scheme required to accompany the application under section 23(4),
  - “relevant period” in relation to an application under section 23, means the period of six weeks beginning with the date on which the application is made.

#### *Consideration and grant*

### **27 Consideration of applications**

- (1) The Lord President is to consider an application submitted under section 23(1) and must consider any written representations made to the Lord President in accordance with section 26(3) and (4).
- (2) The Lord President may not consider the application if the Lord President is not satisfied that the requirements of section 26 have been complied with.
- (3) The Lord President may make preliminary observations to the body in relation to the draft regulatory scheme accompanying the application.
- (4) In the event that the body makes adjustments to the draft regulatory scheme in response to preliminary observations made under subsection (3), the Lord President is to consider the draft scheme as so adjusted.
- (5) The Lord President, when considering a draft regulatory scheme, is—
  - (a) to have regard to whether the provisions of the scheme would be sufficient to achieve, and to ensure the maintenance of, appropriate standards of conduct and practice by persons who may acquire the rights sought, and
  - (b) to consult—
    - (i) the Scottish Ministers,
    - (ii) the Competition and Markets Authority,
    - (iii) the independent advisory panel of the Commission, and
    - (iv) such other persons as the Lord President considers appropriate.
- (6) In considering the proposed practice rules, the Lord President is to have regard to the desirability of there being common principles applying in relation to the exercising of rights to conduct litigation and rights of audience by all practitioners in relation to the court or, as the case may be, the courts, mentioned in the application.

### **28 Approval of application and giving effect to the regulatory scheme**

- (1) This section applies where the Lord President has considered an application in accordance with section 27.

- (2) If the Lord President—
  - (a) is satisfied with the draft regulatory scheme, the Lord President is to approve the application and inform the body,
  - (b) is not satisfied with the draft scheme, the Lord President is to refuse the application and inform the body, giving written reasons for the refusal.
- (3) As soon as reasonably practicable after notifying the body under subsection (2) of the decision to approve or refuse the application, the Lord President must publish notification of the decision.
- (4) Notification under subsection (3) must—
  - (a) include a summary of the Lord President’s reasons for the decision, and
  - (b) be published in such manner as the Lord President considers appropriate (having regard to the desirability of the document being accessible to those likely to have an interest in it).
- (5) The Lord President must send a copy of a letter approving or refusing an application under this section to any person who has made representations in relation to the draft regulatory scheme under section 26(3).
- (6) Where the application has been approved, the Scottish Ministers must, as soon as reasonably practicable, lay before the Scottish Parliament draft regulations under section 7(5) to assign the body as a category 1 or category 2 regulator.
- (7) If a body’s application is approved under this section, as soon as reasonably practicable after receiving notice of the Lord President’s approval under subsection (2), the body must—
  - (a) give effect to the draft regulatory scheme and apply it as its regulatory scheme in relation to its authorised providers and persons applying to it for authorisation, and
  - (b) publish its regulatory scheme in a manner that is accessible to the public, free of charge, by such electronic means as the body considers appropriate.
- (8) For the purposes of this Part, a body which has its application approved under this section is referred to as an accredited regulator.

*Exercise of the acquired rights*

**29 Exercise of rights to provide legal services**

- (1) This section applies when an accredited regulator has given effect to a draft regulatory scheme and applied it as its regulatory scheme under section 28(7), and the regulator is assigned as a category 1 or category 2 regulator.
- (2) A legal services provider that is authorised by the accredited regulator may exercise an acquired right (or rights).
- (3) Nothing in subsection (2) (or the authorisation rules of the regulatory scheme) affects the power of any court in relation to any proceedings—
  - (a) to hear a person who would not otherwise have a right of audience before that court in relation to those proceedings, or

- (b) to refuse to hear a person (for reasons which apply to the person as an individual) who would otherwise have a right of audience before that court in relation to those proceedings, and where a court so refuses it must give its reasons to the person for that decision.
- (4) Where a conduct complaint is made in relation to the exercise of an acquired right, the accredited regulator of the legal services provider that is the subject of the complaint may, or if so requested by the Lord President must, suspend the provider from exercising the acquired right pending determination of the complaint by the regulator.
- (5) Where an authorised provider who is authorised to exercise a right of audience in a court is instructed to appear in that court, those instructions are to take precedence before any other professional or business obligation.
- (6) An authorised provider exercising a right of audience has the same immunity from liability for negligence in respect of the provider's acts or omissions as if the provider were an advocate.
- (7) An act or omission on the part of an authorised provider does not give rise to an action for breach of contract in relation to the exercise of a right of audience by the provider.
- (8) For the purposes of this Chapter—
  - “acquired right” means the right or rights to provide legal services specified and described in a regulatory scheme given effect to under section 28,
  - “conduct complaint” is to be construed in accordance with Part 1 of the 2007 Act,
  - “right of audience” includes, in relation to any court, any such right exercisable by an advocate,
  - “right to conduct litigation” means the right to exercise on behalf of a client all or any of the functions, other than any right of audience, which may be exercised by a solicitor in relation to litigation.

### **30 Surrender of rights**

- (1) An accredited regulator may apply to the Lord President to surrender some or all of the acquired rights.
- (2) Before submitting an application under subsection (1), the accredited regulator must consult its authorised providers in relation to the proposed application.
- (3) An application under subsection (1) must include copies of any representations received in response to the consultation under subsection (2).
- (4) As soon as practicable after receipt of such an application, the Lord President must—
  - (a) send a copy of the application to such person or body (other than an authorised provider of the accredited regulator) as the Lord President considers appropriate, and
  - (b) consult them accordingly.
- (5) Where an application under subsection (1) is for the surrender of all of the regulator's acquired rights, consultation under subsection (2) with the body's authorised providers

must, in particular, seek their views about whether a majority of the providers would like—

- (a) another category 1 or category 2 regulator to authorise them to exercise their acquired rights and regulate their exercise of the acquired rights (if that other regulator is content to so authorise and regulate them), or
  - (b) to form a body and submit an application under section 23 seeking accreditation of the body to authorise them to exercise their acquired rights and regulate their exercise of the acquired rights.
- (6) A consultee under subsection (2) has a period of 6 weeks beginning with the day on which the consultee receives notification from the accredited regulator of the opportunity to make representations (or, if the regulator considers it appropriate and the Lord President consents, such shorter period as may be specified in the notice) to make representations to the regulator about the proposed surrender.
- (7) The consultees under subsection (4) have a period of 6 weeks beginning with the day on which a copy of the application is sent (or, if the Lord President considers it appropriate, such shorter period as may be specified when sending a copy to the consultees) to make representations to the Lord President about the proposed surrender.
- (8) The Lord President may give directions (at any time) as to the requirements with which a body wishing to surrender all or some of its authorised providers' acquired rights will have to comply.
- (9) Directions under subsection (8) may—
  - (a) in particular—
    - (i) require arrangements to be made for the completion of any work outstanding at the time the application is made, and
    - (ii) relate to the circumstances of a particular body,
  - (b) be varied or revoked by the Lord President.
- (10) Where the Lord President grants the application in respect of some or all of the acquired rights of the accredited regulator, the Lord President is to—
  - (a) give notice to the regulator specifying the date (or dates) on which it is to take effect, and
  - (b) publish the notice in such manner as the Lord President considers appropriate (having regard to the desirability of it being accessible to those likely to have an interest in it).
- (11) From the date specified in the notice, a person authorised by the body to provide legal services ceases to be authorised and may not exercise the acquired rights or, if applicable, such of them as has been surrendered.
- (12) Subsection (13) applies where—
  - (a) an application under subsection (1) is for the surrender of all of the regulator's acquired rights, and
  - (b) the majority of the providers consulted under subsection (2) have expressed a preference for an outcome mentioned in paragraph (a) or (b) of subsection (5).



- (13) Notice given by the Lord President under subsection (10) may (instead of specifying the date on which the notice is to take effect) specify that the notice is to take effect on the date on which one of the following events occurs—
  - (a) the providers consulted under subsection (2) are authorised to exercise their acquired rights (and are regulated in their exercise of the acquired rights) by another category 1 or category 2 regulator,
  - (b) an application submitted under section 23(1) by a body formed by those providers is approved or refused by the Lord President under section 28.
- (14) Where a notice under subsection (10) specifies that the notice is to take effect on the occurrence of an event mentioned in subsection (13), subsection (11) has effect as if the reference to “the date specified in the notice” were a reference to “the date of the occurrence of the event mentioned in subsection (13) that is specified in the notice”.

### **31 Offence of pretending to have acquired rights**

- (1) A person commits an offence if the person without reasonable excuse—
  - (a) takes or uses any name, title, addition or description implying that the person is authorised to exercise an acquired right,
  - (b) otherwise pretends to be authorised to exercise an acquired right.
- (2) A person who commits an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

#### *Review of regulatory scheme*

### **32 Review of regulatory scheme on initiative of accredited regulator**

- (1) This section applies where an accredited regulator has carried out a review of its regulatory scheme on its own initiative and proposes such revision to its scheme as it considers appropriate in light of the review.
- (2) The accredited regulator must send a report to the Lord President detailing the proposed revision to the scheme.
- (3) Following receipt of a report under subsection (2), the Lord President may—
  - (a) approve the proposed revision to the scheme,
  - (b) not approve the proposed revision to the scheme,
  - (c) direct the accredited regulator to make such revision to its scheme as the Lord President considers should be made.
- (4) Following revision of its scheme pursuant to paragraph (a) or (c) of subsection (3), the accredited regulator must publish the revised scheme in a manner that is accessible to the public, free of charge, by such electronic means as the regulator considers appropriate.
- (5) The Lord President may vary or revoke a direction given under subsection (3)(c).

### **33 Review of regulatory schemes**

- (1) The Lord President may direct an accredited regulator to carry out a review of its regulatory scheme.

- (2) Following a review, the accredited regulator must give the Lord President a report on the review containing any revisions it proposes to make to its regulatory scheme (if any).
- (3) Where the Lord President considers that the terms of any proposed revision to the regulatory scheme are satisfactory, the Lord President is to approve the revised scheme and direct the accredited regulator to apply the revised scheme.
- (4) Subsection (5) applies where the Lord President considers that—
  - (a) the proposed revisions to the scheme are not satisfactory, or
  - (b) revisions should have been proposed (but have not been).
- (5) Where this subsection applies—
  - (a) the Lord President may direct the accredited regulator to apply the revisions that the Lord President considers should be made to the regulatory scheme from such date as may be specified in the direction, or
  - (b) the Lord President may—
    - (i) provide comments in relation to the proposed revisions to the regulatory scheme, and
    - (ii) direct the accredited regulator to take account of the comments in reviewing the proposed revisions before giving the Lord President a revised report containing any proposed revision to the scheme.
- (6) Subsections (3) to (5) apply in relation to a revised report given to the Lord President under subsection (5)(b) as they apply in relation to a report given to the Lord President under subsection (2).
- (7) Following the revision of its regulatory scheme under this section, the accredited regulator must publish its revised scheme in a manner that is accessible to the public, free of charge, by such electronic means as the regulator considers appropriate.
- (8) The Lord President may vary or revoke a direction given under this section.

### **34 Revocation of acquired rights**

- (1) Where it appears to the Lord President that an accredited regulator has failed to comply with a direction under section 32(3)(c) or 33(5), the Lord President may revoke the approval of the application under section 28.
- (2) The Lord President must—
  - (a) give notice of the Lord President’s decision to revoke approval of the application under section 28 (a “decision notice”) to the regulator, and
  - (b) publish the decision notice in such manner as the Lord President considers most appropriate for bringing it to the attention of any relevant person or body.
- (3) Before issuing a decision notice, the Lord President must consult each person who is authorised by the accredited regulator to provide legal services (“the authorised providers”) in relation to the proposed decision and, in particular, with a view to

determining whether, in consequence of the revocation of the accredited regulator's approval, a majority of the authorised providers would like—

- (a) another category 1 or category 2 regulator to authorise them to exercise their acquired rights and regulate their exercise of the acquired rights if that other regulator is content to so authorise and regulate them, or
  - (b) to form a body and submit an application under section 23 seeking accreditation of the body to authorise them to exercise their acquired rights and regulate their exercise of the acquired rights.
- (4) Where a majority of the providers consulted under subsection (3) have expressed a preference for an outcome mentioned in paragraph (a) or (b) of that subsection, the Lord President may decide not to issue a decision notice for such period as the Lord President considers appropriate to enable—
  - (a) another category 1 or category 2 regulator to authorise and regulate the providers, or (as the case may be)
  - (b) the providers to form a body and submit an application under section 23 in respect of that body.
- (5) From such date as may be specified in a decision notice, a person authorised by the accredited regulator ceases to be so authorised and may not exercise the rights acquired by virtue of that authorisation.

#### *Miscellaneous*

### **35 Replacement regulatory arrangements for authorised providers**

- (1) Where an accredited regulator is a discontinuing regulator as mentioned in paragraph (d) of the definition of that term as set out in subsection (6), the Lord President must consult each authorised provider to determine in particular whether a majority of the authorised providers would like another category 1 or category 2 regulator to authorise them to exercise their acquired rights and regulate their exercise of the acquired rights (if that other regulator is content to so authorise and regulate them).
- (2) Subsection (3) applies where the Lord President is satisfied that—
  - (a) following consultation under subsection (1), section 30(4) or 34(3) or paragraph 18(2) of schedule 2 (as the case may be), a majority of the authorised providers of a discontinuing regulator would like another category 1 or category 2 regulator to authorise them to exercise their acquired rights and regulate their exercise of the acquired rights, and
  - (b) the other category 1 or category 2 regulator (“the receiving regulator”) is willing to authorise and regulate the authorised providers of the discontinuing regulator.
- (3) The Lord President may—
  - (a) in a case where the receiving regulator falls within subsection (4), amend the regulatory functions of the receiving regulator to enable it to regulate the authorised providers of the discontinuing regulator,
  - (b) in any other case, request that the Scottish Ministers make regulations under subsection (5) to amend the functions of the receiving regulator.

- (4) A regulator falls within this subsection if it is an accredited regulator or a body which has had an application under section 25 of the 1990 Act granted under section 26 of that Act.
- (5) Following a request of the Lord President under subsection (3)(b), the Scottish Ministers may lay a draft of a Scottish statutory instrument containing regulations before the Scottish Parliament to amend the regulatory functions of the receiving regulator.
- (6) In this section—
  - “authorised provider” means a legal services provider that is authorised by a discontinuing regulator to provide legal services,
  - “discontinuing regulator” means an accredited regulator that—
    - (a) is the subject of a potential measure as mentioned in section 19(4)(f) to remove all of its regulatory functions,
    - (b) has made an application under section 30,
    - (c) is the subject of regulations to revoke its approval under section 34, or
    - (d) has ceased operating otherwise than in accordance with any of the ways mentioned in paragraph (a), (b) or (c),
  - “regulatory complaint” is to be construed in accordance with Part 1 of the 2007 Act,
  - “services complaint” is to be construed in accordance with Part 1 of the 2007 Act.
- (7) Regulations under subsection (5)—
  - (a) may modify any enactment,
  - (b) are subject to the affirmative procedure.

### **36 Consequential amendments and repeals**

- (1) Sections 25 to 29 and schedule 2 of the 1990 Act are repealed.
- (2) Section 40 of the 1990 Act (advisory and supervisory functions of the CMA) is amended as follows.
- (3) In subsection (1), for paragraph (c) substitute—
  - “(c) considering—
    - (i) any provisions of a draft regulatory scheme under section 27 of the Regulation of Legal Services (Scotland) Act 2025, or
    - (ii) any provision which is proposed as a revision to a regulatory scheme under section 33 of that Act,”.
- (4) Section 42 of the 1990 Act (review of rules approved by the Scottish Ministers) is amended as follows.
- (5) In subsection (1)—
  - (a) paragraph (b) and the word “or” immediately preceding that paragraph are repealed,

- (b) in the closing words—
  - (i) the words “and, where the Lord President, in the case of a draft scheme such as is mentioned in paragraph (b), so requests shall” are repealed,
  - (ii) the words “or, as the case may be, the scheme” are repealed.
- (6) In subsection (2)—
  - (a) in the opening words—
    - (i) the words “or, as the case may be, a scheme,” are repealed,
    - (ii) the words “or scheme” in both places they appear, are repealed,
  - (b) paragraph (b) and the word “or” immediately preceding that paragraph are repealed.
- (7) Subsections (4) to (6) are repealed.
- (8) In subsection (7)—
  - (a) the words “and schemes” where they first appear are repealed,
  - (b) the words “and schemes submitted under section 25(1) of this Act” are repealed.

### **37 Transitional and saving provision for regulators approved under the 1990 Act**

Sections 30, 32, 33, 34 and 35 apply to a professional or other body whose application under section 25 of the 1990 Act was approved under section 26 of that Act as they apply to a body whose application for accreditation under section 23 of this Act was approved under section 28 of this Act.

## **PART 2**

### **REGULATION OF LEGAL BUSINESSES**

#### *Introductory*

### **38 Overview of Part**

- (1) This Part makes provision for category 1 regulators to authorise legal businesses to provide legal services.
- (2) Section 39—
  - (a) defines what constitutes a legal business (and associated expressions) for the purpose of this Part, and
  - (b) makes it an offence for a legal business to provide legal services without being authorised by the appropriate regulator of that business.
- (3) Section 40 makes it an offence to pretend, without reasonable excuse, to be an authorised legal business.
- (4) Sections 41 to 46 require category 1 regulators to prepare and operate rules to authorise and regulate legal businesses.
- (5) Section 47 deals with how a category 1 regulator is to monitor and investigate the performance of authorised legal businesses.

- (6) Section 48 and Part 2 of schedule 1 (which amends the 1980 Act)—
  - (a) enable the Law Society to authorise (and regulate) legal businesses,
  - (b) reflect that incorporated practices (within the meaning of section 34 of the 1980 Act) are to be authorised as a type of legal business.
- (7) Section 49 makes provision for where a body must change its regulatory regime by virtue of changing the manner in which it is owned.

*Requirement to be authorised to provide legal services*

**39 Requirement for legal businesses to be authorised to provide legal services**

- (1) A legal business may provide legal services to the public for fee, gain or reward only if it is authorised to do so by the category 1 regulator that is responsible for the regulation of the owners of the legal business.
- (2) For the purposes of this Part, a legal business is a business which provides (or offers to provide) legal services to the public for fee, gain or reward that—
  - (a) consists of—
    - (i) a solicitor, or
    - (ii) a qualifying individual, or
  - (b) is wholly owned by—
    - (i) a solicitor or solicitors,
    - (ii) a qualifying individual or individuals, or
    - (iii) a solicitor (or solicitors) and a qualifying individual (or individuals).
- (3) For the purpose of subsection (2)(b), a business may be wholly owned—
  - (a) directly or through one or more other bodies,
  - (b) partly directly and partly through one or more other bodies.
- (4) A category 1 regulator is responsible for the regulation of the owner of a legal business if the owner is a member of the regulator or is otherwise subject to its regulation in respect of the legal services the owner provides.
- (5) It is an offence for a person to own or operate a legal business which provides legal services to the public for fee, gain or reward without that business being authorised in accordance with this Part.
- (6) A person who commits an offence under this section is liable on summary conviction to a fine not exceeding £20,000.
- (7) The Scottish Ministers may by regulations amend subsection (6) to substitute a different amount of fine for the one for the time being specified there.
- (8) Before making regulations under subsection (7), the Scottish Ministers must—
  - (a) consult—
    - (i) the regulatory committee (if any) of each category 1 regulator,
    - (ii) each category 1 regulator that has no functions other than regulatory functions, and

- (iii) such other person or body as the Scottish Ministers consider appropriate, and
  - (b) publish copies of any written representations received in response to the consultation in such manner as they consider appropriate (having regard to the desirability of the documents being accessible to those likely to have an interest in them).
- (9) Regulations under subsection (7) are subject to the negative procedure.
- (10) For the purpose of this section, a “qualifying individual” means an individual, other than a solicitor, whose provision of legal services is regulated by a category 1 regulator.
- (11) Subsection (12) applies to a legal business—
  - (a) that intends to provide (or offer to provide) legal services to the public for fee gain or reward, and
  - (b) which was immediately before the coming into force of this section—
    - (i) a sole solicitor within the meaning given by section 45(5) of the 1980 Act,
    - (ii) a firm of solicitors within the meaning of that Act,
    - (iii) an incorporated practice within the meaning given by section 34(1A)(c) of that Act, or
    - (iv) a multi-national practice within the meaning given by section 65(1) of that Act.
- (12) On the coming into force of this section, a legal business to which this subsection applies is to be treated as authorised in accordance with this Part by the Law Society to provide legal services to the public for fee, gain or reward.
- (13) But the effect of subsection (12) is subject to any alternative provision made by rules approved under section 41.
- (14) In this Part—
  - (a) a reference to an authorised legal business of a category 1 regulator is a reference to a legal business that is authorised to provide legal services by the relevant regulator,
  - (b) a reference to the relevant category 1 regulator, in relation to an authorised legal business, is a reference to the category 1 regulator which authorises the legal business.

#### **40 Offence of pretending to be an authorised legal business**

- (1) A person commits an offence if the person without reasonable excuse—
  - (a) takes or uses any name, title, addition or description implying that the person is an authorised legal business,
  - (b) otherwise pretends to be an authorised legal business.
- (2) A person who commits an offence under subsection (1) is liable on summary conviction to a fine not exceeding £20,000.
- (3) The Scottish Ministers may by regulations amend subsection (2) to substitute a different amount of fine for the one for the time being specified there.

- (4) Before making regulations under subsection (3), the Scottish Ministers must—
  - (a) consult—
    - (i) the regulatory committee (if any) of each category 1 regulator,
    - (ii) each category 1 regulator that has no functions other than regulatory functions, and
    - (iii) such other person or body as the Scottish Ministers consider appropriate, and
  - (b) publish copies of any written representations received in response to the consultation in such manner as they consider appropriate (having regard to the desirability of the documents being accessible to those likely to have an interest in them).
- (5) Regulations under subsection (3) are subject to the negative procedure.

*Regulation of authorised legal businesses*

**41 Rules for authorised legal businesses**

- (1) A category 1 regulator must—
  - (a) make rules for authorising and regulating legal businesses (“ALB rules”),
  - (b) apply its ALB rules in relation to the legal businesses for which it is responsible, and
  - (c) publish its ALB rules in a manner that is accessible to the public, free of charge, by such electronic means as the regulator considers appropriate.
- (2) ALB rules are to—
  - (a) contain—
    - (i) authorisation rules,
    - (ii) practice rules,
  - (b) include provision for reconciling different sets of regulatory rules, and
  - (c) deal with such other regulatory matters as the Scottish Ministers may by regulations specify (and in such manner as the regulations may specify).
- (3) ALB rules may—
  - (a) relate to—
    - (i) one or more types of legal business,
    - (ii) some or all legal services,
    - (iii) other services (in addition to legal services) that form part of the professional practice of solicitors, or qualifying individuals, within a legal business,
  - (b) make different provision for different cases or types of case.
- (4) A category 1 regulator may not amend its ALB rules (or any of them) without the prior approval of the Lord President.



- (5) In making any material amendment of its ALB rules, a category 1 regulator must consult—
  - (a) its members,
  - (b) the Competition and Markets Authority,
  - (c) the Commission,
  - (d) the independent advisory panel of the Commission,
  - (e) Consumer Scotland, and
  - (f) such other persons or bodies it considers appropriate.
- (6) A category 1 regulator, in submitting an amendment of its ALB rules for approval under subsection (4), must submit copies of any written representations received in response to the consultation under subsection (5).
- (7) The Scottish Ministers may exercise the power to make regulations under subsection (2)(c) only if they have received a request to exercise the power from—
  - (a) the Lord President,
  - (b) the regulatory committee of a category 1 regulator,
  - (c) a category 1 regulator that has no functions other than regulatory functions, or
  - (d) the independent advisory panel of the Commission.
- (8) Before making a request under subsection (7), the person making the request (“the requester”) must—
  - (a) consult—
    - (i) the regulatory committee (if any) of each category 1 regulator,
    - (ii) each category 1 regulator that has no functions other than regulatory functions,
    - (iii) the independent advisory panel of the Commission, and
    - (iv) such other person or body as the requester considers appropriate, and
  - (b) except where the requester is the Lord President, secure the Lord President’s agreement to the making of the request.
- (9) But a body mentioned in subsection (8)(a)(i) to (iii) does not need to be consulted if the body is the requester.
- (10) For the purpose of seeking the Lord President’s agreement under subsection (8)(b), the requester must provide to the Lord President—
  - (a) a document setting out—
    - (i) an explanation of the change sought by the proposed exercise of the power, and
    - (ii) the reasons for seeking the change,
  - (b) copies of any written representations received in response to the consultation under subsection (8)(a).

- (11) A request under subsection (7) must include—
  - (a) a document setting out—
    - (i) an explanation of the change sought by the proposed exercise of the power, and
    - (ii) the reasons for seeking the change,
  - (b) copies of any written representations received in response to the consultation under subsection (8)(a), and
  - (c) except where the requester is the Lord President, written confirmation of the Lord President’s agreement to the making of the request.
- (12) As soon as reasonably practicable after making a request under subsection (7), the requester must publish the documents included with the request in such manner as the requester considers appropriate (having regard to the desirability of the documents being accessible to those likely to have an interest in them).
- (13) In subsection (3)(a), a “qualifying individual” has the meaning given in section 39(10).
- (14) Regulations under subsection (2)(c) are subject to the affirmative procedure.

## **42 Authorisation rules**

- (1) For the purposes of this Part, the authorisation rules are rules about—
  - (a) the procedure for becoming an authorised legal business, including (in particular)—
    - (i) the making of applications,
    - (ii) the criteria to be met by applicants,
    - (iii) the determination of applications,
    - (iv) the grant of authorisation,
  - (b) the terms on which authorisation is granted including, in particular, the imposition of conditions or restrictions,
  - (c) the circumstances in which conditions or restrictions may be imposed, varied or revoked in relation to the existing authorisation of a legal business,
  - (d) the—
    - (i) circumstances in which a legal business’s authorisation may or must be reviewed, suspended or withdrawn,
    - (ii) circumstances in which an authorised legal business may surrender its authorisation,
  - (e) the fees that are (or may be) chargeable by the regulator in connection with authorisation.
- (2) Rules made in pursuance of subsection (1)(a) to (d) must allow for review by the category 1 regulator of any decision made by it under the rules that materially affects an applicant for authorisation or (as the case may be) an authorised legal business.

- (3) Authorisation rules must—
  - (a) state that an application for authorisation may be refused on the ground that the applicant appears to be incapable (for any reason) of complying with the regulatory scheme of the regulator,
  - (b) provide for how a licensed provider may become an authorised legal business,
  - (c) provide for grounds for suspension or withdrawal of authorisation where the legal business is breaching (or has breached) the regulatory scheme of the regulator or other rules of professional practice that apply to it,
  - (d) set out how the fees that are chargeable in connection with authorisation are determined (which may be by reference to the financial performance of an authorised legal business or such other criteria as may be specified in the rules).
- (4) Authorisation rules may make provision about the effect on an authorisation (including a deemed authorisation under section 39(12) issued to a legal business which is a partnership or other unincorporated body of any change in the membership of the legal business.
- (5) Provision which may be made under subsection (4) includes provision for the authorisation of the legal business to be transferred where the legal business ceases to exist and another legal business succeeds to the whole or substantially the whole of its business.
- (6) Authorisation rules may include such further rules or arrangements as to authorising legal businesses for which provision is (in the category 1 regulator's opinion) necessary or expedient.

#### **43 Appeals in relation to authorisation decisions**

- (1) An appeal against a relevant authorisation decision may be made to the sheriff by—
  - (a) an applicant for authorisation under rules made in pursuance of section 42, or
  - (b) an authorised legal business.
- (2) An appeal under subsection (1) must be made within the period of 3 months beginning with the later of—
  - (a) the day on which the relevant authorisation decision is intimated to the applicant or, as the case may be, authorised legal business, or
  - (b) where the relevant authorisation decision has been the subject of an internal appeal process of the category 1 regulator, the day on which the decision of the internal appeal is intimated to the applicant or, as the case may be, the authorised legal business.
- (3) A relevant authorisation decision is a decision taken under authorisation rules made in pursuance of this Part to—
  - (a) refuse an application for authorisation of a legal business,
  - (b) impose, vary or revoke conditions or restrictions in relation to its authorisation, or
  - (c) suspend or withdraw its authorisation.

- (4) In the appeal, the sheriff may—
  - (a) uphold, vary or quash the decision,
  - (b) make such further order (including for the expenses of the parties) as is necessary in the interests of justice.
- (5) The sheriff's determination in the appeal is final.

#### **44 Practice rules**

- (1) For the purposes of this Part, the practice rules are rules about—
  - (a) the—
    - (i) operation and administration of authorised legal businesses,
    - (ii) standards to be met by authorised legal businesses,
  - (b) the operational positions within authorised legal businesses,
  - (c) accounting and auditing,
  - (d) professional indemnity,
  - (e) the making and handling of any complaint about an authorised legal business,
  - (f) the measures that may be taken by the regulator, in relation to an authorised legal business, if—
    - (i) there is a breach of the regulatory scheme of the regulator, or
    - (ii) a complaint referred to in paragraph (e) is upheld.
- (2) Without limit to the generality of subsection (1), practice rules must—
  - (a) require authorised legal businesses to—
    - (i) comply with the regulator's ALB rules and the terms on which authorisation is granted including, in particular, any conditions or restrictions which have been imposed in relation to the authorisation,
    - (ii) adhere to the professional principles,
    - (iii) have proper accounting and auditing procedures,
    - (iv) have sufficient arrangements for professional indemnity, and
    - (v) co-operate with reviews of, and investigations into, their performance,
  - (b) include provision that it is a breach of the ALB rules for an authorised legal business to fail to comply with—
    - (i) its duties under this Part, and
    - (ii) duties under any other enactment specified in the scheme, and
  - (c) allow an authorised legal business to make representations to the regulator before the regulator takes any of the measures available to it under the rules.
- (3) Practice rules may include such further arrangements as to the professional practice, conduct or discipline of authorised legal businesses for which provision is (in the regulator's opinion) necessary or expedient.

**45 Financial sanctions**

- (1) Practice rules made in pursuance of section 44(1)(f) may provide for—
  - (a) the imposition of a financial penalty,
  - (b) the withdrawal of the imposition of a financial penalty if the regulator considers that it would not be reasonable to seek (or to continue to seek) payment of the financial penalty.
- (2) The Scottish Ministers may by regulations specify the maximum amount of a financial penalty that may be imposed by virtue of subsection (1).
- (3) A financial penalty imposed by virtue of this section is payable to the Scottish Ministers (but the regulator may collect it on their behalf).
- (4) Where a regulator collects a financial penalty imposed on an authorised legal business under subsection (3), the regulator may—
  - (a) retain a sum to be deducted from the amount payable to the Scottish Ministers under subsection (3) in respect of any expenditure reasonably incurred by the regulator in collecting the penalty, or
  - (b) recover from the authorised legal business any expenditure reasonably incurred by the regulator in collecting the penalty.
- (5) At any time a regulator may discontinue collection of a financial penalty imposed by virtue of this section where the regulator considers it would not be reasonable in the circumstances for the regulator to attempt or continue to attempt collection.
- (6) Subsection (5) does not prevent the regulator from, in circumstances where it has discontinued attempts to collect a financial penalty, resuming such attempts where the regulator considers it is reasonable in the circumstances to do so.
- (7) An authorised legal business may appeal against a financial penalty (or the amount of a financial penalty) imposed on it by virtue of this section—
  - (a) to the sheriff,
  - (b) within the period of 3 months beginning with the date on which the penalty is intimated to it.
- (8) Where an appeal is made under subsection (7), no part of the penalty requires to be paid before the appeal is determined or withdrawn.
- (9) In the appeal, the sheriff may—
  - (a) uphold, vary or quash the decision,
  - (b) make such further order (including for the expenses of the parties) as is necessary in the interests of justice.
- (10) The sheriff's determination in the appeal is final.
- (11) Before making regulations under subsection (2), the Scottish Ministers must—
  - (a) consult—
    - (i) the regulatory committee (if any) of each category 1 regulator,
    - (ii) each category 1 regulator that has no functions other than regulatory functions, and

- (iii) such other person or body as the Scottish Ministers consider appropriate, and
- (b) publish copies of any written representations received in response to the consultation in such manner as they consider appropriate (having regard to the desirability of the documents being accessible to those likely to have an interest in them).
- (12) Regulations under subsection (2)—
  - (a) are subject to the negative procedure, and
  - (b) may not be made without the agreement of the Lord President.

#### **46 Reconciling different rules**

- (1) The provision required by section 41(2)(b) to be in the ALB rules is such provision as is reasonably practicable (and appropriate in the circumstances) for—
  - (a) preventing or resolving regulatory conflicts, and
  - (b) avoiding unnecessary duplication of regulatory rules (for example, by applying existing regulatory rules in so far as possible).
- (2) For the purposes of this section, a regulatory conflict is a conflict between (any of)—
  - (a) the ALB rules of a category 1 regulator,
  - (b) any other professional or regulatory rules made by the regulator in respect of the persons who provide legal services that it regulates, and
  - (c) any professional or regulatory rules made by any other body which regulates the provision of legal or other services by the persons regulated by the category 1 regulator.
- (3) The Scottish Ministers may by regulations make further provision about regulatory conflicts (such as may involve a category 1 regulator).
- (4) The Scottish Ministers may exercise the power to make regulations under subsection (3) only if they have received a request from—
  - (a) the Lord President,
  - (b) the regulatory committee of a category 1 regulator,
  - (c) a category 1 regulator that has no functions other than regulatory functions, or
  - (d) the independent advisory panel of the Commission.
- (5) Before making a request under subsection (4), the person making the request (“the requester”) must—
  - (a) consult—
    - (i) the regulatory committee (if any) of each category 1 regulator,
    - (ii) each category 1 regulator that has no functions other than regulatory functions,
    - (iii) the independent advisory panel of the Commission, and
    - (iv) such other person or body as the requester considers appropriate, and

- (b) except where the requester is the Lord President, secure the Lord President's agreement to the making of the request.
- (6) But a body mentioned in subsection (5)(a)(i) to (iii) does not need to be consulted if the body is the requester.
- (7) For the purpose of seeking the Lord President's agreement under subsection (5)(b), the requester must provide to the Lord President—
  - (a) a document setting out—
    - (i) an explanation of the change sought by the proposed exercise of the power, and
    - (ii) the reasons for seeking the change,
  - (b) copies of any written representations received in response to the consultation under subsection (5)(a).
- (8) A request under subsection (4) must include—
  - (a) a document setting out—
    - (i) an explanation of the change sought by the proposed exercise of the power, and
    - (ii) the reasons for seeking the change,
  - (b) copies of any written representations received in response to the consultation under subsection (5)(a), and
  - (c) except where the requester is the Lord President, written confirmation of the Lord President's agreement to the making of the request.
- (9) As soon as reasonably practicable after making a request under subsection (4), the requester must publish the documents included with the request in such manner as the requester considers appropriate (having regard to the desirability of the documents being accessible to those likely to have an interest in them).
- (10) Regulations under subsection (3) are subject to the negative procedure.

#### **47 Monitoring of performance of authorised legal businesses**

- (1) A category 1 regulator is to carry out a review of the performance of an authorised legal business—
  - (a) at such time or in such circumstances as the regulator considers appropriate, or
  - (b) when requested to do so by the Lord President.
- (2) A review under this section may (in particular) examine—
  - (a) the authorised legal business's compliance with—
    - (i) its duties under this Act and any other enactment,
    - (ii) the terms on which its authorisation is granted including any conditions or restrictions imposed in relation to the authorisation,
  - (b) the financial sustainability of the business,
  - (c) such other matters as the regulator considers appropriate.

- (3) A request for the review of an authorised legal business under subsection (1)(b) must—
  - (a) set out, by reference to the matters that may be reviewed, why the Lord President considers a review appropriate, and
  - (b) be copied to the authorised legal business which is to be reviewed.
- (4) When conducting a review of an authorised legal business, a category 1 regulator may—
  - (a) require the business to produce any relevant document or other information (either at the business’s premises or otherwise),
  - (b) interview any person who owns, is employed by, or is otherwise involved with the business.
- (5) Following a review, the category 1 regulator must—
  - (a) prepare a report on its review, and
  - (b) send a copy of its report to—
    - (i) the authorised legal business, and
    - (ii) if the review was requested under subsection (1)(b), the Lord President.
- (6) Before finalising the report, the category 1 regulator must—
  - (a) send a draft of the report to the authorised legal business, and
  - (b) give it a reasonable opportunity to make representations about—
    - (i) the findings of the report, and
    - (ii) any action the business may be required to take or steps that may be taken by the regulator as a result of the review.

### *Miscellaneous*

#### **48 Law Society of Scotland**

- (1) The Law Society must prepare its ALB rules in accordance with section 41 within such period (not exceeding 3 years from the date on which this section comes into force) as it may agree with the Lord President.
- (2) But the Law Society’s ALB rules are invalid unless they have the prior approval of the Lord President.
- (3) The Law Society may use its powers to make rules under the 1980 Act to make the rules necessary to comply with its duties as a category 1 regulator under this Part.
- (4) Part 2 of schedule 1 contains provision amending the 1980 Act in respect of the Law Society’s functions of authorising and regulating legal businesses.

#### **49 Entities changing regulatory regime**

- (1) Subsection (2) applies where a licensed provider becomes an authorised legal business.
- (2) The licensed provider is deemed, by virtue of this subsection, to continue to be so licensed from that time until the earliest of the following events—
  - (a) the end of the period of 90 days beginning with the day on which that time falls,



- (b) the time from which the relevant category 1 regulator determines this subsection is to cease to apply to the provider, or
  - (c) the time when the provider ceases to be an authorised legal business.
- (3) Subsection (4) applies where an authorised legal business becomes a licensed provider.
- (4) The authorised legal business is deemed, by virtue of this subsection, to continue to be so authorised from that time until the earliest of the following events—
  - (a) the end of the period of 90 days beginning with the day on which that time falls,
  - (b) the time from which the approved regulator that regulates (or regulated) the licensed provider determines this subsection is to cease to apply to the authorised legal business, or
  - (c) the time when the authorised legal business ceases to be a licensed provider.

### PART 3

#### COMPLAINTS

##### 50 Receipt of complaints: preliminary steps

- (1) The 2007 Act is amended as follows.
- (2) The italic heading before section 2 becomes “*Conduct, services and regulatory complaints*”.
- (3) In section 2 (receipt of complaints: preliminary steps)—
  - (a) in subsection (1), for paragraph (b) substitute—
    - “(b) suggesting that—
      - (i) professional services were inadequate where they were provided by a practitioner in connection with any matter in which the practitioner has been instructed by a client, or
      - (ii) legal services were inadequate where they were provided by a person other than a practitioner to the public for fee, gain or reward,
    - (a complaint suggesting any such matter being referred to in this Part as a “services complaint”),
  - (c) suggesting that an authorised legal business is failing (or has failed) to comply with—
    - (i) the practice rules forming part of the rules for authorising and regulating the legal business made by the relevant professional organisation under (or for the purposes of) section 41(1)(a) of the 2025 Act, or
    - (ii) the terms on which its authorisation is granted by the relevant professional organisation including any conditions or restrictions imposed in relation to the authorisation,
  - (a complaint suggesting any such matter being referred to in this Part as a “regulatory complaint”).”

(b) after subsection (1) insert—

“(1ZA) A complaint as mentioned in subsection (1)(b)(ii) suggesting that legal services provided by a person other than a practitioner were inadequate—

- (a) may include a complaint suggesting that the manner in which legal services were provided by the person was inadequate,
- (b) but is not an eligible services complaint for the purposes of this Part where the Commission considers, in accordance with any provision in rules made under section 32(1), that the legal services provided by the person were merely incidental to other services (not being legal services) provided by the person.

(1ZB) Where a services complaint is made in relation to a practitioner who is an individual and the Commission considers that the complaint should also be made against the practitioner’s firm or (as the case may be) where the practitioner is an employee of another practitioner that other practitioner (referred to in this Part as the “employing practitioner”), the Commission may decide to treat the complaint as—

- (a) also having been made against the practitioner’s firm or the employing practitioner (as the case may be), or
- (b) having been made against the practitioner’s firm or the employing practitioner (as the case may be) instead of the practitioner.”

(c) for subsection (1A) substitute—

“(1A) The Commission must, subject to any provision in rules made under section 32(1) as to eligibility for making complaints, determine whether the complaint constitutes (to any extent)—

- (a) a conduct complaint,
- (b) a services complaint,
- (c) a regulatory complaint, or
- (d) any combination of more than one of the categories of complaint mentioned in paragraphs (a) to (c).

(1B) For the purpose of subsection (1A), the Commission may determine—

- (a) where the complaint includes more than one element, that—
  - (i) an element constitutes a complaint falling within a category mentioned in paragraphs (a) to (c) of subsection (1A), and
  - (ii) another element constitutes a separate complaint falling within another of those categories,
- (b) that any element of the complaint—
  - (i) constitutes a complaint falling within a category mentioned in paragraphs (a) to (c) of subsection (1A), and
  - (ii) additionally constitutes a complaint falling within another of those categories,

(for example, a single element of the complaint may constitute both a conduct complaint and a services complaint).”,

- (d) in subsection (2), in paragraph (a), after “complaint” insert “or a regulatory complaint”,
- (e) the following subsections are repealed—
  - (i) subsection (2A),
  - (ii) subsection (2B),
  - (iii) subsection (2C),
  - (iv) subsection (4).

## **51 Complaints initiated by, or continued by, the Commission**

- (1) The 2007 Act is amended as follows.
- (2) After section 2, insert—

### **“2A Complaints initiated by the Commission**

- (1) In addition to receiving a conduct complaint or a regulatory complaint mentioned in section 2(1), the Commission may itself initiate a complaint against a practitioner which, had it been received from a person mentioned in section 2(2), would be a conduct complaint or a regulatory complaint.
- (2) Section 2(1A) applies to a complaint under subsection (1) as it applies to a complaint referred to in section 2(1).
- (3) References in this Part (other than in this section) and in sections 47 to 52A to a conduct complaint or a regulatory complaint include references to a conduct complaint or a regulatory complaint that is initiated by the Commission under subsection (1).
- (4) The Commission may not initiate a complaint under subsection (1) if it would not be an eligible complaint in accordance with any provision in rules made under section 32(1).”.

## **52 Ineligible or premature complaints**

- (1) Section 4 (complaint not made timeously or made prematurely) of the 2007 Act is amended as follows.
- (2) The section title becomes “**Complaint not eligible or made prematurely**”.
- (3) For subsection (1), substitute—
  - “(1) Where the Commission considers that a complaint referred to in section 2(1) is not an eligible complaint in accordance with any provision in rules made under section 32(1), the Commission need not take any further action under this Part in relation to the complaint (except the giving of notice to the complainer, the practitioner and any other person as may be required under such rules).”.
- (4) For subsection (2), substitute—

- “(2) Where a complaint referred to in section 2(1) is made prematurely, the Commission need not take any further action under this Part in relation to the complaint (except the giving of notice to the complainer, the practitioner and any other person as may be required by rules made under section 32(1)).”.
- (5) The following subsections are repealed—
  - (a) subsection (3),
  - (b) subsection (5),
  - (c) subsection (6).
- (6) In subsection (4)—
  - (a) in the opening words, the words “or section 9A(2)” are repealed,
  - (b) in paragraph (a), for the words from “where” to ““employing practitioner”” substitute “the employing practitioner”,
  - (c) paragraph (b) is repealed.

### **53 Commission process relating to complaints**

- (1) The 2007 Act is amended as follows.
- (2) In section 6 (complaint determined to be conduct complaint)—
  - (a) for subsection (1), substitute—
    - “(1) This section applies where the Commission determines that a complaint referred to in section 2(1) or 2A(1) is—
      - (a) wholly a conduct complaint, or
      - (b) includes one or more elements constituting a conduct complaint.”,
  - (b) in subsection (2)—
    - (i) in paragraph (a), after “complaint” where it first occurs insert “(or the part of the complaint constituting a conduct complaint)”,
    - (ii) paragraph (b) is repealed,
  - (c) after subsection (2), insert—
    - “(3) It does not matter for the purpose of subsection (1) (and the application of this section) whether the Commission’s determination mentioned in that subsection follows its earlier determination that the complaint is a services complaint (to any extent) and, having investigated the complaint, the Commission subsequently determines that it is instead a conduct complaint (to any extent).”.
- (3) Section 7 (services complaint: notice) is repealed.
- (4) In section 8 (services complaint: local resolution or mediation)—
  - (a) for subsection (1), substitute—

- “(1) Subsection (2) applies where the Commission determines that a complaint referred to in section 2(1) that is made by or on behalf of a person referred to in section 2(2)(b)(i)—
  - (a) constitutes (in whole or in part) a services complaint, and
  - (b) either—
    - (i) the complaint has been made prematurely (within the meaning of section 4(4)), or
    - (ii) the practitioner, the practitioner’s firm or the employing practitioner has made no attempt, or an insufficient attempt, to achieve a negotiated settlement with the complainer.”,
- (b) in subsection (2)—
  - (i) the words from “Where” to the end of paragraph (b) are repealed, and
  - (ii) for “such a settlement” substitute “a negotiated settlement with the complainer”.
- (5) In section 9 (services complaint: Commission’s duty to investigate and determine), in subsection (2), for “must” substitute “may”.
- (6) Section 9A (services complaint: further provision) is repealed.
- (7) Section 12 (services complaint: notice where not upheld or upheld) is repealed.
- (8) Section 13 (services complaint: reports) is repealed.
- (9) Section 15 (complaint appears during mediation or investigation to fall within different category) is repealed.
- (10) Section 45 (giving of notices etc. under Part 1) is repealed.

#### **54 Commission’s duty to investigate and determine services complaints**

- (1) The 2007 Act is amended as follows.
- (2) In section 9 (services complaint: Commission’s duty to investigate and determine), after subsection (4) insert—
  - “(5) Where the practitioner (and, where subsection (3) applies, the employing practitioner) accepts a settlement proposed by the Commission under subsection (2) as respects the complaint but the complainer does not accept the settlement, the Commission may discontinue the investigation of the complaint and not determine it under subsection (1).
- (6) If subsection (7) applies, the Commission may decide—
  - (a) not to initiate the investigation of a services complaint and determine it under subsection (1), or
  - (b) to discontinue the investigation of a services complaint and not to determine it under subsection (1).
- (7) This subsection applies if—
  - (a) the Commission considers that the practitioner, the practitioner’s firm or the employing practitioner has offered the complainer a settlement as

respects the complaint (“the proposed settlement”) which the Commission considers is fair and reasonable in the circumstances,

- (b) the complainer has not accepted the proposed settlement, and
- (c) the Commission is satisfied that the proposed settlement will remain available for acceptance by the complainer for a period of up to 28 days after the complainer receives notice of the Commission’s decision under subsection (6).”.

## **55 Regulatory complaints against authorised legal businesses**

- (1) The 2007 Act is amended as follows.
- (2) After section 7, insert—

### **“7A Complaint determined to be a regulatory complaint**

- (1) This section applies where the Commission determines that a complaint referred to in section 2(1) or 2A(1) is—
    - (a) wholly a regulatory complaint, or
    - (b) includes one or more elements constituting a regulatory complaint.
  - (2) The Commission must remit the complaint (or the part of the complaint constituting a regulatory complaint) to the relevant professional organisation to deal with (and give to the organisation any material which accompanies the regulatory complaint).
  - (3) It does not matter for the purpose of subsection (1) (and the application of this section) whether the Commission’s determination mentioned in that subsection follows its earlier determination that the complaint is a services complaint (to any extent) and, having investigated the complaint, the Commission subsequently determines that it is instead a regulatory complaint (to any extent).”.
- (3) After section 52, insert—

### **“52A Regulatory complaints: duty of regulator to investigate etc.**

- (1) Where a regulatory complaint is remitted to the relevant professional organisation under section 7A(2) (or treated as having been remitted to them under that section by virtue of section 33B(2)), the relevant professional organisation must investigate it and, subject to subsection (2), determine the complaint.
- (2) The relevant professional organisation may decide—
  - (a) to discontinue an investigation of a regulatory complaint,
  - (b) to reinstate the investigation of a discontinued regulatory complaint,
 but only if the organisation considers that this is in the public interest.
- (3) As soon as practicable after making a decision under subsection (2), the relevant professional organisation must give notice in writing of its decision to the complainer, the practitioner and the Commission by—
  - (a) sending them a copy of the decision, and

- (b) specifying the reason for the decision.
- (4) In addition, notice under subsection (3) given to the complainer or the practitioner, must also give them information about any—
  - (a) right of appeal, and
  - (b) ability to make a handling complaint to the Commission.
- (5) After determining the regulatory complaint, the relevant professional organisation must make a written report to the complainer, the practitioner and the Commission of—
  - (a) any facts of the matter as found by the relevant professional organisation,
  - (b) the relevant professional organisation’s determination and the reasons for that determination,
  - (c) what action (if any) the relevant professional organisation proposes to take, or has taken, in the matter in accordance with the rules for authorising and regulating legal businesses made by the relevant professional organisation under (or for the purposes of) section 41(1)(a) of the 2025 Act, and
  - (d) if the relevant professional organisation does not propose to take, or has not taken, any action in the matter, an explanation of why this is the case.
- (6) When making a written report under subsection (5), the relevant professional organisation must also give notice in writing to the complainer and the practitioner of any right of appeal or ability to make a handling complaint by virtue of section 23.
- (7) The relevant professional organisation must, in considering what action (if any) to take as mentioned in subsection (5)(c), take into account any decision taken by the Commission in respect of a services complaint against the practitioner where the services complaint arises from the same matter to which the regulatory complaint relates.
- (8) Each relevant professional organisation must ensure that its procedures for dealing with regulatory complaints do not conflict with the duty imposed on it by section 24(4) in relation to any report sent to it under that section or any direction by the Commission under section 24(6).”.

## **56 Services complaint: sanctions**

- (1) The 2007 Act is amended as follows.
- (2) In section 10 (Commission upholds services complaint)—
  - (a) after subsection (3), insert—
    - “(3A) Where the practitioner was, at the time when the services were provided, a partner of a firm, a direction under subsection (2)(c) may be given to the practitioner’s firm instead of the practitioner.
    - (3B) In the case where a direction under subsection (2)(c) is made to the employing practitioner or the practitioner’s firm, the direction may relate to systems operated by the employing practitioner or the practitioner’s firm that affect

the provision of professional services generally by the employing practitioner or the practitioner’s firm where that is relevant to the complaint.”,

(b) in subsection (4)—

(i) paragraph (c) is repealed,

(ii) after paragraph (c) (and before the closing words), insert—

“(d) decision taken by a relevant professional organisation in respect of a conduct complaint, or a regulatory complaint, against the practitioner where the conduct complaint, or the regulatory complaint, arises from the same matter to which the services complaint relates.”.

(3) After section 12, insert—

**“12A Services complaint upheld: failure to refund fees and outlays**

(1) This section applies where—

(a) under section 10(2)(a), the Commission directs the practitioner or the employing practitioner (as the case may be) to refund an amount in respect of fees or outlays of the practitioner already paid by or on behalf of the client to whom the professional services were provided by the practitioner (such amount being referred to in this section as “the fee refund”),

(b) any proportion of the fee refund has not been paid by the expiry of the period of 90 days commencing on the day on which notice of the direction was given to the practitioner or the employing practitioner in accordance with rules made under section 32(1), and

(c) the failure to pay any proportion of the fee refund within that period is—

(i) where the direction was given to the practitioner, as a result of the death, insolvency or involuntary cessation of trade of the practitioner,

(ii) where the direction was given to the employing practitioner, as a result of the insolvency or involuntary cessation of trade of the employing practitioner.

(2) The proportion of the fee refund that has not been paid is to be treated for the purposes of the practitioner’s or the employing practitioner’s (as the case may be) professional indemnity insurance as if it were an amount of compensation that the Commission had directed under section 10(2)(d) the practitioner or employing practitioner to pay to the complainer.

(3) But subsection (2) applies only to the extent that the amount of the fee refund that has not been repaid, taken together with any amount of compensation that the Commission directed the practitioner or the employing practitioner to pay to the complainer under section 10(2)(d), does not exceed £35,000.

(4) The Scottish Ministers may by regulations amend subsection (3) to substitute a different amount for the one for the time being specified there.



- (5) Before making regulations under subsection (4), the Scottish Ministers must consult—
  - (a) the relevant professional organisations, and
  - (b) such groups of persons representing consumer interests as they consider appropriate.”.

**57 Commission decision making and delegation**

- (1) The 2007 Act is amended as follows.
- (2) In schedule 1, in paragraph 13(2) (delegation of functions)—
  - (a) paragraph (a) is repealed,
  - (b) after paragraph (a) insert—
    - “(aa) a decision under section 2A(1) to initiate a complaint to be taken only by—
      - (i) any of its committees, or
      - (ii) one of the Commission’s members,”,
  - (c) paragraph (b)(ii) is repealed,
  - (d) after paragraph (c), insert—
    - “(ca) the making of any decision on the disclosure of information under section 41A to be exercised only by one of the Commission’s members,”,
  - (e) after paragraph (d), insert—
    - “(e) the function of making a decision under section 23(2) to be exercised only by any of its committees,
    - (f) the function of making a direction under section 24(6) to be exercised only by any of its committees.”.

**58 Commission review committee**

- (1) The 2007 Act is amended as follows.
- (2) After section 20, insert—

*“Reviews*

**20A Applications to review committee**

- (1) A person mentioned in subsection (2) may make an application for a review of a decision by the Commission in relation to a complaint that is mentioned in subsection (3).
- (2) The persons are—
  - (a) the complainer,
  - (b) the practitioner to whom the complaint relates,
  - (c) the practitioner’s firm,
  - (d) the employing practitioner,

- (e) the relevant professional organisation.
- (3) The decisions are—
- (a) a decision by the Commission that a complaint referred to in section 2(1) is not an eligible complaint in accordance with any provision in rules made under section 32(1),
  - (b) a decision to discontinue the investigation of a services complaint in accordance with section 9(1A)(a),
  - (c) a decision to reinstate the investigation of a services complaint in accordance with section 9(1A)(b),
  - (d) a determination under section 9(1) to uphold a services complaint,
  - (e) a determination under section 9(1) to not uphold a services complaint,
  - (f) a decision to discontinue the investigation of a services complaint (and not to determine it under section 9(1)) in accordance with section 9(5),
  - (g) a decision not to initiate the investigation of a services complaint (and not to determine it under section 9(1)) in accordance with section 9(6)(a),
  - (h) a decision to discontinue the investigation of a services complaint (and not to determine it under section 9(1)) in accordance with section 9(6)(b),
  - (i) a decision to take any of the steps mentioned in section 10(2) other than—
    - (i) a direction to the practitioner or the employing practitioner (as the case may be) to pay compensation to the complainer, or
    - (ii) a decision as to the amount of such compensation to be paid under the direction.
- (4) Subject to subsection (5), an application for review must be made before the expiry of the period of 28 days beginning with the day on which notice of the decision was given to the complainer and the practitioner.
- (5) The review committee may decide that it may consider an application for a review of a decision under subsection (1) that is made after the expiry of the period referred to in subsection (4) if it considers that to be appropriate.
- (6) Following a review, the review committee may make such decision as it considers appropriate (including a decision that substitutes its own decision for the decision to which the application for review relates).
- (7) Where a decision of the review committee upholds a services complaint or confirms a determination under section 9(1) to uphold a services complaint, the review committee may direct that such of the steps mentioned in section 10(2) as it considers fair and reasonable in the circumstances be taken.
- (8) A decision of the review committee under this section is final.”.
- (3) The following provisions are repealed—
- (a) section 21 (appeal against Commission decisions) (and the italic heading before it),
  - (b) section 22 (appeal: supplementary provision).

- (4) In schedule 1 (the Scottish Legal Complaints Commission)—
- (a) in paragraph 10 (procedure), in sub-paragraph (2), for “determination” substitute “review”,
  - (b) in paragraph 11 (committees)—
    - (i) in sub-paragraph (1)(a), for “determination”, in both places where it occurs, substitute “review”,
    - (ii) in sub-paragraph (3), for “determination” substitute “review”,
  - (c) in paragraph 13 (delegation of functions), for sub-paragraph (2)(d), substitute—
    - “(d) the function of considering an application for review of a decision of the Commission under section 20A(1) to be exercised only by the review committee, but a review in respect of any of the following decisions may be taken by a single member of the review committee—
      - (i) a decision by the Commission that a complaint referred to in section 2(1) is not an eligible complaint in accordance with any provision in rules made under section 32(1),
      - (ii) a decision to reinstate the investigation of a services complaint in accordance with section 9(1A)(b).”.

**59 Disclosure of information by practitioners etc. to the Commission and relevant professional organisations**

- (1) The 2007 Act is amended as follows.
- (2) In section 17 (power to examine documents and demand explanations in connection with conduct or services complaints)—
  - (a) the title of the section becomes “**Power to examine documents and demand explanations in connection with complaints**”,
  - (b) after subsection (3), insert—
    - “(3A) Nothing in a notice under subsection (1) requires a practitioner, a practitioner’s firm or an employing practitioner to provide a document or information that is subject to legal privilege.
    - (3B) But subsection (3A) does not prevent the disclosure of—
      - (a) a document or information if consent to the disclosure is given by the client of (as the case may be)—
        - (i) the practitioner,
        - (ii) the practitioner’s firm, or
        - (iii) the employing practitioner, or
      - (b) a document or information that is the subject of another right of confidentiality (regardless of whether or not the client of the practitioner, practitioner’s firm or employing practitioner consents to the disclosure).

- (3C) For the purpose of subsection (3A), a document or information is subject to legal privilege if it constitutes a communication—
- (a) between the practitioner, the practitioner’s firm or the employing practitioner and the client of the practitioner, practitioner’s firm or employing practitioner, or
  - (b) made in connection with, or in contemplation of, legal proceedings and for the purpose of those proceedings,
- which would, in legal proceedings, be protected from disclosure by virtue of any rule of law relating to confidentiality of communications.”
- (c) after subsection (6) insert—
- “(6A) For the purpose of subsection (3) or (6), references to other documents include references to anything in which information is recorded in any form.”
- (d) after subsection (6A) (inserted by subsection (2)(c)) insert—
- “(6B) Subsection (6C) applies where—
- (a) the Commission gave notice under subsection (1) in connection with its investigation and determination of a services complaint under section 9 to the practitioner, the practitioner’s firm or the employing practitioner (“the recipient”),
  - (b) the recipient failed to provide some or all of the documents or information sought in the notice within the time specified in it, and
  - (c) the Commission is satisfied that the recipient does not have a reasonable excuse for the failure.
- (6C) The Commission may proceed to determine the complaint based on the information before it despite the recipient’s failure.
- (6D) Before proceeding as mentioned in subsection (6C), the Commission must notify the recipient of the proposal and give the recipient an opportunity to respond within the period specified in the notice (which must be no fewer than 14 days from the date of the notice) to—
- (a) provide all of the documents or information sought in the notice given under subsection (1), or
  - (b) provide a reasonable excuse for the failure to provide some or all of the documents or information sought in that notice within the time specified in that notice.
- (6E) Where subsection (6C) applies, in determining the complaint, the Commission may draw such inference from the recipient’s failure as it considers appropriate.”
- (3) In section 37 (obtaining of information from relevant professional organisations), after subsection (2) insert—
- “(2A) Subsection (1) does not require the provision of a document or information to the Commission that is subject to legal privilege.

(2B) But subsection (2A) does not prevent the disclosure of—

- (a) a document or information if consent to the disclosure is given by the client of (as the case may be)—
  - (i) the practitioner,
  - (ii) the practitioner’s firm, or
  - (iii) the employing practitioner, or
- (b) a document or information that is the subject of another right of confidentiality (regardless of whether or not the client of the practitioner, practitioner’s firm or employing practitioner consents to the disclosure).

(2C) For the purpose of subsection (2A), a document or information is subject to legal privilege if it constitutes a communication—

- (a) between the practitioner and the practitioner’s client, or
- (b) made in connection with, or in contemplation of, legal proceedings and for the purpose of those proceedings,

which would, in legal proceedings, be protected from disclosure by virtue of any rule of law relating to confidentiality of communications.”.

(4) In section 48 (conduct complaints and reviews: power of relevant professional organisations to examine documents and demand explanations)—

(a) after subsection (1) insert—

“(1A) Where a relevant professional organisation gives notice under subsection (1)(a) to a practitioner and the practitioner is an employee of another practitioner, the organisation must give a copy of the notice to the employing practitioner.”.

(b) after subsection (2) insert—

“(2A) Nothing in a notice under subsection (1) requires a practitioner, a practitioner’s firm or an employing practitioner to provide a document or information that is subject to legal privilege.

(2B) But subsection (2A) does not prevent the disclosure of—

- (a) a document or information if consent to the disclosure is given by the client of (as the case may be)—
  - (i) the practitioner,
  - (ii) the practitioner’s firm, or
  - (iii) the employing practitioner, or
- (b) a document or information that is the subject of another right of confidentiality (regardless of whether or not the client of the practitioner, practitioner’s firm or employing practitioner consents to the disclosure).

(2C) For the purpose of subsection (2A) a document or information is subject to legal privilege if it constitutes a communication—

- (a) between the practitioner, the practitioner’s firm or the employing practitioner and the client of the practitioner, practitioner’s firm or employing practitioner, or

- (b) made in connection with, or in contemplation of, legal proceedings and for the purpose of those proceedings,

which would, in legal proceedings, be protected from disclosure by virtue of any rule of law relating to confidentiality of communications.”,
- (c) after subsection (5) insert—
  - “(5A) For the purpose of subsection (3) or (5), references to other documents include references to anything in which information is recorded in any form.”,
- (d) after subsection (5A) (inserted by this section) insert—
  - “(5B) Subsection (5C) applies where—
    - (a) a relevant professional organisation gave notice under subsection (1)(a) to the practitioner, the practitioner’s firm or the employing practitioner (“the recipient”) for the purposes of an investigation into a conduct complaint under section 47 or a regulatory complaint under section 52A,
    - (b) the recipient failed to provide some or all of the documents or information sought in the notice within the time specified in it, and
    - (c) the relevant professional organisation is satisfied that the recipient does not have a reasonable excuse for the failure.
  - (5C) The relevant professional organisation may proceed to determine the complaint based on the information before it despite the recipient’s failure.
  - (5D) Before proceeding as mentioned in subsection (5C), the relevant professional organisation must notify the recipient in writing of the proposal and give the recipient an opportunity to respond within the period specified in the notice (which must be no fewer than 14 days from the date of the notice) to—
    - (a) provide all of the documents or information sought in the notice given under subsection (1), or
    - (b) provide a reasonable excuse for the failure to provide some or all of the documents or information sought in that notice within the time specified in that notice.
  - (5E) Where subsection (5C) applies, in determining the complaint, the relevant professional organisation may draw such inference from the recipient’s failure as it considers appropriate.”.
- (5) After section 48 insert—
  - “48A Conduct complaints, regulatory complaints and services complaints: power of relevant professional organisations to examine documents and demand explanation before initiating complaint**
    - (1) This section applies where a relevant professional organisation is considering—
      - (a) making a conduct complaint, services complaint or regulatory complaint referred to in section 2(1) to the Commission against a practitioner,
      - (b) treating a matter under section 33A(2) as if it were a conduct complaint remitted to it by the Commission under section 6(2), or
      - (c) treating a matter under section 33B(2) as if it were a regulatory complaint remitted to it by the Commission under section 7A(2).

- (2) The relevant professional organisation may give notice in writing in accordance with subsection (5) to—
  - (a) the practitioner,
  - (b) the practitioner’s firm, or
  - (c) the employing practitioner.
- (3) Notice under subsection (2) may not be given to, or in relation to, a practitioner who is Crown Counsel or a procurator fiscal (within the meaning of section 307 of the Criminal Procedure (Scotland) Act 1995).
- (4) Where a relevant professional organisation gives notice under subsection (2) to a practitioner and the practitioner is an employee of another practitioner, the organisation must give a copy of the notice to the employing practitioner.
- (5) A notice under subsection (2) may require—
  - (a) the production or delivery to any person appointed by the relevant professional organisation, at a time and place specified in the notice, of all documents mentioned in subsection (9) which are in the possession or control of the practitioner, the firm or, as the case may be, the employing practitioner, and which relate to the matters under consideration by the relevant professional organisation in relation to the potential complaint (whether or not they relate also to other matters),
  - (b) an explanation, within such period being not less than 21 days as the notice specifies, from the practitioner, the firm or, as the case may be, the employing practitioner, regarding the matters under consideration by the relevant professional organisation in relation to the potential complaint.
- (6) Nothing in a notice under subsection (2) requires a practitioner, a practitioner’s firm or an employing practitioner to provide a document or information that is subject to legal privilege.
- (7) But subsection (6) does not prevent the disclosure of—
  - (a) a document or information if consent to the disclosure is given by the client of (as the case may be)—
    - (i) the practitioner,
    - (ii) the practitioner’s firm, or
    - (iii) the employing practitioner, or
  - (b) a document or information that is the subject of another right of confidentiality (regardless of whether or not the client of the practitioner, practitioner’s firm or employing practitioner consents to the disclosure).
- (8) For the purpose of subsection (6), a document or information is subject to legal privilege if it constitutes a communication—
  - (a) between the practitioner, the practitioner’s firm or the employing practitioner and the client of the practitioner, practitioner’s firm or employing practitioner, or
  - (b) made in connection with, or in contemplation of, legal proceedings and for the purpose of those proceedings,

which would, in legal proceedings, be protected from disclosure by virtue of any rule of law relating to confidentiality of communications.

- (9) The documents are—
  - (a) all books, accounts, deeds, securities, papers and other documents in the possession or control of the practitioner, the firm or, as the case may be, the employing practitioner,
  - (b) all books, accounts, deeds, securities, papers and other documents relating to any trust of which the practitioner is the sole trustee or a co-trustee only with one or more of the practitioner’s partners or employees or, as the case may be, where the practitioner is an incorporated practice of which the practice or one of its employees is a sole trustee or it is a co-trustee only with one or more of its employees.
- (10) For the purpose of subsection (9), references to other documents include references to anything in which information is recorded in any form.
- (11) Schedule 4 makes further provision about the powers of a relevant professional organisation under this section.”.

## **60 Power of Commission to request practitioner’s details in connection with complaints**

- (1) The 2007 Act is amended as follows.
- (2) After section 17, insert—

### **“17A Power of Commission to request practitioner’s details in connection with complaints**

- (1) Where the Commission is satisfied that it is necessary to do so in relation to a complaint referred to in section 2(1), 2A(1) or 23(1A) made against a practitioner for a purpose mentioned in subsection (3), the Commission may request that the relevant professional organisation provide any contact details held by the relevant professional organisation relating to—
  - (a) the practitioner,
  - (b) the practitioner’s firm,
  - (c) the employing practitioner,
  - (d) the person (or persons) holding a specified role (or exercising a specified function) in the practitioner’s firm or the employing practitioner.
- (2) The relevant professional organisation must provide any details that are requested under subsection (1) that are held by the relevant professional organisation to the Commission without delay.
- (3) The purpose referred to in subsection (1) is for the purpose of—
  - (a) section 2, 2A, 4, 8, 9, 10, 16, 23 or 24, or
  - (b) any provision in rules made under section 32(1) but only in so far as the provision in the rules relates to—
    - (i) the categorisation of complaints, or
    - (ii) assessment of the eligibility of complaints.



- (4) It does not matter for the purpose of a relevant professional organisation’s response under subsection (2) whether, at the time of the response, the practitioner, practitioner’s firm or employing practitioner (as the case may be) continues to be authorised by the organisation to provide legal services.”.

**61 Services complaints: special provision for complaints against unregulated persons**

- (1) The 2007 Act is amended as follows.  
(2) After section 22, insert—

*“Services complaints: special provision for complaints against unregulated persons*

**22A Services complaints: special provision for complaints against unregulated persons**

- (1) Subject to subsection (2), the following provisions apply in relation to a services complaint against a person who was not a practitioner at the time when the legal services complained of were provided but who was providing legal services to the public for fee, gain or reward (an “unregulated provider”) as the provisions apply in relation to a services complaint against a practitioner—
- (a) section 2,
  - (b) section 3,
  - (c) section 4,
  - (d) section 8,
  - (e) section 9,
  - (f) section 10,
  - (g) section 11,
  - (h) section 12A,
  - (i) section 14,
  - (j) section 16,
  - (k) section 17,
  - (l) section 18,
  - (m) section 19,
  - (n) section 20,
  - (o) section 20A,
  - (p) section 35,
  - (q) section 40, and
  - (r) schedule 2.
- (2) The provisions referred to in subsection (1) apply in relation to an unregulated provider against whom a services complaint is made subject to the following modifications—
- (a) references to “inadequate professional services” are to be read as if they were references to “inadequate legal services” (meaning, in relation to

an unregulated provider, legal services that are in any respect not of the quality which could reasonably be expected of a competent unregulated provider),

- (b) references to the practitioner against whom a complaint is made are to be read as including references to the unregulated provider against whom a complaint is made,
- (c) references to a “practitioner’s firm” are to be read as if they were omitted,
- (d) references to an “employing practitioner”, in relation to a practitioner, are to be read as if they were references to the employer (if any) of the unregulated provider against whom a complaint is made,
- (e) references to a “relevant professional organisation” are to be read as if they were omitted,
- (f) where the unregulated provider against whom a complaint is made is in the employment of another person, references in section 10 to “employee practitioner” are to be read as if they were references to the unregulated provider,
- (g) section 10(2) is to be read as if paragraph (e) were omitted.”.

## 62 Handling complaints

- (1) The 2007 Act is amended as follows.
- (2) In section 23 (handling by relevant professional organisations of conduct complaints: investigation by Commission)—
  - (a) the title of the section becomes “**Handling by relevant professional organisations of conduct or regulatory complaints: investigation by Commission**”,
  - (b) for subsection (1A) substitute—
 

“(1A) In this Act, a “handling complaint” means—

    - (a) a complaint which—
      - (i) relates to the manner in which a conduct complaint has been dealt with by a relevant professional organisation to which it has been remitted under section 6(2) (or is treated under section 33A(2) as if it were remitted under section 6(2)), and
      - (ii) is made—
        - (A) by or on behalf of the person by whom or on whose behalf the conduct complaint was made, or
        - (B) by the practitioner concerned in the conduct complaint, or
    - (b) a complaint which—
      - (i) relates to the manner in which a regulatory complaint has been dealt with by the relevant professional organisation to which it has been remitted under section 7A(2) (or is treated under section 33B(2) as if it were remitted under section 7A(2)), and

- (ii) is made—
    - (A) by or on behalf of the person by whom or on whose behalf the regulatory complaint was made, or
    - (B) by the authorised legal business concerned in the regulatory complaint.”,
  - (c) subsections (3) and (6) are repealed,
  - (d) in subsection (4), in paragraph (a), after “conduct complaint” insert “or regulatory complaint”,
  - (e) after subsection (4) insert—

“(4A) But paragraph (b) of subsection (4) does not apply where the Commission considers that there are exceptional circumstances justifying its investigation of a handling complaint that is made after the expiry of the 6 month period referred to in that paragraph.”,
  - (f) subsections (8) and (10) are repealed.
- (3) In section 24 (investigation under section 23: final report and recommendations)—
  - (a) in subsection (1)(b)(ia), after “conduct complaint” insert “or regulatory complaint”,
  - (b) in subsection (2)—
    - (i) in paragraph (a), after “conduct complaint” insert “or regulatory complaint”,
    - (ii) in paragraph (b), after “conduct complaint” insert “ or regulatory complaint”,
    - (iii) in paragraph (c), after “conduct complaint” insert “or regulatory complaint”,
    - (iv) in paragraph (e), after “conduct complaint” insert “or regulatory complaint”,
    - (v) in paragraph (f), before “cost”, in both places where it occurs, insert “administrative”,
  - (c) in subsection (5)—
    - (i) after “conduct complaint” insert “or regulatory complaint”,
    - (ii) for the words from “of—” to the end of the subsection, substitute “whether it will comply with the recommendation within 3 months and, if not, the reason why not.”,
  - (d) in subsection (6)—
    - (i) in paragraph (a)—
      - (A) for “has decided not to” substitute “will not”,
      - (B) the word “wholly” is repealed,
    - (ii) in paragraph (b)—
      - (A) the word “wholly” is repealed,
      - (B) for “before the end of the period of” substitute “within”,
      - (C) the words from “beginning” to the end of paragraph (b) are repealed,
    - (iii) in the closing words, for “if the Commission thinks fit” substitute “within such period as it may specify in the direction”,

- (e) in subsection (6A)—
  - (i) for “considers” substitute “notifies the Commission”,
  - (ii) the word “wholly” is repealed,
- (f) in subsection (6B)(b), after “conduct complaint” insert “or regulatory complaint”,
- (g) after subsection (8) insert—
  - “(9) In this section, “within 3 months”, in relation to a recommendation included in a report sent to a relevant professional organisation under this section, means before the end of the period of 3 months beginning with the day on which the report was sent to the organisation.
  - (10) In this section and schedule 3, “the other party to the conduct complaint or regulatory complaint to which the handling complaint relates” is in the case of a handling complaint made in accordance with—
    - (a) paragraph (a)(ii)(A) of section 23(1A), the practitioner concerned in the conduct complaint to which the handling complaint relates,
    - (b) paragraph (b)(ii)(A) of section 23(1A), the authorised legal business concerned in the regulatory complaint to which the handling complaint relates,
    - (c) paragraph (a)(ii)(B) or (b)(ii)(B) of section 23(1A), the complainer in the conduct complaint or regulatory complaint to which the handling complaint relates.”.

### **63 Annual general levy and complaints levy**

- (1) The 2007 Act is amended as follows.
- (2) In section 27 (annual general levy)—
  - (a) in subsection (1)—
    - (i) for paragraph (c) substitute—
      - “(c) person who has acquired a right to provide legal services by virtue of Chapter 3 of Part 1 the 2025 Act (or section 27 of the 1990 Act),”
    - (ii) after paragraph (d), insert—
      - “(e) authorised legal business,”
  - (b) in subsection (2)(a), for “paragraphs (a) to (d)” substitute “paragraphs (a) to (e)”,
  - (c) in subsection (4), in the opening words, for “paragraphs (a) to (d)” substitute “paragraphs (a) to (e)”,
  - (d) for subsection (5) substitute—
    - “(5) If any person who is liable under subsection (1) to pay the annual general levy (“the liable person”) fails to pay any amount of the levy, or pays any such amount late—
      - (a) where the liable person is an individual, the failure to pay or late payment may be treated as professional misconduct or unsatisfactory professional conduct by the liable person,

- (b) where the liable person is not an individual and where the failure to pay or late payment involves the connivance or consent of (or is attributable to the neglect of) a responsible official of a liable person, the failure to pay or late payment may be treated as professional misconduct or unsatisfactory professional conduct by the responsible official.
- (6) In subsection (5), a “responsible official” of a liable person is—
  - (a) where the liable person is a company, a director, secretary, manager or other similar officer,
  - (b) where the liable person is a limited liability partnership, a member,
  - (c) where the liable person is an ordinary partnership, a partner,
  - (d) where the liable person is another body or association, a person who is concerned in the management or control of its affairs,but in each case also extends to a person purporting to act in such a capacity.”.
- (3) In section 28 (complaints levy)—
  - (a) in subsection (1), for “mentioned in subsection (2)” substitute “specified in rules made under section 32(1)”,
  - (b) subsection (2) is repealed,
  - (c) for subsection (4) substitute—
    - “(4) If any practitioner who is liable under subsection (1) to pay the complaints levy fails to pay any amount of the levy, or pays any such amount late—
      - (a) where the practitioner is an individual, the failure or late payment may be treated as professional misconduct or unsatisfactory professional conduct by the practitioner,
      - (b) where the practitioner is not an individual and where the failure or late payment involves the connivance or consent of, or is attributable to the neglect of, a responsible official of the practitioner, the failure or late payment may be treated as professional misconduct or unsatisfactory professional conduct by the responsible official.
- (5) In subsection (4), a “responsible official” of a practitioner is—
  - (a) where the practitioner is a company, a director, secretary, manager or other similar officer,
  - (b) where the practitioner is a limited liability partnership, a member,
  - (c) where the practitioner is an ordinary partnership, a partner,
  - (d) where the practitioner is another body or association, a person who is concerned in the management or control of its affairs,but in each case also extends to a person purporting to act in such a capacity.”.
- (4) In section 29 (amount of levies and consultation)—
  - (a) in subsection (1), after paragraph (b) (but before the closing words), insert—
    - “(c) annual contribution,
    - (d) complaints contribution,”,

- (b) in subsection (2), for the words from “must” to the end of the subsection substitute “may be—
  - (a) of different amounts for different persons (or persons of different descriptions) who are liable under section 27(1) to pay it, including different amounts for persons who are individuals and persons who are not,
  - (b) of different amounts (including nil) in different circumstances based on such criteria (such as the size and income of a person who is not an individual who is liable under section 27(1) to pay the annual general levy) as rules made under section 32(1) may specify.”
- (c) after subsection (2) insert—
 

“(2A) Rules under section 32(1) may provide for circumstances in which the Commission may waive a portion of the amount of annual general levy which would otherwise require to be paid.”
- (d) in subsection (5)(a), in sub-paragraph (ii), for “and the complaints levy” substitute “, the complaints levy, the annual contribution and the complaints contribution”,
- (e) for subsection (6) insert—
 

“(6) For the purpose mentioned in subsection (6A)—

  - (a) each relevant professional organisation must provide the Commission with an estimate of the number of persons as respects whom it is the relevant professional organisation and who it anticipates should be liable under section 27(1) to pay the annual general levy for the financial year concerned, and
  - (b) each relevant professional organisation that is a category 1 regulator must assist the Commission with its enquiries in relation to the size and income of each authorised legal business that is authorised by the organisation to provide legal services.

(6A) The purpose referred to in subsection (6) is the purpose of informing the Commission in relation to—

  - (a) the inclusion in the Commission’s proposed budget for each financial year of the proposed amount of the annual general levy,
  - (b) the Commission’s determination under subsection (1) of the amount of the annual general levy in respect of each financial year.”
- (f) in subsection (7), for “and the complaints levy” substitute “, the complaints levy, the annual contribution and the complaints contribution”.

**64      Unregulated providers of legal services: register, annual contributions and complaints contributions**

- (1) The 2007 Act is amended as follows.
- (2) After section 28, insert—

**“28A     Unregulated providers of legal services: register and annual contribution**

- (1) The Commission must establish and maintain a register of unregulated providers of legal services.
- (2) The Commission is to determine, in accordance with its rules under section 32(1), the information to be included in a register established under subsection (1).
- (3) An unregulated provider of legal services that is specified in (or is of such type or description as may be specified in) regulations made by the Scottish Ministers must make a request to be entered in a register established under subsection (1).
- (4) Any other unregulated provider of legal services may make a request to be entered in a register established under subsection (1).
- (5) An unregulated provider of legal services who is entered in a register established under subsection (1) must pay to the Commission a contribution (referred to in this Part as “the annual contribution”).
- (6) The amount of the annual contribution may be—
  - (a) different for unregulated providers of legal services who are individuals and unregulated providers of legal services who are not,
  - (b) of different amounts (including nil) in different circumstances.
- (7) The Commission must make the register accessible by members of the public in such form and manner as it considers appropriate.
- (8) The Commission must ensure that the amount of resources allocated for its use is reasonably sufficient to enable it to—
  - (a) establish and maintain the register, and
  - (b) investigate, determine and review services complaints against unregulated providers of legal services.
- (9) In this section, a reference to an unregulated provider of legal services is to a person who provides legal services to the public for fee, gain or reward but who is not a practitioner.

**28B     Regulations under section 28A(3): requirements**

- (1) The Scottish Ministers may lay a draft of a Scottish statutory instrument containing regulations under section 28A(3) only if—
  - (a) they have received a request to exercise the power from—
    - (i) the Lord President,
    - (ii) the regulatory committee of a category 1 regulator,
    - (iii) a category 1 regulator that has no functions other than regulatory functions,
    - (iv) an approved regulator,
    - (v) the Commission, or

- (vi) the independent advisory panel established by the Commission under paragraph 11A of schedule 1, and
  - (b) they have secured the Lord President's agreement to the laying of the draft.
- (2) Before making a request under subsection (1)(a), the person making the request ("the requester") must—
  - (a) consult—
    - (i) the regulatory committee (if any) of each category 1 regulator,
    - (ii) each category 1 regulator that has no functions other than regulatory functions,
    - (iii) each approved regulator,
    - (iv) the Commission,
    - (v) the panel mentioned in subsection (1)(a)(vi), and
    - (vi) such other person as the requester considers appropriate, and
  - (b) except where the requester is the Lord President, secure the Lord President's agreement to the making of the request.
- (3) But a person mentioned in subsection (2)(a)(i) to (v) does not need to be consulted if the person is the requester.
- (4) For the purpose of seeking the Lord President's agreement under subsection (2)(b), the requester must provide to the Lord President—
  - (a) a document setting out why the requester considers it to be necessary to specify the unregulated legal services provider (or a type or description of unregulated legal services provider) in regulations under section 28A(3), and
  - (b) copies of any written representations received in response to the consultation under subsection (2)(a).
- (5) A request under subsection (1)(a) must include—
  - (a) a document setting out why the requester considers it to be necessary to specify the unregulated legal services provider (or a type or description of unregulated legal services provider) in regulations under section 28A(3),
  - (b) copies of any written representations received in response to the consultation under subsection (2)(a), and
  - (c) except where the requester is the Lord President, written confirmation of the Lord President's agreement to the making of the request.
- (6) As soon as reasonably practicable after making a request under subsection (1)(a), the requester must publish the documents included with the request in such manner as the requester considers appropriate (having regard to the desirability of the documents being accessible to those likely to have an interest in them).



(7) In this section—

“approved regulator” has the meaning given by Part 2 of the Legal Services (Scotland) Act 2010,

“regulatory functions” in relation to a category 1 regulator, has the meaning given by section 6 of the 2025 Act.

**28C Unregulated providers of legal services: upheld services complaints and complaints contribution**

- (1) An unregulated provider of legal services against whom a services complaint is made must pay to the Commission, in the circumstances specified in rules made under section 32(1), a contribution in relation to the complaint (referred to in this Part as “the complaints contribution”).
- (2) The amount of the complaints contribution may be—
  - (a) of different amounts for different unregulated providers of legal services according to the amount of annual contributions (if any) paid by an unregulated provider of legal services,
  - (b) of different amounts (including nil) in different circumstances.
- (3) In this section, a reference to an unregulated provider of legal services has the same meaning as in section 28A(9).”.

**65 Commission rules as to practice and procedure**

- (1) The 2007 Act is amended as follows.
- (2) In section 32 (duty of Commission to make rules as to practice and procedure), in subsection (5)—
  - (a) in paragraph (d), for “such” substitute “the independent advisory panel established under paragraph 11A of schedule 1 and such other”,
  - (b) after paragraph (d), insert—

“(e) such groups of persons representing the interests of the legal profession as it considers appropriate.”.
- (3) In schedule 3 (rules as to Commission’s practice and procedure)—
  - (a) for paragraph 1 (provision which must be included), substitute—

“1 The rules as to the Commission’s practice and procedure made under section 32(1) must include provision about—

    - (a) the criteria to be met for a complaint to be considered eligible, including—
      - (i) the time limit within which a complaint must be made,
      - (ii) circumstances in which time limits may be extended,
      - (iii) requiring a complaint that is determined to be frivolous, vexatious or totally without merit to be considered ineligible,
    - (b) how a complaint is to be assessed with reference to eligibility criteria,

- (c) the requirement for the complainer, for the purposes of Parts 1 and 2 of this Act, to waive any right of confidentiality in relation to the matters to which the complaint relates and, without which, the Commission is not to—
  - (i) remit a conduct complaint to a relevant professional organisation under section 6(2),
  - (ii) remit a regulatory complaint to a relevant professional organisation under section 7A(2),
  - (iii) investigate a services complaint by virtue of section 9,
  - (iv) investigate a handling complaint by virtue of section 23,
- (d) matters to be considered by the Commission in assessing whether or not legal services provided by a person mentioned in section 2(1)(b)(ii) are merely incidental to the provision of other services (in determining whether a services complaint against such a person is an eligible complaint),
- (e) how a complaint is to be categorised as a services complaint, a conduct complaint or a regulatory complaint (or any combination of the same and to any extent),
- (f) assessing whether to initiate a complaint against a practitioner under section 2A(1) which, had it been received by a person mentioned in section 2(2), would be a conduct complaint or a regulatory complaint,
- (g) the circumstances in which the Commission may decide—
  - (i) to discontinue the investigation of a services complaint under section 9(1A)(a),
  - (ii) to discontinue the investigation of a handling complaint under section 23(2)(b),
- (h) the circumstances in which the Commission may decide—
  - (i) to reinstate the investigation of a discontinued services complaint under section 9(1A)(b),
  - (ii) to reinstate the investigation of a discontinued handling complaint under section 23(2)(c),
- (i) the manner in which a services complaint is to be investigated by the Commission (and by whom),
- (j) hearings to be held by the Commission in relation to a services complaint or a handling complaint being dealt with by it under Part 1 which must require the Commission—
  - (i) to hold a hearing in relation to such a complaint where it considers it appropriate, and
  - (ii) require the Commission to decide whether such a hearing should be public or private,
- (k) evidence, including—
  - (i) the evidence that may be required or admitted,

- (ii) the extent to which it may be oral or written,
  - (iii) the consequences of a person's failure to produce any information or document which the person has been required to produce,
- (l) the manner in which a services complaint is to be determined by the Commission (and by whom),
- (m) the manner in which a handling complaint is to be investigated and determined by the Commission,
- (n) the timing and the manner in which the Commission is to notify, in relation to a complaint other than a handling complaint, the complainer, practitioner and the practitioner's employer (if any) and, where appropriate, the relevant professional organisation of its decisions including a decision—
  - (i) that a complaint referred to in section 2(1) is not an eligible complaint,
  - (ii) to initiate a conduct complaint or a regulatory complaint under section 2A(1),
  - (iii) that a complaint referred to in section 2(1) is eligible and whether it is being (or is to be) investigated by the Commission, the relevant professional organisation or both,
  - (iv) that the investigation of a complaint referred to in section 2(1) or 2A(1) has been (or is to be) discontinued or reinstated,
  - (v) whether or not a services complaint has been upheld by the Commission under section 9(1) and, if it has, any determination, direction or report by the Commission under section 10(2),
  - (vi) relating to an application for review under section 20A,
- (o) the timing and the manner in which the Commission is to notify, in relation to a handling complaint, the following persons of its decisions—
  - (i) the person who made the handling complaint (and, if made on behalf of another person, that other person),
  - (ii) the other party to the conduct complaint or regulatory complaint to which the handling complaint relates (see section 24(10)), and
  - (iii) the relevant professional organisation,
- (p) the membership of a review committee, including in particular provision requiring—
  - (i) that such a committee has at least 3 members, of which the majority are non-lawyer members of the Commission,
  - (ii) that such a committee is chaired by a lawyer member of the Commission,
- (q) the procedure to be followed in connection with reviews under section 20A including—
  - (i) grounds on which an application for review will be considered eligible, including whether it has a reasonable prospect of success,

- (ii) notice to be given of applications and decisions,
    - (iii) the manner in which reviews are to be conducted,
  - (r) the determination of the annual general levy, and the arrangements for payment of the levy, including—
    - (i) the matters to be taken account of by the Commission in determining the amount of the annual general levy relating to practitioners who are not individuals which may be different in different circumstances such as the size and income of the practitioner,
    - (ii) arrangements to be made with a view to ensuring that the annual general levy is not payable more than once by or in relation to an individual practitioner within an authorised legal business,
  - (s) the circumstances in which the complaints levy is payable under section 28(1) by a practitioner against whom a services complaint is made,
  - (t) the circumstances in which the complaints contribution is payable under section 28C(1) by a person against whom a services complaint is made,
  - (u) the charging of interest at such rate as may be specified by the Scottish Ministers by order under section 27(3)(b) on any amount of the annual general levy due to be paid to the Commission by a relevant professional organisation under section 27(2)(b) from the date the amount is due under the rules until it is paid,
  - (v) the charging of interest at such rate as may be specified by the Scottish Ministers by order under section 28(3)(b) on any amount of the complaints levy due to the Commission from the date the amount is due under the rules until it is paid.
- 1A Rules under paragraph 1(n)(v) must in particular provide that where a complaint referred to in section 2(1) constituted a services complaint and additionally constituted a conduct complaint or a regulatory complaint that has been remitted to a relevant professional organisation under section 6(2) or 7A(2) (as the case may be), the Commission must inform the organisation—
- (a) of the outcome under section 9 of—
    - (i) any decision by the Commission relating to the investigation of the services complaint, or
    - (ii) any determination by the Commission of the services complaint, and
  - (b) if the Commission makes a determination under that section upholding the services complaint, of any determination, direction or report by the Commission under section 10(2).
- 1B Rules under paragraph 1(q)(iii) must in particular provide that any member of the review committee considering a complaint must not have been involved in—
- (a) any aspect of the investigation of the complaint (including considering the eligibility of the complaint),

- (b) the steps to be taken by the Commission where, in the course of considering a services complaint, it considers it to be reasonably likely that the complaint (or any element of it) may instead constitute a conduct complaint or regulatory complaint,
    - (c) determining the complaint under section 9(1),
    - (d) making a determination under section 10(2) in relation to the complaint.”,
  - (b) for paragraph 2 (provision which may in particular be included) substitute—
- “2 The rules as to the Commission’s practice and procedure made under section 32(1) may in particular include provision about—
- (a) the steps to be taken by the Commission where, in the course of considering a services complaint, it becomes aware of new information which causes it to decide that the complaint is not an eligible complaint,
  - (b) the steps to be taken by the Commission where, in the course of considering a services complaint, it considers it to be reasonably likely that the complaint (or any element of it) may instead constitute a conduct complaint or regulatory complaint,
  - (c) the steps to be taken by a relevant professional organisation where, in the course of considering a conduct or regulatory complaint, it considers it to be reasonably likely that the complaint (or any element of it) may instead constitute a services complaint,
  - (d) the circumstances in which the Commission is not prevented from considering a complaint which would otherwise be considered to have been made prematurely in accordance with the rules.”.

**66 Conduct or regulatory complaint raised by relevant professional organisation**

- (1) The 2007 Act is amended as follows.
- (2) In section 33 (duty of relevant professional organisations to forward complaints to Commission)—
  - (a) the existing provision becomes subsection (1),
  - (b) after paragraph (b) of that subsection (and before the closing words) insert—
    - “(c) the compliance by any authorised legal business that is authorised by the organisation to provide legal services with—
      - (i) the organisation’s practice rules forming part of the rules for authorising and regulating the authorised legal business made under (or for the purposes of) section 41(1)(a) of the 2025 Act), or
      - (ii) the terms on which the authorisation of the authorised legal business is granted by the organisation including any conditions or restrictions imposed in relation to the authorisation,”,
  - (c) after that subsection insert—
    - “(2) Subsection (1)(a) is subject to section 33A(2) (conduct complaint identified by a relevant professional organisation).

- (3) Subsection (1)(c) is subject to section 33B(2) (regulatory complaint identified by relevant professional organisation).”.

- (3) After section 33 insert—

**“33A Conduct complaint identified by relevant professional organisation**

- (1) This section applies where, in the course of exercising any of its functions conferred by or under this Act or the 2025 Act other than those relating to a handling complaint, a relevant professional organisation—
- (a) identifies a matter of concern regarding the conduct of a practitioner who is regulated by it, and
  - (b) is satisfied that the matter, if it were to be referred to the Commission as mentioned in section 2(1)(a), would be considered by the Commission to be an eligible conduct complaint in accordance with any provision in rules made under section 32(1).
- (2) Despite subsection (1)(a) of section 33, the relevant professional organisation need not refer the matter (or any material relating to it) to the Commission under that subsection and may instead treat the matter as if it were a conduct complaint remitted to it under section 6(2) (and the conduct complaint is to be treated for the purposes of this Part as having been made by the relevant professional organisation).
- (3) Where the relevant professional organisation treats the matter as mentioned in subsection (2), the relevant professional organisation must—
- (a) have regard to the interests of any clients (or former clients) of the practitioner to whom the complaint relates (or clients or former clients of the practitioner’s firm or the employing practitioner) who may have been affected by the conduct of the practitioner, and
  - (b) as soon as practicable send details of the matter and any material relating to it to the Commission.
- (4) For the purposes of subsection (3)(a), where the relevant professional organisation upholds the conduct complaint against the practitioner, the organisation must notify any client (or former client) of the practitioner (or the practitioner’s firm or the employing practitioner) whom it considers was directly affected by the conduct of the practitioner of the outcome of the complaint.
- (5) Where the Commission receives details about a matter (and any material relating to it) under subsection (3)(b) from the relevant professional organisation, the Commission must consider the details (and any related material) provided to it to consider whether the matter constitutes a services complaint (to any extent).

**33B Regulatory complaint identified by relevant professional organisation**

- (1) This section applies where, in the course of exercising any of its functions conferred by or under this Act or the 2025 Act other than those relating to a handling complaint, a relevant professional organisation—
  - (a) identifies a matter of concern suggesting that an authorised legal business that is authorised by it to provide legal services is failing (or has failed) to comply with a matter mentioned in section 2(1)(c)(i) or (ii), and
  - (b) is satisfied that the matter, if it were to be referred to the Commission as mentioned in section 2(1)(c), would be considered by the Commission to be an eligible regulatory complaint in accordance with any provision in rules made under section 32(1).
- (2) Despite subsection (1)(c) of section 33, the relevant professional organisation need not refer the matter (or any material relating to it) to the Commission and may treat the matter as if it were a regulatory complaint remitted to it by the Commission under section 7A(2) (and the regulatory complaint is to be treated for the purposes of this Part as having been made by the relevant professional organisation).
- (3) Where the relevant professional organisation treats the matter as mentioned in subsection (2), the organisation must as soon as practicable send details of the matter (and any material relating to it) to the Commission.
- (4) Where the Commission receives details about a matter (and any material relating to it) under subsection (3) from the relevant professional organisation, the Commission must consider the details (and any related material) provided to it to consider whether the matter constitutes a services complaint (to any extent).

**33C Recategorisation of conduct or regulatory complaint by relevant professional organisation**

- (1) Subsection (2) applies where a relevant professional organisation—
  - (a) at any time during its investigation in relation to a conduct complaint remitted to it under section 6(2) (or treated as such by virtue of section 33A(2)), considers that the complaint (or any element of it) instead constitutes a regulatory complaint, or
  - (b) at any time during its investigation in relation to a regulatory complaint remitted to it under section 7A(2) (or treated as such by virtue of section 33B(2)), considers that the complaint (or any element of it) instead constitutes a conduct complaint.
- (2) The relevant professional organisation must as soon as practicable send details to the Commission of the organisation's recategorisation of the complaint (or any element of it) as mentioned in paragraph (a) or (b) of subsection (1).
- (3) For the purpose of subsection (1)(a), the relevant professional organisation may consider that the conduct complaint (or an element of it) is a regulatory complaint if the organisation is satisfied that the complaint (or the element of it), if it were to be referred to the Commission as mentioned in section 2(1)(c),

would be considered by the Commission to be an eligible regulatory complaint in accordance with any provision in rules made under section 32(1).

- (4) For the purpose of subsection (1)(b), the relevant professional organisation may consider that the regulatory complaint (or an element of it) is a conduct complaint if the organisation is satisfied that the complaint (or the element of it), if it were to be referred to the Commission as mentioned in section 2(1)(a), would be considered by the Commission to be an eligible conduct complaint in accordance with any provision in rules made under section 32(1).”.

**67 Conduct or regulatory complaint appears to relevant professional organisation during investigation to be services complaint**

- (1) The 2007 Act is amended as follows.
- (2) In section 33 (duty of relevant professional organisations to forward complaints to Commission), after subsection (3) insert—
- “(4) Subsection (5) applies where a relevant professional organisation at any time during its investigation in relation to—
- (a) a conduct complaint remitted to it under section 6(2) (or treated as such by virtue of section 33A(2)), or
  - (b) a regulatory complaint remitted to it under section 7A(2) (or treated as such by virtue of section 33B(2)),
- considers that it is reasonably likely that the complaint (or any element of it) may instead constitute a services complaint.
- (5) The relevant professional organisation must—
- (a) suspend the investigation,
  - (b) consult, co-operate and liaise with the Commission as respects the matter,
  - (c) send the complaint and any material which relates to it and which is in the organisation's possession to the Commission, and
  - (d) give notice in writing to the complainer and the practitioner that it considers the complaint (or an element of it) to be a services complaint and that it is sending the complaint to the Commission.”.

**68 Conduct complaints: consideration by relevant professional organisations**

- (1) The 2007 Act is amended as follows.
- (2) In section 47 (conduct complaints: duty of relevant professional organisations to investigate etc.)—
- (a) after subsection (1) insert—
- “(1A) The relevant professional organisation may decide—
- (a) to discontinue the investigation of a conduct complaint,
  - (b) to reinstate the investigation of a discontinued conduct complaint,
- but only if the organisation considers that this is in the public interest.



- (1B) As soon as practicable after making a decision under subsection (1A), the relevant professional organisation must give notice in writing of its decision to the complainer, the practitioner and the Commission by—
  - (a) sending them a copy of the decision, and
  - (b) specifying the reason for the decision.
- (1C) In addition, notice under subsection (1B) given to the complainer or the practitioner, must also give them information about any—
  - (a) right of appeal, and
  - (b) ability to make a handling complaint to the Commission.”,
- (b) in subsection (2)—
  - (i) in the opening words, for “and the practitioner” substitute “, the practitioner and the Commission”,
  - (ii) in paragraph (a), for “the facts” substitute “any facts”,
  - (iii) in paragraph (b), after “action” insert “(if any)”,
  - (iv) after paragraph (b), insert—
    - “(c) if the organisation does not propose to take, or has not taken, any action in the matter, an explanation of why this is the case.”,
- (c) after subsection (2), insert—
  - “(2A) The relevant professional organisation must, in considering what action (if any) to take as mentioned in subsection (2)(b), take into account any decision taken by the Commission in respect of a services complaint against the practitioner where the services complaint arises from the same matter to which the conduct complaint relates.
  - (2B) A relevant professional organisation may proceed to investigate and make a written report in relation to a conduct complaint remitted to it as mentioned in subsection (1) even if the complainer withdraws the complaint (and in such case the conduct complaint is to be treated for the purposes of Part 1 and this Part as having been made by the relevant professional organisation).”.

## **69 Complaints: monitoring and setting of minimum standards by the Commission**

- (1) The 2007 Act is amended as follows.
- (2) In section 35 (services complaints: monitoring, reports, protocols and information sharing)—
  - (a) in subsection (3)(a), for sub-paragraphs (i) to (vi), substitute “the Commission’s functions relating to services complaints dealt with by it”,
  - (b) after subsection (4) insert—
    - “(5) If, in the course of exercising its functions under this Act, the Commission identifies a matter of concern relating to one or more practitioners (or practitioners’ firms or employing practitioners), the Commission may notify the relevant professional organisation of the concern and give the organisation any information it holds relating to the concern.”.

- (3) In section 36 (conduct complaints: monitoring, reports, guidance and recommendations)—
- (a) the title of the section becomes “**Conduct and regulatory complaints: monitoring and reports**”,
  - (b) in subsection (1)—
    - (i) for paragraph (a), substitute—
      - “(a) practitioners have dealt with matters that result in—
        - (i) conduct complaints being remitted to the relevant professional organisations under section 6(2) (or treated as having been remitted to them under that section by virtue of section 33A(2)),
        - (ii) regulatory complaints being remitted to the relevant professional organisations under section 7A(2) (or treated as having been remitted to them under that section by virtue of section 33B(2)),”,
      - (ii) in paragraph (b), after “complaints” insert “or regulatory complaints”,
  - (c) subsections (3) and (4) are repealed,
  - (d) in subsection (5), for “conduct complaints remitted to them under section 6(2)(a) or 15(5)(a)” substitute “—
    - (a) conduct complaints remitted to them under section 6(2) (or treated as having been remitted to them under that section by virtue of section 33A(2)),
    - (b) regulatory complaints remitted to them under section 7A(2) (or treated as having been remitted to them under that section by virtue of section 33B(2)).”.
- (4) After section 36, insert—
- “36A Conduct and regulatory complaints: setting of minimum standards by the Commission**
- (1) The Commission may issue guidance to relevant professional organisations relating to how they are to investigate and determine the following complaints—
    - (a) conduct complaints that are remitted to them by the Commission under section 6(2) (or treated as having been remitted to them under that section by virtue of section 33A(2)),
    - (b) regulatory complaints that are remitted to them by the Commission under section 7A(2) (or treated as having been remitted to them under that section by virtue of section 33B(2)).
  - (2) Guidance under subsection (1) may in particular—
    - (a) set minimum standards for relevant professional organisations in relation to the matters mentioned in that subsection,
    - (b) include guidance as to the timescales within which relevant professional organisations should aim to complete their investigation of, or determine, complaints.

- (3) Guidance under subsection (1)—
  - (a) may make different provision for—
    - (i) different types of complaint,
    - (ii) different acts or omissions (or series of acts or omissions) to which complaints may relate,
    - (iii) different types of practitioner against whom complaints may be made,
  - (b) may be issued to—
    - (i) each relevant professional organisation,
    - (ii) a particular relevant professional organisation,
    - (iii) relevant professional organisations of a particular description.
- (4) Before issuing guidance under subsection (1) that sets minimum standards, the Commission must consult—
  - (a) the following persons in relation to the Commission's initial proposals for the minimum standards that are to be set out in the guidance—
    - (i) the Lord President,
    - (ii) each relevant professional organisation concerned,
    - (iii) the practitioners regulated by each organisation, and
    - (iv) any other person the Commission considers appropriate,
  - (b) the following persons in relation to a subsequent draft of the guidance that includes the proposed minimum standards—
    - (i) each relevant professional organisation concerned, and
    - (ii) any other person the Commission considers appropriate.
- (5) For the purpose of subsection (4)(a), a duty to consult the practitioners may be met by the Commission directing a relevant professional organisation to issue information about the initial proposals to the practitioners regulated by the organisation.
- (6) The Commission must take account of any representations made by a relevant professional organisation consulted under subsection (4) that are received by the Commission within the period of 28 days beginning with the day on which the organisation receives notification from the Commission of the opportunity to make representations.
- (7) The Commission must—
  - (a) publish any guidance issued under subsection (1) in such manner as it considers appropriate as soon as reasonably practicable after issuing the guidance, and
  - (b) if the guidance sets minimum standards, at the time of publishing any such guidance, publish a document summarising—
    - (i) the consultation carried out under subsection (4),
    - (ii) any representations received in response to the consultation,

- (iii) any changes made to the Commission’s initial proposals for the minimum standards as a result of the consultation, and
  - (iv) the Commission’s reasons for including the minimum standards in the guidance.”.
- (5) In section 40 (how practitioners deal with complaints: best practice notes)—
  - (a) the existing text becomes subsection (1),
  - (b) in paragraph (a) of that subsection, for “or the professional services provided by them” substitute “, the professional services provided by them or regulatory matters”,
  - (c) after that subsection insert—
    - “(2) The Commission may issue guidance (which may set minimum standards) to relevant professional organisations—
      - (a) relating to their role overseeing how practitioners deal with complaints to them made about the matters mentioned in subsection (1)(a) or (b),
      - (b) relating to standards that must be set by the organisations for practitioners that they regulate in relation to how complaints made to practitioners about the matters mentioned in paragraph (a) or (b) of subsection (1) are dealt with by practitioners,
      - (c) in respect of any practice (and any trends in practice) identified by the Commission in the way in which the practitioners that are regulated by the organisations deal with matters which the Commission considers contributes significantly to—
        - (i) services complaints being dealt with by the Commission under sections 8 to 12,
        - (ii) conduct complaints being remitted to the relevant professional organisations under section 6(2) (or treated as having been remitted to them under that section by virtue of section 33A(2)),
        - (iii) regulatory complaints being remitted to the relevant professional organisations under section 7A(2) (or treated as having been remitted to them under that section by virtue of section 33B(2)).
- (3) Guidance under subsection (1) or (2) or may make different provision for—
  - (a) different types of complaint,
  - (b) different acts or omissions (or series of acts or omissions) to which complaints may relate,
  - (c) different types of practitioner against whom complaints may be made.
- (4) Guidance under subsection (1) or (2) may be issued to—
  - (a) each relevant professional organisation,
  - (b) a particular relevant professional organisation,
  - (c) relevant professional organisations of a particular description.

- (5) In subsection (1), “regulatory matters” means, in relation to an authorised legal business, failure by the authorised legal business to comply with either of the matters mentioned in section 2(1)(c)(i) or (ii).
- (6) Where the Commission issues guidance to a relevant professional organisation under subsection (1) or (2), the relevant professional organisation must notify the practitioners that it regulates of the guidance.
- (7) Before issuing guidance under subsection (2) that sets minimum standards, the Commission must consult—
  - (a) the following persons in relation to the Commission’s initial proposals for the minimum standards that are to be set out in the guidance—
    - (i) the Lord President,
    - (ii) each relevant professional organisation concerned,
    - (iii) the practitioners regulated by each organisation, and
    - (iv) any other person the Commission considers appropriate,
  - (b) the following persons in relation to a subsequent draft of the guidance that includes the proposed minimum standards—
    - (i) each relevant professional organisation concerned, and
    - (ii) any other person the Commission considers appropriate.
- (8) For the purpose of subsection (7)(a), a duty to consult the practitioners may be met by the Commission directing a relevant professional organisation to issue information about the initial proposals to the practitioners regulated by the organisation.
- (9) The Commission must take account of any representations made by a relevant professional organisation consulted under subsection (7) that are received by the Commission within the period of 28 days beginning with the day on which the organisation receives notification from the Commission of the opportunity to make representations.
- (10) The Commission must publish any guidance issued under this section in such manner as it considers appropriate as soon as reasonably practicable after issuing the guidance.
- (11) In the case of guidance issued under subsection (2) that sets minimum standards, the Commission must, at the time of publishing the guidance, publish a document summarising—
  - (a) the consultation carried out under subsection (7),
  - (b) any representations received in response to the consultation,
  - (c) any changes made to the Commission’s initial proposals for the minimum standards as a result of the consultation, and
  - (d) the Commission’s reasons for including the minimum standards in the guidance.”.

**70 Compensation funds: setting of minimum standards by the Commission**

- (1) Section 39 of the 2007 Act (monitoring effectiveness of guarantee funds etc.) is amended as follows.
- (2) After subsection (1), insert—

“(1A) The Commission may issue guidance (which may set minimum standards) to relevant professional organisations relating to the operation and effectiveness of the Client Protection Fund and any fund maintained by a relevant professional organisation which are for purposes analogous to those of the Client Protection Fund.”.
- (3) In subsection (2)—
  - (a) the words “the Guarantee Fund,” are repealed,
  - (b) the words “funds or” are repealed.
- (4) In subsection (3), after “subsections (1)” insert “, (1A)”.
- (5) After subsection (4), insert—

“(5) Guidance under subsection (1A) may be issued to—

  - (a) each relevant professional organisation,
  - (b) a particular relevant professional organisation,
  - (c) relevant professional organisations of a particular description.
- (6) Before issuing guidance under subsection (1A) that sets minimum standards, the Commission must consult—
  - (a) the following persons in relation to the Commission’s initial proposals for the minimum standards that are to be set out in the guidance—
    - (i) the Lord President,
    - (ii) each relevant professional organisation concerned,
    - (iii) the practitioners regulated by each organisation, and
    - (iv) any other person the Commission considers appropriate,
  - (b) the following persons in relation to a subsequent draft of the guidance that includes the proposed minimum standards—
    - (i) each relevant professional organisation concerned, and
    - (ii) any other person the Commission considers appropriate.
- (7) For the purpose of subsection (6)(a), a duty to consult the practitioners may be met by the Commission directing a relevant professional organisation to issue information about the initial proposals to the practitioners regulated by the organisation.
- (8) The Commission must take account of any representations made by a relevant professional organisation consulted under subsection (6) that are received by the Commission within the period of 28 days beginning with the day on which the organisation receives notification from the Commission of the opportunity to make representations.

- (9) The Commission must—
- (a) publish any guidance issued under subsection (1A) in such manner as it considers appropriate as soon as reasonably practicable after issuing the guidance, and
  - (b) if the guidance sets minimum standards, at the time of publishing the guidance, publish a document summarising—
    - (i) the consultation carried out under subsection (6),
    - (ii) any representations received in response to the consultation,
    - (iii) any changes made to the Commission’s initial proposals for the minimum standards as a result of the consultation, and
    - (iv) the Commission’s reasons for including the minimum standards in the guidance.”.

## **71 Enforcement of minimum standards**

- (1) The 2007 Act is amended as follows.
- (2) After section 40, insert—

### **“40A Enforcement of minimum standards in relation to relevant professional organisations**

- (1) A relevant professional organisation must meet any minimum standards set by the Commission that apply to it.
- (2) For the purpose of considering whether a relevant professional organisation is meeting any minimum standards that apply to it, the Commission may require from the relevant professional organisation—
  - (a) the production of information as to how it is meeting the minimum standards, and
  - (b) if the Commission is of the view that the relevant professional organisation is not (or has not been) meeting the minimum standards, an explanation of why the minimum standards are not being (or have not been) met.
- (3) Subsection (4) applies where the Commission considers that a relevant professional organisation, without reasonable excuse, is failing (or has failed) to meet the minimum standards in respect of which information was sought under subsection (2).
- (4) The relevant professional organisation and the Commission (“the parties”) must decide whether they are content for the dispute relating to the alleged failure to meet the minimum standards to be submitted to arbitration for resolution that is final and binding on the parties.
- (5) If both parties agree that the dispute is to be submitted to an arbitrator, the arbitrator is to be appointed—
  - (a) jointly by the parties, or
  - (b) in the absence of agreement for joint appointment, by the Lord President on a request made by either (or both) of the parties.

- (6) If the dispute is not submitted to arbitration, the Commission may direct the relevant professional organisation to take such steps as it considers appropriate within such period of time as may be specified in the direction.
- (7) The period of time specified in a direction under subsection (6) for the taking of such steps by the relevant professional organisation as the Commission considers appropriate may be extended by agreement between the parties.
- (8) The relevant professional organisation must, as soon as practicable following the expiry of the period of time referred to in subsection (6) (or such extended period of time referred to in subsection (7)), notify the Commission in writing of—
  - (a) the steps taken by or on behalf of the relevant professional organisation to comply with the direction, or
  - (b) if no such steps have been taken, or if not all steps necessary to comply with the direction have been taken, an explanation of the reason (or reasons) for the failure to comply with the direction.
- (9) If the Commission considers that a relevant professional organisation has failed to comply with a direction under subsection (6), the Commission may apply to the court for the relevant professional organisation to be dealt with in accordance with subsection (10).
- (10) Where such an application is made, the court may inquire into the matter and after hearing—
  - (a) any witnesses who may be produced against or on behalf of the relevant professional organisation, and
  - (b) any statement that may be offered in defence,may order the relevant professional organisation to comply with the direction or part of the direction (see subsection (12)).
- (11) Subsection (12) applies if the court, having considered an application under subsection (9)—
  - (a) is proposing to make an order under subsection (10) requiring a relevant professional organisation to comply with the direction, and
  - (b) considers that the taking of one or more steps specified in the order would have a detrimental effect on the ability of the relevant professional organisation to comply with its duty under section 3(1) or (3) of the 2025 Act.
- (12) In making an order under subsection (10), the court may provide that the relevant professional organisation is not required to take a step referred to in subsection (11)(b).
- (13) In this section, “minimum standards” means minimum standards that are set out in any guidance issued under—
  - (a) section 36A(1),
  - (b) section 39(1A),
  - (c) section 40(2).”.



**72 Obtaining information from practitioners**

- (1) The 2007 Act is amended as follows.
- (2) After section 40A (inserted by section 71), insert—

**“40B Obtaining information from practitioners**

- (1) For the purpose of any its functions mentioned in subsection (2), the Commission may request information from a practitioner about complaints received by the practitioner during the relevant period.
- (2) The functions are—
  - (a) monitoring practice and identifying any trends in practice under section 35(1) or 36(1),
  - (b) the issuing of guidance under section 40(1) or (2).
- (3) The information that may be sought under subsection (1) in relation to each complaint received by the practitioner during the relevant period includes—
  - (a) the date on which the complaint was received,
  - (b) a description of the substance of the complaint,
  - (c) the category of personnel in respect of whom the complaint was made,
  - (d) the type of services in respect of which the complaint was made,
  - (e) any action taken by the practitioner, the practitioner’s firm or the employing practitioner (as the case may be) in relation to the complaint,
  - (f) the date on which the practitioner’s consideration of the complaint concluded,
  - (g) an explanation of whether the complaint was resolved,
  - (h) any changes in the working practices of, or processes or systems used by, the practitioner, the practitioner’s firm or the employing practitioner (as the case may be) arising from the complaint.
- (4) In subsection (1), the “relevant period”, in relation to a request under that subsection, means the period of 3 years before the day on which the request is made.”.

**73 Power to disclose information about complaints: Commission**

- (1) The 2007 Act is amended as follows.
- (2) After section 41, insert—

**“41A Power to disclose information about complaints: Commission**

- (1) The Commission may, if it considers it to be in the public interest, disclose information about any conduct complaint, regulatory complaint, services complaint or handling complaint, including—
  - (a) information that identifies or is likely to identify any person to whom the complaint relates,
  - (b) information about the investigation or resolution of the complaint,

- (c) information about any outcomes resulting from the complaint.
- (2) But information that, in the opinion of the Commission, identifies or is likely to identify the complainer may not be disclosed under subsection (1) unless the complainer consents to its disclosure.”.

#### **74      Restriction on disclosure of information: Commission**

- (1) The 2007 Act is amended as follows.
- (2) In section 43 (restriction upon disclosure of information: Commission)—
  - (a) in subsection (3)(a), at end insert “(including the disclosure of information under section 41A(1))”,
  - (b) after subsection (3)(a) insert—
    - “(aa) for the purpose of enabling or assisting a regulatory body to exercise any of the body’s functions,”,
  - (c) after subsection (4) insert—
    - “(4A) In subsection (3)(aa), “regulatory body” means any regulatory body as the Scottish Ministers may by regulations specify.
    - (4B) Regulations under subsection (4A) may—
      - (a) include transitional, transitory or saving provision,
      - (b) make different provision for different purposes.
    - (4C) Before making regulations under subsection (4A), the Scottish Ministers must—
      - (a) consult—
        - (i) any regulatory body that is proposed to be specified by the regulations,
        - (ii) the Lord President,
        - (iii) the Commission,
        - (iv) the independent advisory panel established under paragraph 11A of schedule 1,
        - (v) each category 1 and category 2 regulator,
        - (vi) each approved regulator within the meaning of Part 2 of the Legal Services (Scotland) Act 2010,
      - (b) publish a report describing—
        - (i) the consultation carried out,
        - (ii) any representations received in response to the consultation, and
        - (iii) the changes (if any) to the proposals as a result of the representations, and
      - (c) confirm that the Lord President agrees with the proposal to make the regulations.”.

**75 Power to disclose information about complaints: relevant professional organisations**

(1) The 2007 Act is amended as follows.

(2) After section 51, insert—

**“51A Power to disclose information about complaints: relevant professional organisations**

(1) A relevant professional organisation may, if it considers it to be in the public interest, disclose information about any relevant conduct or regulatory complaint including—

- (a) information that identifies or is likely to identify a person to whom the complaint relates,
- (b) information about the investigation or resolution of the complaint,
- (c) information about any outcomes resulting from the complaint.

(2) But information that, in the opinion of the relevant professional organisation, identifies or is likely to identify the complainer may not be disclosed under subsection (1) unless the complainer consents to its disclosure.

(3) In subsection (1), “relevant conduct or regulatory complaint” means—

- (a) a conduct complaint that has been remitted to the relevant professional organisation under section 6(2)(a) (or that is treated as having been remitted to it under that section by virtue of section 33A(2)),
- (b) a regulatory complaint that has been remitted to the relevant professional organisation under section 7A(2) (or that is treated as having been remitted to it under that section by virtue of section 33B(2)).”.

**76 Restriction on disclosure of information: relevant professional organisations**

(1) The 2007 Act is amended as follows.

(2) In section 52 (restriction upon disclosure of information: relevant professional organisations)—

(a) in subsection (3)(a), at end insert “(including the disclosure of information under section 51A(1))”,

(b) after subsection (3)(a) insert—

“(aa) for the purpose of enabling or assisting a regulatory body to exercise any of the body’s functions,”,

(c) after subsection (4) insert—

“(4A) In subsection (3)(aa), “regulatory body” means any regulatory body as the Scottish Ministers may by regulations specify.

(4B) Regulations under subsection (4A) may—

- (a) include transitional, transitory or saving provision,
- (b) make different provision for different purposes.

(4C) Before making regulations under subsection (4A), the Scottish Ministers must—

- (a) consult—
  - (i) any regulatory body that is proposed to be specified by the regulations,
  - (ii) the Lord President,
  - (iii) the Commission,
  - (iv) the independent advisory panel established under paragraph 11A of schedule 1,
  - (v) each category 1 and category 2 regulator,
  - (vi) each approved regulator within the meaning of Part 2 of the Legal Services (Scotland) Act 2010,
- (b) publish a report describing—
  - (i) the consultation carried out,
  - (ii) any representations received in response to the consultation, and
  - (iii) the changes (if any) to the proposals as a result of the representations, and
- (c) confirm that the Lord President agrees with the proposal to make the regulations.”.

**77 Conduct complaints: power to impose unlimited fine and removal of power to award compensation**

- (1) The 1980 Act is amended as follows.
- (2) In section 42ZA (unsatisfactory professional conduct: Council’s powers)—
  - (a) in subsection (4), paragraph (c) is repealed,
  - (b) subsection (11) is repealed,
  - (c) subsection (12) is repealed,
  - (d) in subsection (13), paragraph (b) is repealed,
  - (e) in subsection (14), paragraph (b) is repealed.
- (3) In section 42ZB (unsatisfactory professional conduct: Council’s powers to monitor compliance), in subsection (2), the words “or (12)” are repealed.
- (4) In section 52 (procedure on complaints and appeals to Tribunal), in subsection (2), in paragraph (aa), the words “(11) or (12),” are repealed.
- (5) In section 53 (powers of tribunal)—
  - (a) in subsection (1)—
    - (i) in paragraph (b)—
      - (A) the words “(other than a conviction for an economic crime offence)” are repealed, and

- (B) the words “(other than in relation to a conviction for an economic crime offence)” are repealed,
    - (ii) paragraph (ba) is repealed,
    - (iii) paragraph (ca) is repealed,
  - (b) in subsection (2)—
    - (i) paragraph (bb) is repealed,
    - (ii) paragraph (bc) is repealed,
    - (iii) in paragraph (c)—
      - (A) the words “subject to subsection (3ZA),” are repealed,
      - (B) for “not exceeding £10,000” substitute “of any amount”,
    - (iv) paragraph (ca) is repealed,
  - (c) subsection (2A) is repealed,
  - (d) subsection (2B) is repealed,
  - (e) after subsection (2B) insert—

“(2C) Where the solicitor has been convicted of a criminal offence in relation to the subject matter of the Tribunal’s inquiry, the Tribunal must, when deciding whether to exercise a power under subsection (2), have regard to the conviction.”,
  - (f) subsection (3ZA) is repealed,
  - (g) in subsection (3A)—
    - (i) in the opening words, for “subsection (2)(bb)” substitute “subsection (2)(c)”,
    - (ii) in paragraph (a), for “, (b) or (ba)” substitute “or (b)”,
    - (iii) in paragraph (b), “, (ca)” is repealed,
  - (h) subsection (7C) is repealed,
  - (i) subsection (7D) is repealed,
  - (j) in subsection (8), paragraph (a) is repealed,
  - (k) subsection (9) is repealed,
  - (l) subsection (9A) is repealed.
- (6) In section 53ZB (powers of Tribunal on appeal: unsatisfactory professional conduct)—
- (a) in subsection (1), paragraph (f) is repealed,
  - (b) in subsection (2), paragraph (b) is repealed,
  - (c) subsection (3) is repealed,
  - (d) subsection (4) is repealed,
  - (e) in subsection (8), paragraph (b) is repealed,
  - (f) in subsection (9), paragraph (b) is repealed.

- (7) In section 54 (appeals from decisions of Tribunal)—
  - (a) subsection (1D) is repealed,
  - (b) subsection (1E) is repealed,
  - (c) in subsection (1F), for “(1E)” substitute “(1C)”,
  - (d) in subsection (1G), the words “, (1D), (1E)” are repealed,
  - (e) subsection (2A) is repealed.
- (8) In section 55 (powers of Court)—
  - (a) in subsection (1)—
    - (i) paragraph (bc) is repealed,
    - (ii) for paragraph (c), substitute—
 

“(c) impose on the solicitor a fine of any amount,”
  - (b) subsection (5) is repealed,
  - (c) in subsection (6), paragraph (a) is repealed,
  - (d) subsection (7) is repealed.
- (9) In section 55A (power of Court: unsatisfactory professional conduct)—
  - (a) in subsection (1), paragraph (b) is repealed,
  - (b) in subsection (3), paragraph (b) is repealed,
  - (c) subsection (5) is repealed.
- (10) In schedule 4, paragraph 23, for “, (10), (11) or (12),” substitute “or (10),”.

**78 Faculty of Advocates: complaint of professional misconduct and publication of decision**

- (1) The 2010 Act is amended as follows.
- (2) In section 122 (Faculty of Advocates: particular rules), after subsection (4) insert—
  - “(5) Rules regulating the discipline of advocates must—
    - (a) require publication of a decision relating to a conduct complaint suggesting professional misconduct of an advocate that is remitted by the Scottish Legal Complaints Commission to the Faculty (or is treated as having been so remitted by virtue of section 33A(2) of the 2007 Act),
    - (b) require such a decision to include—
      - (i) detail of the facts established,
      - (ii) a statement of reasons for the making of the decision, and
      - (iii) where the complaint is upheld, information about any penalty imposed,

- (c) where such a complaint is upheld, allow the Faculty to omit any information from the published decision which the Faculty considers would be likely to damage the interests of persons other than—
  - (i) the advocate against whom the complaint is made, or
  - (ii) the advocate’s partner or family,but subject to the Faculty publishing its reasons for any such omission,
- (d) where such a complaint is not upheld, allow the Faculty to omit the name of the advocate against whom the complaint is made from the published decision where it considers that to be appropriate.”.

## **79 Commission membership**

- (1) Schedule 1 (the Scottish Legal Complaints Commission) of the 2007 Act is amended as follows.
- (2) In paragraph 2 (membership of the Commission)—
  - (a) in sub-paragraph (1)(b), for “8” substitute “at least 8 but no more than 20”,
  - (b) in sub-paragraph (3), for “5” substitute “at least 4”,
  - (c) in sub-paragraph (4), after “be” insert “at least”,
  - (d) sub-paragraphs (5), (7) and (9) are repealed,
  - (e) in sub-paragraph (8), after “of lawyer members” insert “, but the number of non-lawyer members must not exceed the number of lawyer members by more than three”.
- (3) In paragraph 3 (terms of appointment etc.)—
  - (a) in sub-paragraph (1), for “5” substitute “not less than 5 years and not exceeding 8”,
  - (b) sub-paragraph (5) is repealed.

## **80 Role of the independent advisory panel**

- (1) The 2007 Act is amended as follows.
- (2) In section 41 (power by regulations to amend duties and powers of Commission), after subsection (1)(a) insert—
  - “(aa) the independent advisory panel established under paragraph 11A of schedule 1,”.
- (3) In schedule 1, in paragraph 11A—
  - (a) in sub-paragraph (2)—
    - (i) in sub-sub-paragraph (c), for “Commission directs” substitute “panel considers appropriate”,
    - (ii) after sub-sub-paragraph (c), insert—
      - “(d) to make recommendations to the Commission in relation to any of the Commission’s functions as the panel considers appropriate,

- (e) to make recommendations to the Lord President relating to any of the Lord President’s functions conferred under or by virtue of the 2025 Act,
  - (f) to make recommendations to relevant professional organisations relating to any of their functions conferred under or by virtue of the 2025 Act,
  - (g) such other functions as may be conferred on the panel by or under an enactment.”,
- (b) after sub-paragraph (3) insert—
- “(4) The Commission must ensure that the panel is adequately funded and resourced to be able to discharge its functions.”.

## 81 Commission reports

- (1) Schedule 1 of the 2007 Act is amended as follows.
- (2) In paragraph 16 (reports), after sub-paragraph (1) insert—
  - “(1A) The report must, in particular—
    - (a) explain how the Commission has discharged its functions during the year in a manner which, in accordance with section 3(1) of the 2025 Act—
      - (i) is compatible with the regulatory objectives (to be construed in accordance with sections 2 and 3 of the 2025 Act), and
      - (ii) it considers is most appropriate to meet those objectives,
    - (b) provide a list of any directions given during the year to—
      - (i) a relevant professional organisation under section 24(6),
      - (ii) a relevant professional organisation under section 40A(6),
    - (c) include—
      - (i) information about compensation awarded during the year to complainers following services complaints, and
      - (ii) so far as it is known to the Commission, information about whether compensation awarded during the year has been paid,
    - (d) provide information about—
      - (i) the work of each review committee established by the Commission under paragraph 11(1)(a), including the number of applications for review that each review committee dealt with during the year,
      - (ii) the steps taken by the Commission to ensure that each review committee is able to act independently of the Commission when considering and determining each application for review.
  - (1B) Before preparing the report, the Commission must consult—
    - (a) the Lord President,
    - (b) the independent advisory panel of the Commission,
    - (c) each category 1 and category 2 regulator.”.



**82 Minor and consequential amendments**

Parts 2 and 3 of schedule 3 contain minor amendments and amendments consequential on the provisions of this Part.

**PART 4**

MISCELLANEOUS

*Financial sanctions*

**83 Financial sanctions**

In section 19 (financial sanctions) of the 2010 Act, after subsection (3), insert—

- “(3A) Where an approved regulator collects a financial penalty imposed on a licensed provider by virtue of this section, then that approved regulator may—
- (a) retain a sum to be deducted from the amount payable to the Scottish Ministers under subsection (3) in respect of any expenditure reasonably incurred by the approved regulator in collecting the penalty, or
  - (b) recover from the licensed provider any expenditure reasonably incurred by it in doing so.
- (3B) At any time an approved regulator may discontinue collection of a financial penalty imposed by virtue of this section where the approved regulator considers it would not be reasonable in the circumstances for the approved regulator to attempt or continue to attempt collection.
- (3C) Subsection (3B) does not prevent the approved regulator, in circumstances where it has discontinued attempts to collect a financial penalty, from resuming such attempts where the approved regulator considers it is reasonable in the circumstances to do so.”.

*Licensed legal services providers*

**84 Licensing rules: fees**

In section 14 (licensing rules: general) of the 2010 Act, after subsection (2) insert—

- “(2A) Rules made in pursuance of subsection (1)(e) may provide for the approved regulator to charge different fees in relation to different applications for the issue of a licence, or for the renewal of a licence, according to—
- (a) the category of licensed provider—
    - (i) the applicant seeks to become, or (as the case may be)
    - (ii) the licensed provider seeks to remain,
  - (b) the category of licence to which the application relates,
  - (c) the category of legal services (or any other services prescribed in regulations under section 12(5)) which the applicant seeks to provide (or to continue to provide) under licence.”.

**85 Removal of requirement to act for fee, gain or reward**

In section 47 (licensed providers) of the 2010 Act, in subsection (1), the following provisions are repealed—

- (a) sub-paragraph (ii) of paragraph (a), and
- (b) the “and” immediately following that sub-paragraph.

**86 Eligibility criteria: law centres**

In section 48 (eligibility criteria) of the 2010 Act, in subsection (4)—

- (a) after paragraph (a) insert “or”,
- (b) the “or” immediately following paragraph (b) is repealed,
- (c) paragraph (c) is repealed.

**87 Majority ownership**

Section 49 (majority ownership) of the 2010 Act is repealed.

**88 Non-solicitor investors: factors as to fitness**

In section 64 (factors as to fitness) of the 2010 Act—

- (a) in subsection (4)—
  - (i) in the opening words, the words “(to any extent)” are repealed,
  - (ii) in paragraph (a), before “ownership” insert “significant”,
- (b) after subsection (4) insert—
 

“(4A) For the purpose of subsection (4)(a), whether a person has significant ownership or control of the body is to be determined by the approved regulator.”.

*Removal of certain practising restrictions*

**89 Removal of practising restrictions: law centres, citizens advice bodies and charities**

- (1) The 1980 Act is amended as follows.
- (2) In section 26(2) (offence for solicitors to act as agents for unqualified persons), for “or a citizens advice body” substitute “, a citizens advice body or a charity”.
- (3) In section 32 (offence for unqualified persons to prepare certain documents), in subsection (2B) (as substituted by paragraph 39(10) of schedule 3), after paragraph (b) insert—
 

“(c) a law centre, a citizens advice body or a charity.”.
- (4) After section 33B, insert—

**“33BA Privilege of law centres, citizens advice bodies and charities from disclosure etc.**

- (1) Any communication made to or by a law centre, a citizens advice body or a charity in the course of its providing legal services to a client will in any legal proceedings be privileged from disclosure in like manner as if the law centre,

citizens advice body or charity (as the case may be) had at all material times been a solicitor providing legal services to a client.

- (2) Any enactment or instrument making special provision in relation to a solicitor or other legal representative as to the disclosure of information, or as to the production, seizure or removal of documents, with respect to which a claim to professional privilege could be maintained, will, with any necessary modifications, have effect in relation to a law centre, a citizens advice body or a charity in the course of its providing legal services to a client as it has effect in relation to a solicitor.
- (3) 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)."
- (5) After section 33C, insert—

**“33D Practice rules relating to law centres, citizens advice bodies and charities**

- (1) Subsection (2) applies to any rule made under section 34 that prohibits or unduly restricts the—
  - (a) involvement of solicitors in or with, or employment of solicitors by, law centres, citizens advice bodies or charities, or
  - (b) provision of legal services by law centres, citizens advice bodies or charities.
- (2) The rule is of no effect in so far as it does so (and for this purpose it is immaterial when the rule was made).
- (3) The reference in subsection (1)(a) to solicitors does not include a solicitor who is disqualified from practice by reason of having been—
  - (a) struck off (or removed from) the roll, or
  - (b) suspended from practice.”.
- (6) In section 65(1) (interpretation), at the appropriate place, insert—

““charity” means a body entered in the Scottish Charity Register,”.

*Offences relating to pretending to be a regulated provider of legal services*

**90 Offence of taking or using the title of lawyer**

- (1) A person who is not entered in a register maintained under section 16 or, is not a licensed provider, commits an offence if the person—
  - (a) takes or uses the title of lawyer, and
  - (b) does so in connection with providing (or offering to provide) legal services to the public for fee, gain or reward.
- (2) Subsection (1) does not apply to a person who—
  - (a) takes or uses the title of lawyer in connection with providing (or offering to provide) legal services in relation to a religious law, and

- (b) when doing so makes it clear that the person's taking or using of the title of lawyer relates to the provision of legal services in relation to the religious law and not to the provision of legal services more generally.
- (3) In subsection (2), "religious law" means the law, rules, beliefs or practices of a religion.
- (4) A person who commits an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

**91 Offence of pretending to be a regulated legal services provider**

- (1) A person who is not entered in the register maintained by a category 1 or category 2 regulator under section 16 commits an offence if the person—
  - (a) takes or uses a name, title, addition or description implying that the person is regulated by the category 1 or category 2 regulator, and
  - (b) does so in connection with providing (or offering to provide) legal services to the public for fee, gain or reward.
- (2) In subsection (1), "title" does not include the title of lawyer.
- (3) A person who commits an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

**92 Offence of pretending to be a member of Faculty of Advocates**

- (1) A person who is not a member of the Faculty of Advocates commits an offence if the person without reasonable excuse—
  - (a) takes or uses a name, title, addition or description implying that the person is a member of the Faculty of Advocates,
  - (b) otherwise pretends to be a member of the Faculty of Advocates.
- (2) For the purpose of subsection (1), a person is a member of the Faculty of Advocates if the person is entered in the register maintained by the Faculty of Advocates under section 16.
- (3) A person who commits an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

**93 Time limit for prosecution of offences**

- (1) Proceedings for an offence under section 31(1), 40(1), 90(1), 91(1) or 92(1) may be commenced within the period of 6 months beginning with the day on which relevant evidence came to the prosecutor's knowledge.
- (2) But no such proceedings may be commenced more than 2 years—
  - (a) after the commission of the offence, or
  - (b) in the case of a continuous contravention, after the last day on which the offence was committed.
- (3) In the case of a continuous contravention, the complaint may specify the entire period during which the offence was committed.

- (4) A certificate signed by or on behalf of a prosecutor stating the day on which relevant evidence came to the prosecutor's knowledge is conclusive as to that fact (and such a certificate purporting to be so signed is to be regarded as being so signed unless the contrary is proved).
- (5) Section 136(3) of the Criminal Procedure (Scotland) Act 1995 applies for the purposes of this section as it applies for the purposes of that section.
- (6) In subsections (1) and (4), "relevant evidence" means evidence that the prosecutor believes is sufficient to justify the proceedings in question.

*Power of the Scottish Ministers to adjust restricted legal services*

**94 Power of the Scottish Ministers to adjust restricted legal services**

- (1) After section 32 of the 1980 Act (offence for unqualified person to prepare certain documents), insert—

**“32A Power to adjust what constitutes restricted legal services**

- (1) The Scottish Ministers may by regulations amend section 32 to make provision for or in connection with it being an offence for an unqualified person to—
  - (a) draw or prepare certain documents, or
  - (b) provide certain other legal services.
- (2) In particular, regulations under this section may—
  - (a) add, amend or remove a description of—
    - (i) a type of document that may not be drawn or prepared by an unqualified person without that person committing an offence,
    - (ii) a type of legal service that may not be provided by an unqualified person without that person committing an offence,
  - (b) add, amend or remove exemptions to the offence (including descriptions of persons to whom the offence does not apply) in relation to some or all of the documents or services that may not be drawn, prepared or, as the case may be, provided.
- (3) The Scottish Ministers may exercise the power to make regulations under subsection (1) only if they have received a request to exercise the power from—
  - (a) the Lord President,
  - (b) the regulatory committee of a category 1 regulator,
  - (c) a category 1 regulator that has no functions other than regulatory functions,
  - (d) an approved regulator within the meaning of Part 2 of the 2010 Act, or
  - (e) the independent advisory panel established by the Commission under paragraph 11A of schedule 1 of the 2007 Act.

- (4) Before making a request under subsection (3), the person making the request (“the requester”) must—
  - (a) consult—
    - (i) the regulatory committee (if any) of each category 1 regulator,
    - (ii) each category 1 regulator that has no functions other than regulatory functions,
    - (iii) each approved regulator within the meaning of Part 2 of the 2010 Act,
    - (iv) the panel mentioned in subsection (3)(e),
    - (v) such other person or body as the requester considers appropriate,
  - (b) except where the requester is the Lord President, secure the Lord President’s agreement to the making of the request.
- (5) But a body mentioned in subsection (4)(a)(i) to (iv) does not need to be consulted if the body is the requester.
- (6) For the purpose of seeking the Lord President’s agreement under subsection (4)(b), the requester must provide to the Lord President—
  - (a) a document setting out—
    - (i) an explanation of the change sought by the proposed exercise of the power, and
    - (ii) the reasons for seeking the change,
  - (b) copies of any written representations received in response to the consultation under subsection (4)(a).
- (7) A request under subsection (3) must include—
  - (a) a document setting out—
    - (i) an explanation of the change sought by the proposed exercise of the power, and
    - (ii) the reasons for seeking the change,
  - (b) copies of any written representations received in response to the consultation under subsection (4)(a), and
  - (c) except where the requester is the Lord President, written confirmation of the Lord President’s agreement to the making of the request.
- (8) As soon as reasonably practicable after making a request under subsection (3), the requester must publish the documents included with the request in such manner as the requester considers appropriate (having regard to the desirability of the documents being accessible to those likely to have an interest in them).
- (9) Regulations made under this section are subject to the affirmative procedure (see section 29 of the Interpretation and Legislative Reform (Scotland) Act 2010).”.
  - (2) The section title of section 32 becomes “**Offence for unqualified person to provide certain legal services**”.

*Lord President's functions under Parts 1 and 2: rule-making power*

**95 Lord President's functions under Parts 1 and 2: rule-making making power**

- (1) The Lord President may make rules in connection with the exercise of the Lord President's functions under Part 1 or 2 of this Act.
- (2) Before making rules under subsection (1), the Lord President must consult—
  - (a) the independent advisory panel of the Commission, and
  - (b) each category 1 and category 2 regulator.
- (3) Rules under subsection (1) may in particular require each category 1 and category 2 regulator to maintain a list of—
  - (a) its regulatory functions, and
  - (b) the requirements imposed on it under this Act or any other enactment.
- (4) Rules under subsection (1)—
  - (a) may make different provision for different purposes,
  - (b) are to be published in such manner as the Lord President may determine.

*Minor and consequential modifications*

**96 Modification of other enactments**

Parts 4 and 5 of schedule 3 contain minor and consequential modifications of enactments.

*Review of Act*

**97 Review of Act**

- (1) The Scottish Ministers must, as soon as reasonably practicable after the end of the review period—
  - (a) undertake a review of the principal changes to the regulation of legal services arising from the Act, and
  - (b) prepare a report on that review.
- (2) The Scottish Ministers may delegate their functions under subsection (1) to such person as they consider appropriate.
- (3) When undertaking a review under subsection (1)(a), the Scottish Ministers (or, if applicable, the person to whom the function is delegated under subsection (2)) must consult—
  - (a) regulators of legal services,
  - (b) consumers of legal services,
  - (c) the Commission, and
  - (d) such other persons as are considered appropriate.
- (4) The Scottish Ministers must, as soon as reasonably practicable after the report is prepared—
  - (a) publish the report, and

- (b) lay it before the Scottish Parliament.
- (5) In this section, “the review period” means the period of 10 years beginning with the day on which sections 7, 39, 50 and 85 come into force or, if they come into force on different days, the latest of those days.

## **PART 5**

### **GENERAL**

#### **98 Individual culpability for offending by an organisation**

- (1) Subsection (2) applies where—
  - (a) an offence under this Act is committed by a relevant organisation, and
  - (b) the commission of the offence involves the connivance or consent of, or is attributable to the neglect of—
    - (i) a responsible official of the organisation, or
    - (ii) an individual purporting to act in the capacity of a responsible official.
- (2) The responsible official (or, as the case may be, the individual purporting to act in that capacity), as well as the organisation, commits the offence.
- (3) “Relevant organisation” means—
  - (a) a company,
  - (b) a partnership (including a limited liability partnership),
  - (c) another body or association.
- (4) “Responsible official” means—
  - (a) in the case of a company—
    - (i) a director, secretary, manager or similar officer, or
    - (ii) where the affairs of the company are managed by its members, a member,
  - (b) in the case of a limited liability partnership, a member,
  - (c) in the case of a partnership other than a limited liability partnership, a partner,
  - (d) in the case of another body or association, a person who is concerned in the management or control of its affairs.

#### **99 Civil enforcement in relation to offences**

- (1) This section applies if a category 1 or category 2 regulator considers that a person has committed an offence under any of the following provisions—
  - (a) section 31(1) (offence of pretending to have acquired rights),
  - (b) section 39(5) (offence of owning or operating a legal business without authorisation),
  - (c) section 40(1) (offence of pretending to be an authorised legal business),
  - (d) section 90(1) (offence of taking or using the title of lawyer),



- (e) section 91(1) (offence of pretending to be a regulated legal services provider),
  - (f) section 92(1) (offence of pretending to be a member of the Faculty of Advocates).
- (2) The regulator may apply to the sheriff or the Court of Session for interdict (including interim interdict) against the person to seek to prevent the person from doing anything that constitutes or would constitute the offence.
- (3) Following an application under subsection (2), the sheriff or the Court of Session may grant such interdict (or interim interdict) on such terms as it considers appropriate for the purpose of preventing the person from doing anything that constitutes or would constitute the offence.
- (4) This section does not restrict a category 1 or category 2 regulator from seeking any other court order against a person mentioned in this section.

## **100 Regulations**

- (1) Any power of the Scottish Ministers to make regulations under this Act includes power to make—
  - (a) different provision for different purposes,
  - (b) incidental, supplementary, consequential, transitional, transitory or saving provision.
- (2) This section does not apply to section 103(3).

## **101 Ancillary provision**

- (1) The Scottish Ministers may by regulations make any incidental, supplementary, consequential, transitional, transitory or saving provision they consider appropriate for the purposes of, in connection with or for giving full effect to this Act or any provision made under it.
- (2) Regulations under this section may modify any enactment (including this Act).
- (3) Regulations under subsection (1)—
  - (a) are subject to the affirmative procedure if they add to, replace or omit any part of the text of an Act, but
  - (b) otherwise, are subject to the negative procedure.

## **102 Interpretation**

- (1) In this Act—
  - “1980 Act” means the Solicitors (Scotland) Act 1980,
  - “1990 Act” means the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990,
  - “2007 Act” means the Legal Profession and Legal Aid (Scotland) Act 2007,
  - “2010 Act” means the Legal Services (Scotland) Act 2010.
- (2) In this Act, unless the context otherwise requires—
  - “accredited regulator” has the meaning given in section 28(8),
  - “advocate” means a practising member of the Faculty of Advocates,

“ALB rules” is to be construed in accordance with section 41(1),

“approved regulator of licensed providers” is to be construed in accordance with Part 2 of the 2010 Act,

“Association of Construction Attorneys” means the private limited company, company number SC344543, that has acquired rights of audience for its members by virtue of having an application under section 25 of the 1990 Act granted under section 26 of that Act,

“authorised legal business” is to be construed in accordance with section 39(14)(a),

“category 1 regulator” (and cognate expressions) means a body that regulates the provision of legal services and which has been assigned as a category 1 regulator in or under section 7,

“category 2 regulator” (and cognate expressions) means a body that regulates the provision of legal services and which has been assigned as or deemed a category 2 regulator in or under section 7,

“the Commission” means the Scottish Legal Complaints Commission,

“the independent advisory panel of the Commission” is the independent advisory panel established by the Commission under paragraph 11A of schedule 1 of the 2007 Act,

“Law Society” means the Law Society of Scotland,

“legal services provider” has the meaning given in section 5(4),

“licensed legal services provider” (and “licensed provider”) is to be construed in accordance with Part 2 of the 2010 Act,

“Lord President” means the Lord President of the Court of Session,

“regulatory functions” in relation to a regulator, means its functions as a regulatory authority described in section 6,

“solicitor” is to be construed in accordance with section 65(1) of the 1980 Act.

### **103 Commencement**

- (1) This section and section 104 come into force on the day of Royal Assent.
- (2) Sections 100 to 102 come into force on the day after Royal Assent.
- (3) The other provisions of this Act come into force on such day as the Scottish Ministers may by regulations appoint.
- (4) Regulations under this section may—
  - (a) include transitional, transitory or saving provision,
  - (b) make different provision for different purposes.

### **104 Short title**

The short title of this Act is the Regulation of Legal Services (Scotland) Act 2025.

SCHEDULE 1  
(introduced by sections 1(5) and 38(6))

LAW SOCIETY OF SCOTLAND

**PART 1**

CATEGORY 1 REGULATOR

*Exercise of regulatory functions*

- 1 (1) Section 3A of the 1980 Act (discharge of functions of the Council of the Law Society) is amended as follows.
  - (2) In subsection (10), in paragraph (a), after “enactment” insert “(but see subsection (11))”.
  - (3) In subsection (11), in paragraph (a), for “3B to 3G” substitute “3B and 3D and Chapter 2 of Part 1 of the Regulation of Legal Services (Scotland) Act 2025”.
- 2 (1) Section 3B of the 1980 Act is amended as follows.
  - (2) In subsection (1), for “for the purpose mentioned in subsection (2)” substitute “in accordance with Chapter 2 of Part 1 of the Regulation of Legal Services (Scotland) Act 2025”.
  - (3) Subsection (2) is repealed.
  - (4) In subsection (3)—
    - (a) in the opening words “Accordingly” is repealed,
    - (b) paragraph (b) and the “or” immediately preceding it are repealed.
  - (5) After subsection (4), insert—

“(5) Paragraphs (b) and (c) of section 3A(9) do not apply to the Council’s regulatory functions.”.
- 3 The following sections of the 1980 Act are repealed—
  - (a) section 3C (particular rules applying),
  - (b) section 3E (further provision for section 3B etc.).
- 4 (1) Section 3F of the 1980 Act (meaning of regulatory functions) is amended as follows.
  - (2) In subsection (1), for “3B to 3E” substitute “3B and 3D”.
  - (3) For subsection (2), substitute—

“(2) Those functions include, in particular—

    - (a) setting standards for admission or authorisation and the ongoing training of the persons described in subsection (1),
    - (b) handling complaints about those persons,
    - (c) making regulatory rules under this Act and any other relevant enactment,
    - (d) administering the Client Protection Fund under section 43,
    - (e) safeguarding the interests of clients under sections 45A and 46A, and

- (f) complying with the requirements imposed on the Council and the regulatory committee under the Regulation of Legal Services (Scotland) Act 2025 (in so far as provision is not made for those matters under this Act).”.
- 5 (1) Section 3G of the 1980 Act (extended meaning of regulatory functions under section 3F) is amended as follows.
  - (2) In the opening words, for “3B to 3E” substitute “3B and 3D”.

#### *Client Protection Fund*

- 6 (1) Section 43 of the 1980 Act (Guarantee Fund) is amended as follows.
  - (2) After subsection (2), insert—
    - “(2A) The Client Protection Fund may also be used for the purpose of providing loans or grants to judicial factors appointed in respect of any person described in subsection (2)(a) to (c) in order to mitigate the risk of any further pecuniary losses being suffered by the clients of such a person by reason of the dishonesty.”.
  - (3) In subsection (5), the words from “they” to the end become paragraph (a) and after that paragraph insert—
    - “(b) the applicant has already made a claim for the loss in respect of a particular act of dishonesty unless the claim relates to a further loss of which the applicant was unaware (and could not reasonably have known about) at the time of making the original claim.”.
  - (4) In subsection (6), for “any committee” substitute “a sub-committee or individual”.
  - (5) The title of section 43 becomes “**Client Protection Fund**”.
  - (6) After section 43, insert—
    - “**43A Client Protection Fund: further provision**
      - (1) The Scottish Ministers may by regulations make provision in relation to the Client Protection Fund and may, in particular, modify section 43 and schedule 3.
      - (2) Without limit to that generality, regulations made under this section may—
        - (a) make provision in relation to when grants are (or are not) to be made,
        - (b) amend the maximum amount of an individual grant for the time being specified in paragraph 4 of Part 1 of schedule 3,
        - (c) make provision in connection with the making of contributions to the Fund and its administration and management.
      - (3) The Scottish Ministers may exercise the power to make regulations under subsection (1) only if they have received a request from—
        - (a) the Lord President,
        - (b) the regulatory committee, or

- (c) the independent advisory panel established by the Commission under paragraph 11A of schedule 1 of the 2007 Act,
- (4) Before making a request under subsection (3), the person making the request (“the requester”) must—
  - (a) consult—
    - (i) the regulatory committee unless the committee is the requester,
    - (ii) the panel mentioned in subsection (3)(c) unless it is the requester, and
    - (iii) such other person or body as the requester considers appropriate, and
  - (b) except where the requester is the Lord President, secure the Lord President’s agreement to the making of the request.
- (5) For the purpose of seeking the Lord President’s agreement under subsection (4)(b), the requester must provide to the Lord President—
  - (a) a document setting out—
    - (i) an explanation of the change sought by the proposed exercise of the power, and
    - (ii) the reasons for seeking the change, and
  - (b) copies of any written representations received in response to the consultation under subsection (4)(a).
- (6) A request under subsection (3) must include—
  - (a) a document setting out—
    - (i) an explanation of the change sought by the proposed exercise of the power, and
    - (ii) the reasons for seeking the change,
  - (b) copies of any written representations received in response to the consultation under subsection (4)(a), and
  - (c) except where the requester is the Lord President, written confirmation of the Lord President’s agreement to the making of the request.
- (7) As soon as reasonably practicable after making a request under subsection (3), the requester must publish the documents included with the request in such manner as the requester considers appropriate (having regard to the desirability of the documents being accessible to those likely to have an interest in them).
- (8) Regulations under subsection (1) are subject to the affirmative procedure (see section 29 of the Interpretation and Legislative Reform (Scotland) Act 2010).”.  
  
7 (1) Schedule 3 of the 1980 Act is amended as follows.
  - (2) In Part 1, paragraph 5 of Part 1 (as inserted by section 130(b) of the 2010 Act) is repealed.

- 8 In section 39 of the 2007 Act (monitoring effectiveness of guarantee funds etc.), in paragraph (a) of subsection (1), before “the Council” insert “the regulatory committee of”.

## **PART 2**

### **REGULATION OF LEGAL BUSINESSES**

#### *Regulatory functions*

- 9 (1) Section 3F of the 1980 Act (meaning of “regulatory functions”) is amended as follows.
- (2) In paragraph (a) of subsection (1), for “(including firms of solicitors) and incorporated practices” substitute “and authorised legal businesses”.

#### *Suspension of authorisation*

- 10 (1) Section 18 of the 1980 Act (suspension of practising certificates) is amended as follows.
- (2) In subsection (1A)—
- (a) in paragraph (a), for “the incorporated practice” substitute “an authorised legal business”,
  - (b) in paragraph (b)—
    - (i) for “an incorporated practice” substitute “an authorised legal business”,
    - (ii) for “incorporated practice with another incorporated practice” substitute “authorised legal business with another authorised legal business”,
  - (c) for the closing words substitute—

“its authorisation is deemed to be withdrawn and, where the business is an incorporated practice, its recognition under section 34(1A) is deemed to be revoked.”.
- (3) In subsection (3A)—
- (a) in paragraph (a), for “incorporated practice” substitute “authorised legal business”,
  - (b) in paragraph (b), for “incorporated practice” substitute “authorised legal business”.

#### *Consultants*

- 11 (1) Section 21 of the 1980 Act (consultants to hold practising certificates) is amended as follows.
- (2) In subsection (3), after paragraph (b) insert—
- “(c) not being an owner, member or director of another form of authorised legal business, causes or permits their name to be associated with that business,”.

*Offence of disqualified solicitors dishonestly seeking employment*

- 12 (1) Section 28 of the 1980 Act (offence for solicitors who are disqualified to seek employment without informing employer) is amended as follows.
- (2) In the closing words—
- (a) for “a solicitor in connection with that solicitors practice or by an incorporated practice or multi-national practice” substitute “an authorised legal business”, and
  - (b) the words “him, or as the case may be,” are repealed.

*Rules as to professional practice, conduct and discipline*

- 13 (1) Section 34 of the 1980 Act (rules as to professional practice, conduct and discipline) is amended as follows.
- (2) In subsection (1)—
- (a) after “(3)” insert “of this section and section 41 of the Regulation of Legal Services (Scotland) Act 2025”,
  - (b) for “incorporated practices” substitute “authorised legal businesses (including incorporated practices)”.
- (3) In subsection (1A), the “and” after paragraph (d) is repealed and after that paragraph insert—
- “(da) in the event that a body corporate is no longer recognised as an incorporated practice, require the review or withdrawal of its authorisation to provide legal services as a legal business, and”.
- (4) In subsection (1D), in paragraph (a), for “incorporated practices” substitute “authorised legal businesses”.

*Rules as to accounts etc.*

- 14 (1) Section 35 of the 1980 Act (accounts rules) is amended as follows.
- (2) In subsection (1)—
- (a) in paragraph (a), for “solicitors and incorporated practices” substitute “authorised legal businesses”,
  - (b) in paragraph, (b) for “solicitors and incorporated practices” substitute “authorised legal businesses”,
  - (c) in paragraph (c), for “solicitors and incorporated practices” substitute “authorised legal businesses”,
  - (d) the “and” immediately following paragraph (d) is repealed, and after that paragraph insert—
- “(da) as to which solicitor is (or solicitors are) responsible for ensuring compliance with the rules made under this section on behalf of an authorised legal business, and”,

- (e) in paragraph (e)—
    - (i) after “solicitors” insert “or authorised legal businesses”,
    - (ii) for “a solicitor who” substitute “an authorised legal business which”.
- 15 (1) Section 36 of the 1980 Act (interest on client’s money) is amended as follows.
  - (2) In subsection (1)—
    - (a) in the opening words, for “a solicitor or an incorporated practice” substitute “an authorised legal business”,
    - (b) in paragraph (aa), in the closing words, for “solicitor in his or, as the case may be the incorporated practice” substitute “authorised legal business”,
    - (c) in paragraph (b), for “solicitor’s or, as the case may be, the incorporated practice’s” substitute “authorised legal business’s”.
  - (3) In subsection (2), for “a solicitor or incorporated practice” substitute “an authorised legal business”.
  - (4) In subsection (3)—
    - (a) for “a solicitor or incorporated practice” substitute “an authorised legal business”,
    - (b) for “solicitor or, as the case may be, incorporated practice” substitute “authorised legal business”,
    - (c) the words “his or, as the case may be,” are repealed.
  - (5) In subsection (4), for “a solicitor and his client or an incorporated practice” substitute “an authorised legal business (or any solicitor acting on its behalf)”.
- 16 (1) Section 37 of the 1980 Act (accountant’s certificates) is amended as follows.
  - (2) In subsection (2), for “incorporated practice” substitute “authorised legal business”.
  - (3) In subsection (3), in paragraph (b), for “a solicitor or his firm or of an incorporated practice” substitute “an authorised legal business”.
  - (4) After subsection (3) insert—

“(3A) The accountant’s certificate rules must include rules providing for a particular solicitor (or solicitors) to be responsible for ensuring compliance with the rules on behalf of an authorised legal business.”.
  - (5) In subsection (5)—
    - (a) in paragraph (a)—
      - (i) for “a solicitor who or incorporated practice” substitute “an authorised legal business”,
      - (ii) for “the solicitor or his firm or, as the case may be, of the incorporated practice” substitute “the authorised legal business”,
      - (iii) the words “him or them or as the case may be,” are repealed,
    - (b) in paragraph (b)—
      - (i) for “a solicitor or incorporated practice who” substitute “an authorised legal business which”,



- (ii) the words “he has not in the course of his practice or, as the case may be,” are repealed.
- (6) In subsection (6)—
  - (a) in paragraph (a), in sub-paragraph (iii), for “solicitors or incorporated practices” substitute “authorised legal businesses”,
  - (b) in the closing words—
    - (i) the words “a solicitor who satisfies the Council that he or, as the case may be,” are repealed,
    - (ii) for “incorporated practice” substitute “authorised legal business”.
- (7) In subsection (7)—
  - (a) for “solicitor or incorporated practice” substitute “authorised legal business”,
  - (b) the words “him, or as the case may be,” are repealed.
- 17 (1) Section 37A of the 1980 Act (accounts and anti-money laundering fees) is amended as follows.
  - (2) In subsection (1), in paragraph (b), for “incorporated practice” substitute “authorised legal business”.
  - (3) In subsection (5), in paragraph (b)—
    - (a) for “incorporated practices” substitute “authorised legal businesses”,
    - (b) after “as” insert “owners, partners,”.

*Powers where excessive fees etc. charged*

- 18 (1) Section 39A of the 1980 Act (powers where excessive fees etc. charged) is amended as follows.
  - (2) In subsection (1), for “incorporated practice” in each place it occurs substitute “authorised legal business”.
  - (3) In subsection (2), in paragraph (b)—
    - (a) for “incorporated practice” in both places it occurs substitute “authorised legal business”,
    - (b) after “are” insert “owners, partners or”.
  - (4) In subsection (3), for “incorporated practice” where it first occurs substitute “authorised legal business”.
  - (5) In subsection (4), in paragraph (a), for “incorporated practice” substitute “authorised legal business”.
  - (6) In subsection (6), for “incorporated practice” substitute “authorised legal business”.
  - (7) In subsection (7), for “incorporated practice” substitute “authorised legal business”.

*Powers where failure to comply with rules*

- 19 (1) Section 40 of the 1980 Act (power where failure to comply with accounts rules etc.) is amended as follows.
- (2) In subsection (1)—
- (a) for “incorporated practice” in each place it occurs substitute “authorised legal business”,
  - (b) in the second paragraph (b), after “are” insert “owners, partners or, as the case may be,”.
- (3) In subsection (2), for “incorporated practice” where it first occurs substitute “authorised legal business”.

*Judicial factors*

- 20 (1) Section 41 of the 1980 Act (appointment of judicial factor) is amended as follows.
- (2) In the opening words, for “incorporated practice” substitute “authorised legal business”.
- (3) In paragraph (a), for “incorporated practice” substitute “authorised legal business”.
- (4) In paragraph (c), for “incorporated practice” substitute “authorised legal business”.
- (5) In the closing words, for “incorporated practice” in both places it occurs substitute “authorised legal business”.

*Distribution of sums in client bank account*

- 21 (1) Section 42 of the 1980 Act (distribution of sums in client bank account) is amended as follows.
- (2) In subsection (1), for “incorporated practice” in both places it occurs substitute “authorised legal business”.
- (3) In subsection (2)—
- (a) in paragraph (b), for “behoof” substitute “the benefit”,
  - (b) after paragraph (c) insert—
    - “(d) the entering by the solicitor into a debt arrangement scheme within the meaning of Part 1 of the Debt Arrangement and Attachment (Scotland) Act 2002.”.
- (4) In subsection (2A)—
- (a) in the opening words, for “incorporated practice” substitute “authorised legal business”,
  - (b) before paragraph (a), insert—
    - “(za) the sequestration of its estate,
    - (zb) the granting by it of a trust deed for the benefit of creditors,
    - (zc) the entering by it into a debt arrangement scheme within the meaning of Part 1 of the Debt Arrangement and Attachment (Scotland) Act 2002,”.

- (c) in paragraph (b), for “incorporated practice” substitute “authorised legal business”.
- (5) In subsection (3), for “incorporated practice” in each place it occurs substitute “authorised legal business”.

*Client Protection Fund*

22 (1) Section 43 of the 1980 Act (Guarantee Fund) is amended as follows.

- (2) In subsection (2)—
  - (a) in paragraph (b)—
    - (i) for “incorporated practice or any” substitute “authorised legal business or any owner, partner,”,
    - (ii) for “incorporated practice” where it second occurs substitute “authorised legal business”,
    - (iii) for “recognised under section 34(1A)” substitute “authorised”,
  - (b) in paragraph (c), the words “(with the same meaning as for Part 2 of the 2010 Act)” are repealed.
- (3) In subsection (3)—
  - (a) in paragraph (cc)—
    - (i) for “incorporated practice or any” substitute “authorised legal business or any owner, partner,”,
    - (ii) for the words from “director” where it second occurs to the end of the paragraph substitute “owner, partner, director, member, manager, secretary or other employee of the authorised legal business in connection with the business”,
  - (b) in paragraph (g)—
    - (i) after “any” where it second occurs insert “owner, partner,”,
    - (ii) for “incorporated practice” substitute “authorised legal business”,
    - (iii) for “incorporated practice’s” substitute “authorised legal business’s”.
- (4) In subsection (7), in paragraph (c), for “incorporated practice” substitute “authorised legal business”.

23 (1) Part 1 of schedule 3 of the 1980 Act (the Scottish Solicitors Guarantee Fund) is amended as follows.

- (2) In paragraph 1—
  - (a) in sub-paragraph (2A), for paragraph (a) substitute—
    - “(aa) owners, partners, directors or members of authorised legal businesses, or”,
  - (b) in sub-paragraph (2B), in paragraph (a), for the words from the beginning to “34(1A)” substitute “by every authorised legal business in respect of each year during which, or part of which, it is authorised to provide legal services by the Society”,

- (c) in sub-paragraph (3A)—
    - (i) in paragraph (a)(i)—
      - (A) for “incorporated practices” substitute “authorised legal businesses”,
      - (B) after “as” insert “owners, partners,”,
    - (ii) in paragraph (b), for “incorporated practices” substitute “authorised legal businesses”,
  - (d) in sub-paragraph (4), for “incorporated practice” substitute “authorised legal business”,
  - (e) in sub-paragraph (5), for “incorporated practice” substitute “authorised legal business”,
  - (f) in sub-paragraph (8), for “incorporated practice” substitute “authorised legal business”.
- (3) In paragraph 3, in sub-paragraph (2)—
- (a) for “incorporated practices” substitute “authorised legal businesses”,
  - (b) for “incorporated practice or practices” substitute “authorised legal business or businesses”.
- (4) In paragraph 4, in sub-paragraph (2), for “incorporated practice” substitute “authorised legal business”.
- 24 (1) Part 2 of schedule 3 of the 1980 Act (powers of Council to investigate) is amended as follows.
- (2) In paragraph 5, sub-paragraph (2), for “incorporated practice” substitute “authorised legal business”.

### *Professional indemnity*

- 25 (1) Section 44 of the 1980 Act (professional indemnity) is amended as follows.
- (2) In subsection (1), for “incorporated practices” in both places it occurs substitute “authorised legal businesses”.
- (3) In subsection (3)—
- (a) in paragraph (b), for “incorporated practices or any class of incorporated practices” substitute “authorised legal businesses or any type of authorised legal business”,
  - (b) in paragraph (c), for “incorporated practices or any class of incorporated practices” substitute “authorised legal businesses or any type of authorised legal business”,
  - (c) in paragraph (f), for “incorporated practice” substitute “authorised legal business”,
  - (d) in paragraph (g), for “incorporated practices” substitute “authorised legal businesses”.
- (4) In subsection (5), in the definition of “professional liability”, for “incorporated practices” substitute “authorised legal businesses”.

*Safeguarding interests of clients*

26 (1) The 1980 Act is amended as follows.

- (2) After section 45 (safeguarding interests of clients of solicitor struck off or suspended) insert—

**“45A Safeguarding interests of clients of an authorised legal business where authorisation suspended or withdrawn**

- (1) This section has effect in relation to any authorised legal business whose authorisation to provide legal services is suspended or withdrawn (such business being referred to in this section as a “former authorised legal business”).
- (2) The right to operate on or otherwise deal with any client account in the name of the former authorised legal business vests in the Society (notwithstanding any enactment or rule of law to the contrary) to the exclusion of any other person and is exercisable from the date of suspension or withdrawal of the relevant authorisation (as applicable).
- (3) Any sum of money held by or in the name of the former authorised legal business on behalf of, or in relation to—
  - (a) the clients of the former authorised legal business, or
  - (b) any trust of the kind mentioned in subsection (5)(b),vests in the Society (notwithstanding any enactment or rule of law to the contrary) to the exclusion of any other person with effect from the date of suspension or withdrawal of the relevant authorisation (as applicable).
- (4) The Council may direct any former authorised legal business or any other person to take any specified action (or to refrain from doing something) if the Council considers that to be necessary or expedient for safeguarding the interests of the clients of the former authorised legal business.
- (5) Directions given under subsection (4) may in particular (but without prejudice to the generality of subsection (4)) require the former authorised legal business or any other person to make available to a relevant person or body any document or information (of whatever kind) held or previously held in the possession or control of the former authorised legal business which—
  - (a) relates to, or is held on behalf of, a client of the former authorised legal business, or
  - (b) relates to any trust of which the former authorised legal business (or any of its members, owners, partners or directors or any entity owned by the former authorised legal business or its members, owners, partners or directors (or any of them) for the purposes of being a trustee) is sole trustee or co-trustee only with one or more of the members, owners, partners, directors or employees of the former authorised legal business.
- (6) For the purposes of subsection (5), a relevant person or body is—
  - (a) the particular client,
  - (b) the Society,

- (c) an authorised legal business or licensed legal services provider that is instructed by the particular client, the former authorised legal business or the Council to act in place of the former authorised legal business.
  - (7) The former authorised legal business or other person to whom a direction is given under subsection (4) may appeal to the Court against the direction within 14 days beginning with the day of being notified of the direction.
  - (8) On an appeal under subsection (7)—
    - (a) the Court may—
      - (i) vary the direction,
      - (ii) impose such conditions in relation to the direction as it considers appropriate in all the circumstances, or
      - (iii) revoke the direction,
    - (b) the Court’s decision is final.
  - (9) The Court may, on application by the Council, make an order—
    - (a) requiring the former authorised legal business or any other person to comply with a direction given under subsection (4),
    - (b) varying the direction or imposing such conditions as the Court considers appropriate in all the circumstances,
    - (c) providing that, without the leave of the Court, no payment may be made by any bank, building society or other body named in the order out of any account (or any sum otherwise deposited) in the name of the former authorised legal business,
    - (d) providing otherwise as it may see fit.
  - (10) Before making an order under subsection (9), the Court must—
    - (a) except where the Court considers it an appropriate course of action in all the circumstances of the case to dispense with this requirement, give the former authorised legal business and any other person with an interest an opportunity to be heard,
    - (b) be satisfied that the order represents an appropriate course of action in all the circumstances of the case.
  - (11) Part II of Schedule 3 has effect in relation to the powers of the Council under this section.”.
- (3) After section 46 (safeguarding interests of clients in certain other cases) insert—
- “46A Safeguarding interests of clients in certain other cases**
- (1) This section applies in relation to an authorised legal business comprised of a sole solicitor who—
    - (a) has died,
    - (b) is incapacitated by illness or accident to such an extent as to be unable to operate and manage the relevant authorised legal business,

- (c) is disqualified from operating or managing the relevant authorised legal business (whether as a result of the suspension or withdrawal of the practising certificate of the sole solicitor or the imposition of conditions on that certificate or otherwise), or
  - (d) has ceased to practise for any other reason.
- (2) The right to operate on or otherwise deal with any client account in the name of the solicitor or the relevant authorised legal business vests in the Society (notwithstanding any enactment or rule of law to the contrary) to the exclusion of any personal representatives of the solicitor or any other person, and is exercisable from the date of the death, incapacity or disqualification of the solicitor.
- (3) Any sum of money held by, or in the name of, the solicitor or the relevant authorised legal business on behalf of, or in relation to—
  - (a) the clients of the solicitor or the relevant authorised legal business, or
  - (b) any trust of the kind mentioned in subsection (4)(b),vests in the Society (notwithstanding any enactment or rule of law to the contrary) to the exclusion of any personal representatives of the solicitor or any other person with effect from the date of the death, incapacity or disqualification of the solicitor (as applicable).
- (4) The Council may issue a direction requiring that any document or information (of whatever kind) held or previously held in the possession or control of the solicitor or relevant authorised legal business which—
  - (a) relates to, or is held on behalf of, a client of the solicitor or relevant authorised legal business, or
  - (b) relates to any trust of which the solicitor or relevant authorised legal business or any entity owned by the solicitor or relevant authorised legal business formed for the purposes of being a trustee is sole trustee or co-trustee only with one or more of its employees is made available to—
    - (i) the particular client,
    - (ii) the Society,
    - (iii) an authorised legal business or licensed legal services provider that is instructed by the particular client or the Council to act in place of the solicitor or the relevant authorised legal business.
- (5) The Court may, on an application by the Council, make an order—
  - (a) requiring any party with possession or control of the relevant document or information to comply with a direction given under subsection (4) within such time as the Court may order,
  - (b) varying the direction or imposing such conditions as the Court considers appropriate in all the circumstances,
  - (c) providing that, without the leave of the Court, no payment may be made by any bank, building society or other body named in the order out of

- any account (or any sum otherwise deposited) in the name of the solicitor or the relevant authorised legal business,
- (d) providing otherwise as it may see fit.
- (6) Before making an order under subsection (5), the Court must—
- (a) except where the Court considers it an appropriate course of action in all the circumstances of the case to dispense with this requirement, give any person with an interest an opportunity to be heard,
- (b) be satisfied that the order represents an appropriate course of action in all the circumstances of the case.
- (7) Part II of Schedule 3 has effect in relation to the powers of the Council under this section.
- (8) In this section, an authorised legal business is “comprised of a sole solicitor” if it—
- (a) consists of a solicitor practising under the solicitor’s own name or as a single solicitor under a firm or business name, or
- (b) is wholly owned by a single solicitor.
- (9) For the purpose of subsection (8)(b), an authorised legal business may be wholly owned by a single solicitor—
- (a) directly or through one or more other bodies,
- (b) partly directly and partly through one or more other bodies.”.
- (4) Sections 45 (safeguarding interests of clients of solicitor struck off or suspended) and 46 (safeguarding interests of clients in certain other cases) are repealed.
- (5) In schedule 3, in paragraph 5—
- (a) in sub-paragraph (1)—
- (i) for “45 or 46” substitute “45A or 46A”,
- (ii) for “required” where it first occurs substitute “directed”,
- (b) in sub-paragraph (2) for “45 or 46” substitute “45A or 46A”,
- (c) sub-paragraph (3) is repealed.

#### *Recovery of expenses of intervention*

- 27 (1) In section 62A of the 1980 Act (Council’s power to recover expenses incurred under section 45 or 46)—
- (a) in subsection (1)—
- (i) the words “Without prejudice to the Society’s entitlement under section 46(4) to recover expenses” are repealed,
- (ii) after the word “solicitor” insert “(or from the estate of a solicitor who has died)”,
- (iii) for “45, or 46”, substitute “45A or 46A (including, but not limited to, giving directions under section 45A(4) or 46A(4))”,



(b) subsection (2) is repealed,

(c) after subsection (2) insert—

“(3) The Court, on the application of the Council, may order a current or former partner, owner, director or member (as the case may be) of a solicitor or an authorised legal business in respect of whom the Council has taken any action under sections 45A or 46A (including, but not limited to, making directions under section 45A(4) or 46A(4)) to pay a specified proportion of the expenditure mentioned in subsection (1).

(4) The Court may make an order under subsection (3) only if it is satisfied that the conduct (or any part of the conduct) by reason of which the powers conferred by sections 45A or 46A were exercisable in relation to the solicitor or authorised legal business was conduct carried on with the consent or connivance of, or was attributable to any neglect on the part of, the current or former partner, owner, director or member.

(5) In subsection (3), “specified” means specified in the order made by the Court.”.

(2) In section 70 of the 2010 Act (safeguarding clients)—

(a) after subsection (2) insert—

“(2A) The right to operate on or otherwise deal with any client account in the name of the licensed provider vests in the approved regulator (notwithstanding any enactment or rule of law to the contrary) to the exclusion of any other person and is exercisable from the date of suspension or revocation of the licensed provider’s licence (as applicable).

(2B) Any sum of money held by, or in the name of, the licensed provider on behalf of, or in relation to the clients of the licensed provider, or any trust of the kind mentioned in subsection (4)(a)(ii), vests in the approved regulator (notwithstanding any enactment or rule of law to the contrary) to the exclusion of any other person with effect from the date of the suspension or revocation of the licensed provider’s licence (as applicable).”.

(b) in subsection (4)—

(i) in paragraph (a)(ii), after the words “within it” insert “or any entity owned by the licensed provider or any of its investors or directors formed for the purposes of being a trustee”,

(ii) paragraph (b) is repealed,

(c) in subsection (6), after paragraph (c) insert—

“(d) providing otherwise as it may see fit.”,

(d) in subsection (7), in paragraph (a), at the beginning insert “except where the Court considers it an appropriate course of action in all the circumstances of the case to dispense with this requirement”,

(e) after subsection (8) insert—

“(8A) The Court, on the application of the approved regulator, may order a responsible official of a licensed provider in respect of whom it has taken any action under

this section to pay a specified proportion of the expenditure mentioned in subsection (8).

(8B) The Court may make an order under subsection (8A) only if it is satisfied that the conduct (or any part of the conduct) by reason of which the powers conferred by this section are exercisable in relation to the licensed provider was conduct carried on with the consent or connivance of, or was attributable to any neglect on the part of, the responsible official.

(8C) In subsections (8A) and (8B)—

“a responsible official” is—

- (a) a current or former investor in the licensed provider,
- (b) in the case of a licensed provider that is a company, a current or former director or other similar officer,
- (c) in the case of a licensed provider that is a limited liability partnership, a current or former member,
- (d) in the case of a licensed provider that is a partnership, a current or former partner,
- (e) in the case of a licensed provider that is another body or association, a person who is or was concerned in the management or control of its affairs,

but in each case also extends to a person purporting to act in such a capacity,

“specified” means specified in the order made by the Court.”.

*Restrictions on employing a struck off or suspended solicitor*

28 (1) Section 47 of the 1980 Act (restriction on employing solicitor struck off or suspended) is amended as follows.

(2) For subsection (1) substitute—

“(1) An authorised legal business must not, without the prior written permission of the Council, employ or remunerate a person (“A”) in connection with the authorised legal business’s practice at a time when A is disqualified from practising as a solicitor by reason of A being struck off the roll or suspended from practice as a solicitor.”.

(3) In subsection (3), for “A solicitor or, as the case may be, incorporated practice” substitute “An authorised legal business”.

(4) For subsection (4) substitute—

“(4) If an authorised legal business contravenes this section or a condition attached to the grant of permission under this section, the Tribunal or, in the case of an appeal, the Court may impose conditions or restrictions in relation to the authorised legal business’s authorisation to provide legal services.”.

*Complaints*

- 29 (1) Section 51 of the 1980 Act (complaints to Tribunal) is amended as follows.
- (2) In subsection (2), for “incorporated practice” substitute “authorised legal business”.
- (3) In subsection (4), after “solicitor” where it third occurs insert “or authorised legal business”.
- 30 (1) Section 52 of the 1980 Act (procedure on complaints and appeals to Tribunal) is amended as follows.
- (2) In subsection (1), for “incorporated practice” substitute “authorised legal business”.
- 31 (1) Section 53 of the 1980 Act (powers of Tribunal) is amended as follows.
- (2) In subsection (1)—
- (a) for paragraph (c) substitute—
- “(c) an authorised legal business has been convicted by a court of an offence, which conviction the Tribunal is satisfied renders it unsuitable to continue—
- (i) in a case where the business is an incorporated practice, to be recognised under section 34(1A), or
- (ii) in any case, to be authorised to provide legal services, or”,
- (b) in paragraph (d), for “incorporated practice” substitute “authorised legal business”.
- (3) In subsection (2)—
- (a) in paragraph (c), for “incorporated practice” substitute “authorised legal business”,
- (b) in paragraph (d), for “incorporated practice” substitute “authorised legal business”,
- (c) the “or” immediately after paragraph (f) is repealed,
- (d) after paragraph (f), insert—
- “(fa) order that the authorisation of a legal business to provide legal services be withdrawn, or”.
- (4) In subsection (3A), in paragraph (b)—
- (a) for “incorporated practice” where it first occurs substitute “authorised legal business”,
- (b) after “34(1A)” insert “or had its authorisation to provide legal services withdrawn”.
- (5) After subsection (5), insert—
- “(5A) Where the Tribunal have exercised the power conferred by subsection (2) to censure, or impose a fine on, an authorised legal business, or to both censure and impose a fine—
- (a) the Tribunal may order that the business’s authorisation is to be subject to such conditions as the Tribunal may direct, and
- (b) the Council must give effect to such an order.”.
- (6) After subsection (6A), insert—

“(6AA) Where the Tribunal orders that the authorisation of a legal business to provide legal services be withdrawn, the Tribunal must direct that the order is to take effect on such date as the Tribunal specifies, being a date not earlier than 60 days after its order is intimated to the authorised legal business, and such an order is to take effect accordingly.”.

- (7) In subsection (7), after “(6A)” in both places it occurs insert “, (6AA)”.
- 32 (1) Section 54 of the 1980 Act (appeals from decisions of Tribunal) is amended as follows.
- (2) In subsection (1A), for “incorporated practice” substitute “authorised legal business”.
  - (3) In subsection (1B), in paragraph (b), for “incorporated practice” substitute “authorised legal business”.
  - (4) In subsection (2), after paragraph (b) insert—
    - “(ba) the Tribunal has ordered that the authorisation of a legal business to provide legal services be withdrawn, the authorised legal business may within 21 days of the date when the order is intimated to it apply to the court for an order varying (subject to the limit of 60 days referred to in subsection (6AA) of section 53) the direction under that subsection,”.
- 33 (1) Part 2 of schedule 4 of the 1980 Act (procedure and powers of Tribunal) is amended as follows.
- (2) In paragraph 9, for “incorporated practice” in each place it occurs substitute “authorised legal business”.
  - (3) In paragraph 10, for “incorporated practice” substitute “authorised legal business”.
  - (4) In paragraph 16—
    - (a) in paragraph (c), for “incorporated practice” substitute “authorised legal business”,
    - (b) in paragraph (d), for “incorporated practice” substitute “authorised legal business”,
    - (c) after paragraph (e), insert—
      - “(ea) ordering that the authorisation of a legal business to provide legal services be withdrawn or subject to conditions, or”,
      - (d) in the closing words, after “53(6A)” insert “or (6AA)”.
  - (5) In paragraph 23, in paragraph (cb)(ii), for “, the firm of solicitors or, as the case may be, the incorporated practice” substitute “or the authorised legal business”.
  - (6) In paragraph 25, for “, the firm of solicitors or, as the case may be, the incorporated practice,” substitute “or the authorised legal business,”.

#### *Protection of banks*

- 34 (1) Section 61 of the 1980 Act (protection of banks) is amended as follows.
- (2) In subsection (1), for “incorporated practice” substitute “authorised legal business”.
  - (3) In subsection (2), for “incorporated practice” substitute “authorised legal business”.

- (4) In subsection (3), for “incorporated practice” in both places it occurs substitute “authorised legal business”.

*Recovery of Council’s expenses*

- 35 (1) Section 62A of the 1980 Act (Council’s power to recover expenses incurred under section 45 or 46) is amended as follows.
- (2) In subsection (1), for “incorporated practice” substitute “authorised legal business”.

*Service of notices*

- 36 (1) Section 64 of the 1980 Act (service of notices etc.) is amended as follows.
- (2) For “incorporated practice” substitute “authorised legal business”.
- (3) After “office” insert “or last intimated address”.

*Interpretation*

- 37 (1) Section 65 of the 1980 Act (interpretation) is amended as follows.
- (2) In subsection (1), after the definition of “anti-money laundering fee” insert—
- ““authorised legal business” is a legal business within the meaning of section 39 of the Regulation of Legal Services (Scotland) Act 2025 that is authorised to provide legal services by the Society (in its capacity as a category 1 regulator) in accordance with its authorisation rules made in pursuance of section 42 of that Act (and “authorised”, in relation to a legal business, is to be construed accordingly).”.

*Revenue powers in respect of authorised legal businesses*

- 38 (1) Schedule 1 of the 1980 Act (the Law Society of Scotland) is amended as follows.
- (2) In paragraph 6, for “paragraph” substitute “paragraphs 6B(2) and”.
- (3) After paragraph 6A, insert—
- “6B(1) The Society may, in accordance with its authorisation rules made in pursuance of section 42(1)(e) of the Regulation of Legal Services (Scotland) Act 2025 charge an annual fee in relation to the authorisation of legal businesses (and may charge different fees based on such criteria (such as the size or financial performance of the business) as the rules may specify).
- (2) For the purposes of paragraph 6, the Society in general meeting—
- (a) is to take into account the amount of any annual authorisation fee payable under sub-paragraph (1) when fixing subscriptions under paragraph 6, and
- (b) in so doing, may elect to fix a subscription of £0 for members (or categories of member) if it considers the annual authorisation fees payable under sub-paragraph (1) sufficient.”.

- (4) In paragraph 7A, the words from “a” to the end become paragraph (a) and after that paragraph insert “, or
  - (b) a special charge on all authorised legal businesses of such amount and payable at such time and for such specified purpose as it may determine.”.
- (5) In paragraph 7B, after “member” in both places it occurs insert “or type of authorised legal business”.
- (6) In paragraph 8, after “subscriptions” insert “, annual authorisation fees”.

SCHEDULE 2  
*(introduced by section 19(3))*

FURTHER PROVISION ABOUT MEASURES OPEN TO THE LORD PRESIDENT

**PART 1**

PERFORMANCE TARGETS

*Application*

- 1 This Part applies where the Lord President—
  - (a) is satisfied that an act or omission of a category 1 or category 2 regulator (or a series of acts or omissions) has had, or is likely to have, an adverse impact on the observance of any of the regulatory objectives, or
  - (b) considers that, for any other reason, it is necessary or expedient for one or more performance targets to be set as respects a category 1 or category 2 regulator.

*Power to set targets*

- 2 (1) The Lord President may—
  - (a) set one or more performance targets for the regulator in relation to its regulatory functions,
  - (b) require the regulator to set one or more performance targets in relation to its regulatory functions.
- (2) The regulator must (so far as practicable) comply with a performance target set for it under sub-paragraph (1)(a) or (b).

*Decision*

- 3 Where the Lord President decides to proceed with a measure under this Part—
  - (a) the decision notice required under paragraph 19(2) must contain any target set or any requirement made by the Lord President to set a target, and
  - (b) the regulator must publish any target set by it following a requirement under paragraph 2(1)(b) in such manner as it considers most appropriate for bringing it to the attention of any relevant person or body.

## PART 2

### DIRECTIONS

#### *Application*

- 4 This Part applies where the Lord President is satisfied that—
- (a) an act or omission of a category 1 or category 2 regulator (or a series of acts or omissions) has had, or is likely to have, an adverse impact on the observance of any of the regulatory objectives,
  - (b) a category 1 or category 2 regulator has failed to comply with a requirement imposed on it by or under this Act (including a direction given in accordance with this Part), or
  - (c) a category 1 or category 2 regulator has failed to adhere to its internal governance arrangements (including, in particular, those relating to the independent and effective exercise of its regulatory functions).

#### *Power to direct*

- 5 (1) The Lord President may direct the regulator to take—
- (a) in a case falling within paragraph 4(a), such action as the Lord President considers will counter the adverse impact, mitigate its effect or prevent its recurrence,
  - (b) in a case falling within paragraph 4(b) or (c), such action as the Lord President considers will remedy the failure, mitigate its effect or prevent its recurrence.
- (2) A direction under sub-paragraph (1) must not be framed by reference to—
- (a) a specific disciplinary case, or
  - (b) other specific regulatory proceedings.
- (3) A direction under sub-paragraph (1) may require the regulator to refrain from doing something.
- (4) The regulator must (so far as practicable) comply with a direction given to it in accordance with this Part.

#### *Decision*

- 6 Where the Lord President decides to proceed with a measure under this Part, the decision notice required under paragraph 19(2) must contain the direction.

#### *Extension of time to comply*

- 7 (1) The Lord President may, on an application by a category 1 or category 2 regulator made at any time after the giving of a direction, allow the regulator additional time to comply with the direction.
- (2) Where such additional time is allowed, the Lord President must publicise that fact in such manner as the Lord President considers most likely to bring it to the attention of any relevant person or body.

### *Enforcement*

- 8 (1) If at any time it appears to the Lord President that a category 1 or category 2 regulator has failed to comply with a direction given under this Part, the Lord President may make an application to the Court of Session for an order as described in sub-paragraph (2).
- (2) On an application under sub-paragraph (1), the Court may (if it decides that the regulator has failed to comply with the direction) order the regulator to take such steps as the Court considers appropriate to secure compliance with the direction.

## **PART 3**

### CENSURE

### *Application*

- 9 This Part applies where the Lord President is satisfied that—
- (a) an act or omission of a category 1 or category 2 regulator (or a series of acts or omissions) has had, or is likely to have, an adverse impact on the observance of any of the regulatory objectives, or
  - (b) a category 1 or category 2 regulator has failed to comply with a requirement imposed on it by or under this Act.

### *Power to censure*

- 10 The Lord President may make and publish a statement censuring the regulator for—
- (a) the act or omission (or series of acts or omissions), or
  - (b) the failure.

### *Decision*

- 11 Where the Lord President decides to proceed with a measure under this Part, the decision notice required under paragraph 19(2) must contain the statement (and the statement need not be published separately).

## **PART 4**

### MAKING CHANGES TO REGULATORY FUNCTIONS

### *Application*

- 12 This Part applies when the Lord President is satisfied that—
- (a) an act or omission of a category 1 or category 2 regulator (or a series of acts or omissions) has had, or is likely to have, an adverse impact on the observance of any of the regulatory objectives, and
  - (b) the matter cannot be addressed adequately by the Lord President taking any of the measures mentioned in section 19(4)(a) to (c).



*Power to make changes*

- 13 (1) Where the Lord President is taking a measure mentioned in section 19(4)(d), the Lord President may—
- (a) in a case where the regulator falls within sub-paragraph (6), direct the regulator to change its scheme in such manner and by such date as the Lord President may specify,
  - (b) in any other case, ask the Scottish Ministers to exercise the power under sub-paragraph (4) to change the regulatory functions exercised by the regulator.
- (2) Where the Lord President is taking a measure mentioned in section 19(4)(e), the Lord President may—
- (a) in a case where the regulator falls within sub-paragraph (6), direct the regulator to change its scheme in such manner and by such date as the Lord President may specify,
  - (b) in any other case, ask the Scottish Ministers to exercise the power under sub-paragraph (4) to change the way in which any of the regulatory functions of the regulator are to be exercised by it.
- (3) Where the Lord President is taking a measure mentioned in section 19(4)(f) in relation to a regulator that falls within sub-paragraph (6), the Lord President may revoke the approval of the regulator's application under section 28 of this Act or, as the case may be, under section 26(6) of the 1990 Act.
- (4) Following a request from the Lord President under sub-paragraph (1)(b) or (2)(b), the Scottish Ministers may by regulations make provision to change—
- (a) the regulatory functions exercised by the regulator, or
  - (b) the way in which any of the regulatory functions of the regulator are to be exercised by it.
- (5) The Scottish Ministers may exercise the power under sub-paragraph (4) only in accordance with such a request.
- (6) A regulator falls within this paragraph if it is an accredited regulator or if it acquired rights for its members to provide legal services (other than rights to conduct litigation and rights of audience) by virtue of an application under section 25 of the 1990 Act.
- (7) Regulations under this paragraph may amend an enactment.
- (8) For the purposes of sub-paragraphs (1)(a) and (2)(a), the regulator's scheme is the scheme that was approved under section 26(6) of the 1990 Act or, as the case may be, section 28 of this Act (as such scheme may be amended from time to time).

*Decision*

- 14 (1) Where the Lord President decides to proceed with a measure under this Part, the decision notice required under paragraph 19(2) must—
- (a) state—
    - (i) in a case where the regulator falls within paragraph 13(6), the changes that the Lord President intends to direct the regulator to make to its scheme or,

as the case may be, that the Lord President intends to remove all of the regulatory functions of the regulator,

- (ii) in any other case, the changes that the Lord President intends to ask the Scottish Ministers to make to the regulatory functions exercised by the regulator or to the way in which any of the regulatory functions of the regulator are to be exercised by it, and

- (b) explain why the Lord President considers the changes to be appropriate.

- (2) The date by which regulations may be made must not be within the period of 3 months beginning with the day on which the decision notice is given to the regulator.

#### *Parliamentary procedure for regulations*

- 15 (1) The Scottish Ministers may not make regulations under paragraph 13(4) unless—
  - (a) the Lord President has given the regulator a decision notice as required under paragraph 19(2),
  - (b) they have laid before the Scottish Parliament—
    - (i) the draft regulations, and
    - (ii) an explanatory document, and
  - (c) the draft regulations have been approved by resolution of the Parliament.
- (2) The explanatory document must give details of—
  - (a) any representations received as a result of the consultation under paragraph 18,
  - (b) any representation received as a result of the consultation on the draft regulations,
  - (c) the changes (if any) made to the proposed measure or regulations as a result of those representations.

## **PART 5**

### PROCEDURE FOR IMPOSING A MEASURE

#### *Application*

- 16 This Part applies to the Lord President taking any measure mentioned in section 19(4) against a category 1 or category 2 regulator.

#### *Notice of intention*

- 17 (1) Before taking a measure against the regulator, the Lord President must give it a notice (a “notice of intention”) of the Lord President’s intention to do so.
- (2) The notice of intention must set out the details of the proposed measure and, in particular, must—
  - (a) state the type of measure (or measures) that the Lord President intends to take,
  - (b) set out the details of what the Lord President proposes under the measure,
  - (c) explain why the Lord President is satisfied that it is appropriate to take the measure.

*Consultation*

- 18 (1) The regulator has 28 days beginning with the date of receipt of the notice of intention (or such longer period as the regulator and the Lord President may agree) to make representations to the Lord President about the proposed measure.
- (2) The Lord President must—
- (a) publish the notice of intention in such manner as the Lord President considers most appropriate for bringing it to the attention of any relevant person or body,
  - (b) give a copy of the notice of intention to such person or body as the Lord President considers appropriate,
  - (c) after the expiry of the period for representations—
    - (i) give the recipients under paragraph (b) a copy of any representations received from the regulator,
    - (ii) consult them accordingly in relation to the proposed measure (which consultation must provide at least 21 days for the consultees to respond).
- (3) Where the proposed measure is to remove all of the regulatory functions of the regulator as mentioned in section 19(4)(f), the Lord President must—
- (a) give a copy of the notice of intention under sub-paragraph (2)(b) to each person who is authorised by the regulator to provide legal services (“the authorised providers”), and
  - (b) consult the authorised providers in accordance with sub-paragraph (2)(c) about, in particular, in the event that all of the regulatory functions are removed from the regulator whether a majority of the authorised providers would like—
    - (i) another category 1 or category 2 regulator to authorise them to exercise their acquired rights (or such of them as may be surrendered) and regulate their exercise of the acquired rights (if that other regulator is content to so authorise and regulate them), or
    - (ii) to form a body and submit an application under section 23 seeking accreditation of the body to authorise them to exercise their acquired rights (or such of them as may be surrendered) and regulate their exercise of the acquired rights.
- (4) For the purpose of sub-paragraph (3), the Lord President may direct the regulator to give to each of the authorised providers (on the Lord President’s behalf) a copy of the notice of intention and the information required for the consultation.

*Decision*

- 19 (1) The Lord President must have regard to any representations made to the Lord President by the regulator, or any consultee under paragraph 18(2)(c), when deciding whether to proceed with the proposed measure.
- (2) The Lord President must—
- (a) give a notice of the Lord President’s decision (a “decision notice”) to the regulator,
  - (b) notify the consultees under paragraph 18(2)(c) of the Lord President’s decision,

- (c) publish the decision notice in such manner as the Lord President considers most appropriate for bringing it to the attention of any relevant person or body.
- (3) The decision notice must—
  - (a) explain the Lord President’s reasons for proceeding with the measure,
  - (b) set out the details of the action the Lord President is taking under the measure as required by the relevant Part of this schedule, and
  - (c) if appropriate, specify the date from which the measure will take effect (which may be the date on which that notice is given).

*Meaning of relevant persons or bodies*

- 20 For the purposes of this Part, relevant persons or bodies include—
- (a) other category 1 and category 2 regulators,
  - (b) legal services providers,
  - (c) organisations representing the interests of consumers,
  - (d) members of the public.

SCHEDULE 3  
*(introduced by sections 1(5), 82 and 96)*

MINOR AND CONSEQUENTIAL MODIFICATIONS OF ENACTMENTS

**PART 1**

REGULATORY FRAMEWORK

*Regulatory objectives and professional principles*

- 1 (1) The 2007 Act is amended as follows.
  - (2) In section 57G (interpretation of Part 2A)—
    - (a) the existing words from ““approved” to the end become paragraph (a),
    - (b) in that paragraph, the words from ““professional” to “objectives”” are repealed,
    - (c) after that paragraph, insert—
      - “(b) “professional principles” means the principles described in section 4(1) of the 2025 Act,
      - (c) “regulatory objectives” are the objectives described in section 2 of the 2025 Act (construed in accordance with section 3 of that Act).”.
- 2 (1) The 2010 Act is amended as follows.
  - (2) Section 1 (regulatory objectives) is repealed.
  - (3) Section 2 (professional principles) is repealed.
  - (4) The title of Part 1 becomes “MEANING OF LEGAL SERVICES AND ROLE OF MINISTERS”.

- (5) In section 4 (ministerial oversight), in subsection (2)(a), after “objectives” insert “(see section 149(2))”.
- (6) In section 6 (approved regulators), subsection (3)(b) is repealed.
- (7) In section 36 (review of own performance), subsection (2)(a) is repealed.
- (8) In section 37 (monitoring by Ministers), subsection (2)(a) is repealed.
- (9) In section 48 (eligibility criteria), subsection (1)(b) is repealed.
- (10) In section 50 (key duties), subsection (1)(a) is repealed.
- (11) In section 69 (inability to operate), in subsection (1)(a), the words “or 49” are repealed.
- (12) Section 77 (role of approved regulators) is repealed.
- (13) Section 78 (policy statement) is repealed.
- (14) Section 119 (application by the profession) is repealed.
- (15) In section 146 (regulations), subsection (3)(a)(vii) is repealed.
- (16) Section 147 (further modification) is repealed.
- (17) In section 149 (definitions), in subsection (2), after paragraph (c) insert—
  - “(d) “professional principles” means the principles described in section 4(1) of the Regulation of Legal Services (Scotland) Act 2025,
  - (e) “regulatory objectives” are the objectives described in section 2 of the Regulation of Legal Services (Scotland) Act 2025 (construed in accordance with section 3 of that Act).”.
- (18) In schedule 9 (index of expressions used), in respect of the entries for “regulatory objectives”, “professional principles” and “legal services” substitute—

“legal services	section 3
professional principles	section 149(2)(d)
regulatory objectives	section 149(2)(e)”.

### *New regulators*

- 3 (1) The 1980 Act is amended as follows.
  - (2) In section 32 (offence for unqualified persons to prepare certain documents), in subsection (2), for paragraph (f) substitute—
    - “(f) to a person exercising a right to provide legal services acquired by virtue of Chapter 3 of Part 1 of the Regulation of Legal Services (Scotland) Act 2025 (or section 27 of the 1990 Act).”.
  - (3) In Part 1 of schedule 4 (constitution, procedure and powers of the Tribunal), in paragraph 1A, in paragraph (b), for sub-paragraph (iv) substitute—
    - “(iv) persons exercising a right to provide legal services acquired by virtue of Chapter 3 of Part 1 of the Regulation of Legal Services (Scotland) Act 2025 (or section 27 of the 1990 Act).”.

- 4 (1) The Legal Aid (Scotland) Act 1986 is amended as follows.
- (2) In section 12A (register of advice organisations), in subsection (2), for paragraph (d) substitute—
- “(d) has a right to provide legal services acquired by virtue of Chapter 3 of Part 1 of the Regulation of Legal Services (Scotland) Act 2025 (or section 27 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990),”.
- 5 (1) The 2010 Act is amended as follows.
- (2) In section 48 (eligibility criteria), in subsection (5), for paragraph (c) substitute—
- “(c) authorised legal services provider,”.
- (3) In section 72(1) (employing disqualified lawyer), in paragraph(c)(iii), for “a litigation practitioner” substitute “an authorised legal services provider”.
- (4) In section 73(1) (concealing disqualification), in paragraph (c)(iii), for “a litigation practitioner” substitute “an authorised legal services provider”.
- (5) In section 149 (definitions), in subsection (2), for paragraph (c) substitute—
- “(c) a reference to an authorised legal services provider is to a person having a right to provide legal services acquired by virtue of Chapter 3 of Part 1 of the Regulation of Legal Services (Scotland) Act 2025 (or section 27 of the 1990 Act).”.
- (6) In schedule 9 (index of expressions used), in the entry relating to “litigation practitioner”, in the first column, for “litigation practitioner” substitute “authorised legal services provider”.
- 6 (1) The Courts Reform (Scotland) Act 2014 is amended as follows.
- (2) In section 95 (key defined terms), in subsection (4), for paragraph (c) substitute—
- “(c) a person having a right to conduct litigation, or a right of audience, acquired by virtue of Chapter 3 of Part 1 of the Regulation of Legal Services (Scotland) Act 2025 (or section 27 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990).”.
- (3) In section 103 (power to regulate procedure etc. in the Court of Session), in subsection (2), in paragraph (m), for sub-paragraph (ii) substitute—
- “(ii) do not have a right to conduct litigation, or a right of audience, acquired by virtue of Chapter 3 of Part 1 of the Regulation of Legal Services (Scotland) Act 2025 (or section 27 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990),”.
- (4) In section 104 (power to regulate procedure etc. in the sheriff court and the Sheriff Appeal Court), in subsection (2), in paragraph (m), for sub-paragraph (ii) substitute—
- “(ii) do not have a right to conduct litigation, or a right of audience, acquired by virtue of Chapter 3 of Part 1 of the Regulation of Legal Services (Scotland) Act 2025 (or section 27 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990),”.

- 7 (1) The Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016 is amended as follows.
- (2) In section 36 (power to regulate procedure etc.), in subsection (2), in paragraph (e), for sub-paragraph (ii) substitute—
- “(ii) do not have the right to conduct litigation, or a right of audience, acquired by virtue of Chapter 3 of Part 1 of the Regulation of Legal Services (Scotland) Act 2025 (or section 27 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990),”.

*Renaming etc. of Association of Commercial Attorneys*

- 8 In the schedule of the Licensed Legal Services (Specification of Regulated Professions) (Scotland) Regulations 2012 (S.S.I. 2012/213), in the table—
- (a) in the first column (profession) for “Commercial Attorney” substitute “Construction Attorney”,
- (b) in the second column, (professional association) for “Commercial” substitute “Construction”.

**PART 2**

MODIFICATION OF THE 1980 ACT IN RELATION TO COMPLAINTS

*Conduct complaints suggesting unsatisfactory professional conduct*

- 9 (1) The 1980 Act is amended as follows.
- (2) In section 3A of the 1980 Act (discharge of functions of Council of the Law Society), in subsection (5), in paragraph (aa), for “(6)(2)(a) or 15(5)(a) of that Act” substitute “6(2) of that Act (or treated as having been remitted to them under that section by virtue of section 33A(2) of that Act)”.
- (3) In section 42ZA of the 1980 Act (unsatisfactory professional conduct: Council’s powers)—
- (a) in subsection (1), in the opening words—
- (i) for “6(2)(a) or 15(5)(a) of the 2007 Act” substitute “6(2) of the 2007 Act (or treated as having been remitted to them under that section by virtue of section 33A(2) of that Act)”,
- (ii) after “must” insert “(subject to section 47(1A) of the 2007 Act and subsections (1A) and (1B))”,
- (b) after subsection (1), insert—
- “(1A) Before the Council make a determination under subsection (1)—
- (a) the Council may propose a settlement in respect of the complaint which they consider is fair and reasonable in the circumstances to the solicitor and the complainer,
- (b) the solicitor may propose a settlement in respect of the complaint to the Council and the complainer.

- (1B) If the solicitor accepts the proposal under subsection (1A)(a), or the Council consider that the proposal under subsection (1A)(b) is fair and reasonable in the circumstances, the Council—
- (a) must make a direction to that effect, and
  - (b) may not determine the complaint under subsection (1) unless—
    - (i) the solicitor has failed to comply with the direction under paragraph (a), or
    - (ii) the direction is quashed under section 53ZB(2)(d).”,
  - (c) subsection (2) is repealed,
  - (d) in subsection (3), in the opening words—
    - (i) the words “or (2)” are repealed,
    - (ii) after “complaint” insert “or where the Council makes a direction under subsection (1B)(a)”,
  - (e) after subsection (3), insert—
 

“(3A) Where the Council censures a solicitor under subsection (3), the Council may provide that the censure is to have effect for a specified period and must give their reasons for doing so when making an intimation under subsection (8).”,
  - (f) in subsection (4), after paragraph (c), insert—
 

“(d) impose conditions on the solicitor’s practising certificate.”,
  - (g) after subsection (4), insert—
 

“(4A) Where the Council have imposed conditions on a solicitor’s practising certificate under subsection (4)(d), the Council may provide that the certificate is subject to those conditions for a specified period and must give their reasons for doing so when making an intimation under subsection (8).”,
  - (h) in subsection (5)—
    - (i) after “complaint” where it first occurs insert “(including whether to propose a settlement under subsection (1A)(a)) or in considering a proposal under subsection (1A)(b)”,
    - (ii) the words from “any” to “misconduct” become paragraph (a),
    - (iii) for “(but” to the end of the subsection substitute “,
      - (b) any previous decision made under section 47(1A)(a) of the 2007 Act with respect to a complaint against the solicitor,
      - (c) any previous direction made under subsection (1B)(a) with respect to a complaint against the solicitor,
      - (d) any previous determination of the Commission of a services complaint under section 9(1) of the 2007 Act relating to the same alleged set of circumstances,
 but not a determination, decision or direction in respect of which an appeal is pending or which has been quashed ultimately on appeal.”,



- (i) for subsection (7) substitute—
  - “(7) Any fine imposed under subsection (4)(b) is payable to the Scottish Ministers.”,
- (j) in subsection (8)—
  - (i) in paragraph (a), the words “or (2)” are repealed,
  - (ii) in paragraph (c), for “(4)” substitute “(1B)(a), (4)(a) or (4)(b)”,
  - (iii) after paragraph (c), insert—
    - “(d) any decision to impose conditions on a solicitor’s practising certificate under subsection (4)(d),”,
  - (iv) in the closing words, after “it” insert “, and to the Commission and any other relevant party,”,
  - (v) in the closing words, for “or, as the case may be, the direction” substitute “, direction or, as the case may be, the decision”,
  - (vi) in the closing words, after “determination” where it second occurs insert “or direction under subsection (1B)(a)”,
- (k) after subsection (8), insert—
  - “(8A) An intimation made under subsection (8) must—
    - (a) be sent as soon as practicable after the determination, direction or decision has been made,
    - (b) include information about any right of appeal or ability to make a handling complaint by virtue of section 23 of the 2007 Act.”,
- (l) in subsection (9)—
  - (i) in the opening words, for “or (2),” substitute “, a decision to reinstate a discontinued investigation has been made under section 47(1A)(b) of the 2007 Act,”,
  - (ii) in the opening words, after “direction” where it first occurs insert “or a decision”,
  - (iii) in the opening words, for “determination or” substitute “determination, decision, or”,
  - (iv) after paragraph (a) insert—
    - “(aa) decision,”,
  - (v) in paragraph (b), for “(whether or not he)” substitute “or decision under subsection (4) (whether or not the solicitor”,
- (m) in subsection (10), for the words from “a determination” to the end of the subsection substitute “—
  - (a) a determination under subsection (1) not upholding the conduct complaint is intimated to the complainer,
  - (b) a decision under section 47(1A)(a) of the 2007 Act to discontinue an investigation is intimated to the complainer,

- (c) a direction under subsection (1B)(a) is intimated to the complainer, appeal to the Tribunal against the determination, direction or decision.”.
- (4) In section 42ZB—
- (a) in subsection (1)(a), for “42ZA(4)” substitute “42ZA(1B)(a) or (4)”,
- (b) in subsection (2)—
- (i) after “42ZA(9)” insert “or (10)”,
- (ii) for “42ZA(4)” substitute “42ZA(1B)(a) or (4)”,
- (iii) after subsection (2) insert—
- “(3) The Council may, by notice in writing, require an authorised legal business or, as the case may be, a licensed provider that is specified in—
- (a) a decision under section 42E(3)(b), or
- (b) such a decision as confirmed or varied on appeal by the Tribunal or the Court,
- to give, before the expiry of such period being not less than 21 days as the notice specifies, an explanation of the steps which the authorised legal business or the licensed provider has taken to comply with the decision.
- (4) Where an appeal is made under section 42E(7) against a decision under section 42E(3)(b), any notice under subsection (3) relating to the decision ceases to have effect pending the outcome of the appeal.
- (5) The Council may, by notice in writing, require a solicitor who is specified in—
- (a) a direction or order made under section 53ZAA(4), or
- (b) such a direction or order as confirmed or varied on appeal by the Court,
- to give, before the expiry of such period being not less than 21 days as the notice specifies, an explanation of the steps which the solicitor has taken to comply with the direction or order.
- (6) Where an appeal is made under section 54(1A) or (3A) against a decision under section 53ZAA(1) or any direction or order under section 53ZAA(4), any notice under subsection (5) relating to the decision, direction or, as the case may be, order ceases to have effect pending the outcome of the appeal.”,
- (c) the title to section 42ZB becomes “**Unsatisfactory professional conduct: Council’s powers to monitor compliance**”.
- (5) Section 42C of the 1980 Act (powers to examine documents and demand explanations in connection with complaints) is repealed.
- (6) In section 53 (powers of Tribunal), in subsection (2), after paragraph (g) insert—
- “(h) where it considers that a solicitor does not have sufficient competence in relation to any aspect of the law or legal practice, direct the solicitor to undertake such education or training as regards the law or legal practice as it considers appropriate in that respect.”.

- (7) Section 53ZA (remission of complaint from Tribunal to Council) is repealed.
- (8) After section 53ZA (remission of complaint by Tribunal to Council) insert—

**“53ZAA Powers of Tribunal: unsatisfactory professional conduct**

- (1) Where, after holding an inquiry into a complaint of professional misconduct against a solicitor, the Tribunal is not satisfied that the solicitor has been guilty of professional misconduct, the Tribunal may decide that the solicitor has been guilty of unsatisfactory professional conduct.
- (2) Where the Tribunal decides that a solicitor has been guilty of unsatisfactory professional conduct, they—
  - (a) must censure the solicitor,
  - (b) may take any of the steps mentioned in subsection (4) which they consider appropriate.
- (3) Where the Tribunal censures a solicitor under subsection (2)(a), the Tribunal may provide that the censure is to have effect for a specified period and must give its reasons for doing so when intimating their decision.
- (4) The steps are—
  - (a) where the Tribunal consider that the solicitor does not have sufficient competence in relation to any aspect of the law or legal practice, to direct the solicitor to undertake such education or training as regards the law or legal practice as the Tribunal consider appropriate in that respect,
  - (b) subject to subsection (8), to direct the solicitor to pay a fine not exceeding £2,000,
  - (c) to order that the solicitor’s practising certificate is to be subject to such conditions as the Tribunal may direct.
- (5) Any fine imposed by the Tribunal under subsection (4)(b) is payable to the Scottish Ministers.
- (6) Where the Tribunal has ordered that the solicitor’s practising certificate is to be subject to conditions under subsection (4)(c), the Tribunal may direct that the certificate is to be subject to those conditions for a specified period and must give its reasons for doing so when intimating their decision.
- (7) In deciding whether the censure of the solicitor under subsection (2) is to have effect for only a specified period and whether to take any step referred to in that subsection, the Tribunal may take account of—
  - (a) any previous determination by them, the Council or the Court upholding a complaint against the solicitor of unsatisfactory professional conduct or professional misconduct,
  - (b) any previous decision made under section 47(1A)(a) of the 2007 Act with respect to a complaint against the solicitor,
  - (c) any previous direction made under section 42ZA(1B)(a) with respect to a complaint against the solicitor,

but not a determination, decision or direction in respect of which an appeal is pending or which has been quashed ultimately on appeal.

- (8) The Tribunal must not direct the solicitor to pay a fine under subsection (4)(b) where, in relation to the subject matter of the complaint, the solicitor has been convicted by any court of an act involving dishonesty and sentenced to a term of imprisonment of not less than two years.
- (9) A direction of the Tribunal under this section is enforceable in like manner as an extract registered decree arbitral in favour of the Council bearing a warrant for execution issued by the sheriff court of any sheriffdom in Scotland.
- (10) The Scottish Ministers may by regulations amend subsection (4)(b) by substituting for the amount for the time being specified in that subsection such other amount as appears to them to be justified by a change in the value of money.
- (11) Regulations under subsection (10) are subject to the negative procedure (see section 28 of the Interpretation and Legislative Reform (Scotland) Act 2010).”.
  - (9) In section 53ZB (powers of Tribunal on appeal: unsatisfactory professional conduct)—
    - (a) in the opening words of subsection (1), after “Tribunal” where it first occurs insert “by the solicitor”,
    - (b) in subsection (1)(a), for “being appealed against” substitute “upholding a conduct complaint”,
    - (c) in subsection (1)(c), for “being appealed against” substitute “or decision made under section 42ZA(4)”,
    - (d) after subsection (1)(f), insert—
      - “(g) may quash or confirm the decision made under section 47(1A)(b) of the 2007 Act (to reinstate a discontinued investigation),
      - (h) if it confirms the decision, may direct the Council as to which aspects of the complaint should be continued.”,
    - (e) in the opening words of subsection (2), after “Tribunal” where it first occurs insert “by the complainer”,
    - (f) in subsection (2)(a), at end insert “, and if it does so—
      - (i) must censure the solicitor,
      - (ii) may, subject to subsection (5), direct the solicitor to pay a fine not exceeding £2,000,
      - (iii) may order that the solicitor’s practising certificate is to be subject to such conditions as the Tribunal may direct,”,
    - (g) after subsection (2)(c), insert—
      - “(d) may quash or confirm the direction made under section 42ZA(1B)(a),
      - (e) if it quashes the direction—
        - (i) must quash any censure and any other associated measures accompanying the direction,

- (ii) may direct the Council to carry out their duties under section 42ZA(1),
    - (iii) may direct the Council to propose a new settlement under section 42ZA(1A)(a), taking into account any matters specified by the Tribunal,
    - (iv) may dismiss the complaint,
  - (f) may, where it considers that the solicitor does not have sufficient competence in relation to any aspect of the law or legal practice, direct the solicitor to undertake such education or training as regards the law or legal practice as it considers appropriate in that respect,
  - (g) may quash or confirm the decision made under section 47(1A)(a) of the 2007 Act,
  - (h) if it quashes the decision, may direct the Council as to which aspects of the complaint should be continued.”,
- (h) after subsection (2), insert—
- “(2A) Where the Tribunal makes a decision under paragraph (a) of subsection (2), in deciding whether the censure of the solicitor is to have effect for only a specified period and whether to give a direction or make an order mentioned in that paragraph, the Tribunal may take account of—
- (a) any previous determination by them, the Council or the Court upholding a complaint against the solicitor of unsatisfactory professional conduct or professional misconduct,
  - (b) any previous decision made under section 47(1A)(a) of the 2007 Act with respect to a complaint against the solicitor,
  - (c) any previous direction made under section 42ZA(1B)(a) with respect to a complaint against the solicitor,
- but not a determination, decision or direction in respect of which an appeal is pending or which has been quashed ultimately on appeal.
- (2B) Where the Tribunal censures a solicitor under subsection (2)(a)(i), the Tribunal may provide that the censure is to have effect for a specified period and must give its reasons for doing so when intimating their decision.
- (2C) Where the Tribunal has ordered that the solicitor’s practising certificate is to be subject to conditions under subsection (2)(a)(iii), the Tribunal may direct that the certificate is to be subject to those conditions for a specified period and must give its reasons for doing so when intimating their decision.”,
- (i) in subsection (5), after “subsection (1)(e)” insert “or (2)(a)(ii)”,
  - (j) for subsection (6) substitute—

“(6) Any fine imposed under subsection (1)(e) or (2)(a)(ii) is payable to the Scottish Ministers.”,
  - (k) after subsection (8) insert—

“(8A) The Scottish Ministers may by regulations amend subsection (2)(a)(ii) by substituting for the amount for the time being specified in that subsection such other amount as appears to them to be justified by a change in the value of money.”,

(l) after subsection (9) insert—

“(9A) Regulations under subsection (8A) are subject to the negative procedure (see section 28 of the Interpretation and Legislative Reform (Scotland) Act 2010).”.

(10) Section 54A (appeals from decisions of Tribunal: unsatisfactory professional conduct) is amended as follows—

(a) in subsection (1)—

- (i) after “decision” where it first occurs insert “mentioned in subsection (1A)”,
- (ii) the words “under section 53ZB(1), (2), (3) or (4)” are repealed,

(b) after subsection (1), insert—

“(1A) The decision is—

- (a) a decision that the solicitor has been guilty of unsatisfactory professional conduct under section 53ZAA(1),
- (b) a direction or order made under section 53ZAA(4),
- (c) a decision under section 53ZB(1),
- (d) a decision under section 53ZB(2)(a), (f), (g) or (h).”,

(c) in subsection (3) the following paragraphs are repealed—

- (i) paragraph (b),
- (ii) paragraph (c),
- (iii) paragraph (d),
- (iv) paragraph (f),
- (v) paragraph (g),

(d) in subsection (3)—

(i) after paragraph (a), insert—

“(aa) a decision under subsection (1)(b) made in relation to a decision under subsection (1)(a),

(ab) a decision under subsection (1)(h) made in relation to a decision under subsection (1)(g).”,

(ii) after paragraph (g), insert—

“(h) a decision under subsection (2)(g) to confirm a decision made under section 47(1A)(a) of the 2007 Act.”,

(e) after subsection (3) insert—

- “(3A) The Council may, before the expiry of the period of 21 days beginning with the day on which a decision by the Tribunal under section 53ZAA(1) is intimated to them, appeal to the Court against—
- (a) a decision on whether the solicitor has been guilty of unsatisfactory professional conduct under section 53ZAA(1),
  - (b) any direction or order made under section 53ZAA(4).”,
  - (f) in subsection (4), for the words “subsection (1) or (2)” substitute “this section”.
- (11) In section 65 (interpretation), in subsection (1), insert after the definition of “the CMA Board”—
- ““conduct complaint” is to be construed in accordance with Part 1 of the 2007 Act.”.

*Regulatory complaints*

- 10 (1) The 1980 Act is amended as follows.
- (2) In section 3A (discharge of functions of Council of the Law Society), in subsection (5)—
- (a) after paragraph (aa), insert—

“(aaa) that under section 52A of the 2007 Act of determining of a regulatory complaint remitted to them under section 7A(2) of that Act (or treated as having been remitted to them under that section by virtue of section 33B(2) of that Act),”,
  - (b) after paragraph (ad), insert—

“(ae) that under section 51(1) of determining whether or not to make a regulatory complaint to the Tribunal.”.
- (3) After section 42D (procedure relating to complaints) as inserted by this Act, insert—
- “42E Powers relating to regulatory complaints**
- (1) Before the Council make a determination upholding a regulatory complaint under section 52A(1) of the 2007 Act—
- (a) the Council may propose a settlement in respect of the complaint which they consider is fair and reasonable in the circumstances to—
    - (i) the authorised legal business or, as the case may be, the licensed provider, and
    - (ii) the complainer,
  - (b) the authorised legal business or, as the case may be, the licensed provider may propose a settlement in respect of the complaint to the Council and the complainer.
- (2) If the authorised legal business or, as the case may be, the licensed provider accepts a proposal under subsection (1)(a), or the Council consider that a

proposal under subsection (1)(b) is fair and reasonable in the circumstances, the Council—

- (a) must make a direction to that effect, and
  - (b) may not determine the complaint unless—
    - (i) the authorised legal business or, as the case may be, licensed provider has failed to comply with the direction made under paragraph (a), or
    - (ii) the direction is quashed under section 53ZE(2)(e).
- (3) Where the Council make a determination upholding a regulatory complaint under section 52A(1) of the 2007 Act or where the Council make a direction under subsection (2)(a), the Council—
- (a) must censure the authorised legal business or, as the case may be, the licensed provider,
  - (b) may—
    - (i) where the Council consider that a solicitor of the authorised legal business or, as the case may be, the licensed provider does not have sufficient competence in relation to any aspect of the law or legal practice, direct the solicitor to undertake such education or training as regards the law or legal practice as the Council consider appropriate in that respect,
    - (ii) where the imposition of a fine is permitted under the regulatory scheme of the Council, direct the authorised legal business or, as the case may be, the licensed provider to pay a fine,
    - (iii) impose conditions on the practising certificate of a solicitor of the authorised legal business or, as the case may be, the licensed provider,
    - (iv) order that the authorisation of a legal business to provide legal services be subject to such conditions as the Council may direct,
    - (v) impose any other sanction permitted by the regulatory scheme of the Council.
- (4) Where the Council censures an authorised legal business or a licensed provider under subsection (3)(a), the Council may provide that the censure is to have effect for a specified period and, where they do so, must give their reasons for doing so in the report under section 52A(5) of the 2007 Act.
- (5) Where the Council have placed conditions on the practising certificate of a solicitor under subsection (3)(b), the Council may provide that the certificate is subject to those conditions for a specified period and, where they do so, must give their reasons for doing so in the report under section 52A(5) of the 2007 Act.



- (6) When considering a regulatory complaint, including whether to propose a settlement under subsection (1)(a) or in considering a proposal under subsection (1)(b), the Council may take into account—
- (a) any previous determination by them, the Tribunal or the Court upholding a regulatory complaint against the authorised legal business or, as the case may be, the licensed provider,
  - (b) any previous decision under section 52A(2)(a) of the 2007 Act with respect to a complaint against the authorised legal business or, as the case may be, the licensed provider,
  - (c) any previous direction made under subsection (2)(a) with respect to a complaint against the authorised legal business or, as the case may be, the licensed provider,
  - (d) any previous determination of the Commission of a services complaint under section 9(1) of the 2007 Act relating to the same alleged set of circumstances,
- but not a determination, decision or direction in respect of which an appeal is pending or which has been quashed ultimately on appeal.
- (7) An authorised legal business or a licensed provider may, before the expiry of the period of 21 days beginning with the day on which—
- (a) a determination under section 52A(1) of the 2007 Act upholding a regulatory complaint is intimated to them,
  - (b) a decision under section 52A(2)(b) of that Act to reinstate a discontinued investigation is intimated to them, or
  - (c) a decision to impose a sanction under subsection (3)(b) is intimated to them,
- appeal to the Tribunal against the determination or decision.
- (8) A complainer may, before the expiry of 21 days beginning on the day on which—
- (a) a determination under section 52A(1) of the 2007 Act not upholding a regulatory complaint is intimated to the complainer,
  - (b) a decision under section 52A(2)(a) of that Act to discontinue an investigation is intimated to the complainer,
  - (c) a direction under subsection (2)(a) is intimated to the complainer,
- appeal to the Tribunal against the determination or decision.
- (9) In this section—
- “complainer” has the same meaning as in section 42ZA,
  - “qualifying individual” has the meaning given in section 39(10) of the Regulation of Legal Services (Scotland) Act 2025,
  - “regulatory scheme” is to be construed in accordance with Part 1 of the Regulation of Legal Services (Scotland) Act 2025, and

references to provisions of the 2007 Act include references to those provisions as they are applied in relation to licensed providers by Part 2A of the 2007 Act.”.

(4) In section 51 (complaints to Tribunal)—

(a) in subsection (1A), after “includes” insert “—

- (a) a regulatory complaint,
- (b)”,

(b) subsection (2) is repealed,

(c) subsection (3) is repealed,

(d) subsection (4) is repealed.

(5) After section 51, insert—

**“51A Procedure on making regulatory complaints to Tribunal**

(1) The Council must make rules as to the procedure for determining whether or not to make a regulatory complaint to the Tribunal under section 51(1).

(2) Before making any rules under this section, the Council must—

- (a) consult the Tribunal,
- (b) send to each member of the Society a draft of the rules,
- (c) after sending the rules under paragraph (b), submit the draft rules to a meeting of the Society, and
- (d) take into consideration any resolution passed at that meeting relating to amendments to the draft rules.

(3) Rules made under this section will not have effect unless the Lord President, after considering any objections the Lord President thinks relevant, has approved the rules so made.”.

(6) In section 52 (procedure on complaints and appeals to Tribunal), in subsection (2)(aa), after “42ZD(1)” insert “, 42E(7) or (8)”.

(7) After section 53ZC, insert—

**“53ZD Powers relating to regulatory complaints**

(1) Where a regulatory complaint is made to the Tribunal under section 51(1), the Tribunal must determine the complaint.

(2) Where the Tribunal make a determination upholding a regulatory complaint, the Tribunal—

(a) must censure the authorised legal business or, as the case may be, the licensed provider,

(b) may—

- (i) where the Tribunal consider that a solicitor of the authorised legal business or, as the case may be, the licensed provider does not have sufficient competence in relation to any aspect of the law or legal practice, direct the solicitor to undertake such education or

- training as regards the law or legal practice as the Tribunal consider appropriate in that respect,
- (ii) where the imposition of a fine is permitted under the regulatory scheme of the Council, impose a fine,
  - (iii) order that the practising certificate of a solicitor of the authorised legal business or, as the case may be, the licensed provider is to be subject to such conditions as the Tribunal may direct,
  - (iv) order that the recognition under section 34(1A) of the incorporated practice be revoked,
  - (v) order that the authorisation of a legal business to provide legal services be withdrawn,
  - (vi) order that the authorisation of a legal business to provide legal services be subject to such conditions as the Tribunal may direct,
  - (vii) impose any other sanction permitted by the regulatory scheme of the Council.
- (3) Where the Tribunal censures an authorised legal business or a licensed provider under subsection (2)(a), the Tribunal may provide that the censure is to have effect for a specified period and, where they do so, must give their reasons in their decision.
  - (4) Where the Tribunal orders that the practising certificate of a solicitor is to be subject to conditions under subsection (2)(b)(iii), the Tribunal may direct that the certificate is to be subject to those conditions for a specified period and, where they do so, must give their reasons in their decision.
  - (5) Where the Tribunal order that the recognition under section 34(1A) of an incorporated practice be revoked, the Tribunal must direct that the order is to take effect on such date as the Tribunal specifies, being a date not earlier than 60 days after its order is intimated to the authorised legal business and such an order is to take effect accordingly.
  - (6) Where the Tribunal order that the authorisation of a legal business to provide legal services be withdrawn, the Tribunal must direct that the order is to take effect on such date as the Tribunal specifies, being a date not earlier than 60 days after its order is intimated to the authorised legal business and such an order is to take effect accordingly.
  - (7) Where an appeal against an order mentioned in subsection (5) or (6) is taken to the Court under section 54B, the order continues to have effect pending the determination or abandonment of the appeal unless the Court otherwise directs.
  - (8) When considering a regulatory complaint, the Tribunal may take into account—
    - (a) any previous determination by the Council, the Tribunal or the Court upholding a regulatory complaint against the authorised legal business or, as the case may be, the licensed provider,
    - (b) any previous decision under section 52A(2)(a) of the 2007 Act with respect to a complaint against the authorised legal business or, as the case may be, the licensed provider,

- (c) any previous direction made under section 42E(2)(a) with respect to a complaint against the authorised legal business or, as the case may be, the licensed provider,
- (d) any previous determination of the Commission of a services complaint under section 9(1) of the 2007 Act relating to the same alleged set of circumstances,

but not a determination, decision or direction in respect of which an appeal is pending or which has been quashed ultimately on appeal.”.

- (8) After section 53ZD (as inserted by this Act), insert—

**“53ZE Powers of Tribunal on appeal: regulatory complaints**

- (1) On an appeal to the Tribunal by an authorised legal business or a licensed provider under section 42E(7), the Tribunal may—
  - (a) confirm the determination upholding a regulatory complaint,
  - (b) quash the determination upholding a regulatory complaint and the censure accompanying it,
  - (c) confirm the decision to reinstate a discontinued investigation and direct the Council as to which aspects of the complaint are to be continued,
  - (d) quash the decision to reinstate a discontinued investigation,
  - (e) quash, confirm or vary a sanction imposed under section 42E(3)(b),
  - (f) where the Tribunal consider that a solicitor of the authorised legal business or, as the case may be, the licensed provider does not have sufficient competence in relation to any aspect of the law or legal practice, direct the solicitor to undertake such education or training as regards the law or legal practice as the Tribunal consider appropriate in that respect,
  - (g) where the imposition of a fine is permitted under the regulatory scheme of the Council, impose a fine,
  - (h) order that the practising certificate of a solicitor of the authorised legal business or, as the case may be, the licensed provider is to be subject to such conditions as the Tribunal may direct,
  - (i) order that the recognition under section 34(1A) of the incorporated practice be revoked,
  - (j) order that the authorisation of a legal business to provide legal services be withdrawn,
  - (k) order that the authorisation of a legal business to provide legal services be subject to such conditions as the Tribunal may direct,
  - (l) impose any other sanction permitted by the regulatory scheme of the Council.
- (2) On an appeal to the Tribunal by the complainer under section 42E(8), the Tribunal may—
  - (a) confirm the determination not upholding a regulatory complaint,

- (b) quash the determination not upholding a regulatory complaint, make a determination upholding the complaint and censure the authorised legal business or, as the case may be, licensed provider,
  - (c) confirm the decision to discontinue an investigation,
  - (d) quash the decision to discontinue an investigation and direct the Council as to which aspects of the complaint are to be continued,
  - (e) quash or confirm the direction made under section 42E(2)(a),
  - (f) if it quashes the direction—
    - (i) must quash any censure and any other associated measures accompanying the direction,
    - (ii) may direct the Council to carry out their duties under section 52A(1),
    - (iii) may direct the Council to propose a new settlement under section 42E(1)(a), taking into account any matters specified by the Tribunal,
    - (iv) may dismiss the complaint,
  - (g) where the Tribunal consider that a solicitor of the authorised legal business or, as the case may be, the licensed provider does not have sufficient competence in relation to any aspect of the law or legal practice, direct the solicitor to undertake such education or training as regards the law or legal practice as the Tribunal consider appropriate in that respect,
  - (h) where the imposition of a fine is permitted under the regulatory scheme of the Council, impose a fine,
  - (i) order that the practising certificate of a solicitor of the authorised legal business or, as the case may be, the licensed provider is to be subject to such conditions as the Tribunal may direct,
  - (j) order that the recognition under section 34(1A) of the incorporated practice be revoked,
  - (k) order that the authorisation of a legal business to provide legal services be withdrawn,
  - (l) order that the authorisation of a legal business to provide legal services be subject to such conditions as the Tribunal may direct,
  - (m) impose any other sanction permitted by the regulatory scheme of the Council.
- (3) Where the Tribunal censures an authorised legal business or a licensed provider under subsection (2)(b), the Tribunal may provide that the censure is to have effect for a specified period and, where they do so, must give their reasons in their decision.
- (4) Where the Tribunal orders that the practising certificate of a solicitor is to be subject to conditions under subsection (1)(h) or (2)(i), the Tribunal may direct

that the certificate is to be subject to those conditions for a specified period and, where they do so, must give their reasons in their decision.

- (5) Where the Tribunal orders that the recognition under section 34(1A) of an incorporated practice be revoked, the Tribunal must direct that the order is to take effect on such date as the Tribunal specifies, being a date not earlier than 60 days after its order is intimated to the authorised legal business and such an order is to take effect accordingly.
- (6) Where the Tribunal orders that the authorisation of a legal business to provide legal services be withdrawn, the Tribunal must direct that the order is to take effect on such date as the Tribunal specifies, being a date not earlier than 60 days after its order is intimated to the authorised legal business and such an order is to take effect accordingly.
- (7) Where an appeal against an order mentioned in subsection (5) or (6) is taken to the Court under section 54B, the order continues to have effect pending the determination or abandonment of the appeal unless the Court otherwise directs.
- (8) In this section, “complainer” has the same meaning as in section 42ZA.”.
- (9) After section 54A, insert—

**“54B Appeals from decisions of Tribunal: regulatory complaints**

- (1) An authorised legal business or a licensed provider in respect of which a decision mentioned in subsection (2) has been made may, before the expiry of the period of 21 days beginning with the day on which the decision is intimated to them, appeal to the Court against the decision.
- (2) The decision is—
  - (a) a decision under section 53ZD(1) upholding a regulatory complaint,
  - (b) a decision to impose a sanction under section 53ZD(2)(b),
  - (c) a decision under section 53ZE(1)(a) confirming the determination upholding a regulatory complaint,
  - (d) a decision under section 53ZE(2)(b) quashing the determination not upholding the regulatory complaint, making a determination upholding the complaint and censuring the authorised legal business or licensed provider,
  - (e) a decision under section 53ZE(1)(c) reinstating a discontinued investigation and directing the Council as to which aspects of the complaint are to be continued,
  - (f) a decision under section 53ZE(2)(d) quashing the decision to discontinue an investigation and directing the Council as to which aspects of the complaint are to be continued,
  - (g) a decision under section 53ZE(1)(e) to quash, confirm or vary a sanction,
  - (h) a decision to impose a sanction under section 53ZE(1)(f) to (l) or (2)(g) to (m).

- (3) The Council may, before the expiry of the period of 21 days beginning with the day on which a decision mentioned in subsection (4) is intimated to them, appeal to the Court against the decision.
  - (4) The decision is—
    - (a) a decision under section 53ZD(1) not upholding a regulatory complaint,
    - (b) a decision under section 53ZE(1)(b) quashing the determination upholding a regulatory complaint and the censure accompanying it,
    - (c) a decision under section 53ZE(2)(a) confirming the determination not upholding a regulatory complaint,
    - (d) a decision under section 53ZE(1)(d) quashing the decision to reinstate a discontinued investigation,
    - (e) a decision under section 53ZE(2)(c) confirming the decision to discontinue an investigation,
    - (f) a decision under section 53ZE(1)(e) to quash, confirm or vary a sanction,
    - (g) a decision to impose a sanction under section 53ZE(1)(f) to (l) or (2)(g) to (m).
  - (5) Section 43 of the Regulation of Legal Services (Scotland) Act 2025 does not apply to an appeal under this section.”.
- (10) After section 55A, insert—

**“55B Powers of Court: regulatory complaints**

- (1) In the case of an appeal under section 54B(1), the Court may—
  - (a) confirm the determination upholding a regulatory complaint,
  - (b) quash the determination upholding a regulatory complaint and the censure accompanying it,
  - (c) confirm the decision to reinstate a discontinued investigation and direct the Council as to which aspects of the complaint are to be continued,
  - (d) quash the decision to reinstate a discontinued investigation,
  - (e) quash, confirm or vary a sanction,
  - (f) where the Court considers that a solicitor of the authorised legal business or, as the case may be, the licensed provider does not have sufficient competence in relation to any aspect of the law or legal practice, direct the solicitor or qualifying individual to undertake such education or training as regards the law or legal practice as the Court considers appropriate in that respect,
  - (g) where the imposition of a fine is permitted under the regulatory scheme of the Council, impose a fine,
  - (h) order that the practising certificate of a solicitor of the authorised legal business or, as the case may be, the licensed provider is to be subject to such conditions as the Court may direct,

- (i) order that the recognition under section 34(1A) of the incorporated practice be revoked,
  - (j) order that the authorisation of the legal business to provide legal services be withdrawn,
  - (k) order that the authorisation of the legal business to provide legal services be subject to such conditions as the Court may direct,
  - (l) impose any other sanction permitted by the regulatory scheme of the Council.
- (2) In the case of an appeal under section 54B(3), the Court may—
  - (a) confirm the determination not upholding a regulatory complaint,
  - (b) quash the determination not upholding a regulatory complaint, make a determination upholding the complaint and censure the authorised legal business,
  - (c) confirm the decision to discontinue an investigation,
  - (d) quash the decision to discontinue an investigation and direct the Council as to which aspects of the complaint are to be continued,
  - (e) quash, confirm or vary a sanction,
  - (f) where the Court considers that a solicitor of the authorised legal business or, as the case may be, the licensed provider does not have sufficient competence in relation to any aspect of the law or legal practice, direct the solicitor to undertake such education or training as regards the law or legal practice as the Court considers appropriate in that respect,
  - (g) where the imposition of a fine is permitted under the regulatory scheme of the Council, impose a fine,
  - (h) order that the practising certificate of a solicitor of an authorised legal business or, as the case may be, the licensed provider is to be subject to such conditions as the Court may direct,
  - (i) order that the recognition under section 34(1A) of the incorporated practice be revoked,
  - (j) order that the authorisation of a legal business to provide legal services be withdrawn,
  - (k) order that the authorisation of a legal business to provide legal services be subject to such conditions as the Court may direct,
  - (l) impose any other sanction permitted by the regulatory scheme of the Council.
- (3) Where the Court censures an authorised legal business or a licensed provider under subsection (2)(b), the Court may provide that the censure is to have effect for a specified period and, where it does so, must give its reasons.
- (4) Where the Court orders that the practising certificate of a solicitor is to be subject to conditions under subsection (1)(h) or (2)(h), the Court may direct



that the certificate is to be subject to those conditions for a specified period and, where they do so, must give its reasons.

- (5) A decision of the Court under this section is final.
- (6) The Court may give such directions in the matter as it thinks fit, including directions as to the expenses of the proceedings before the Court and as to any order by the Tribunal relating to expenses.”.

(11) After section 62A (Council’s power to recover expenses), insert—

**“62B      Power to amend application of regulatory complaints provisions to licensed providers**

- (1) The Scottish Ministers may by regulations amend sections 42E, 53ZE, 54B and 55B—
  - (a) to disapply those sections to licensed providers,
  - (b) where the power in paragraph (a) has been exercised, to reapply those sections to licensed providers.
- (2) Regulations under subsection (1) may include incidental, supplementary, consequential, transitional, transitory or saving provision.
- (3) Regulations under subsection (1) are subject to the negative procedure (see section 28 of the Interpretation and Legislative Reform (Scotland) Act 2010).”.

(12) In section 65 (interpretation), at the appropriate place insert—

““regulatory complaint” is to be construed in accordance with Part 1 of the 2007 Act (and, in the case of a regulatory complaint about a licensed provider, is to be construed in accordance with that Part as applied by Part 2A of that Act).”.

(13) In schedule 4—

- (a) after paragraph 9, insert—

“9A(1) Subject to Part 4, the Tribunal may dismiss a regulatory complaint against an authorised legal business—

- (a) without requiring the authorised legal business to answer the allegations made against it or without holding any enquiry if sub-paragraph (2) applies, or
- (b) without hearing parties if the Tribunal are of the opinion upon consideration of the complaint and other documents that they disclose no case of failure on the part of the authorised legal business to comply with—
  - (i) the practice rules forming part of the rules for authorising and regulating the legal business made under (or for the purposes of) section 41(1)(a) of the Regulation of Legal Services (Scotland) Act 2025, or
  - (ii) the terms on which its authorisation is granted including any conditions or restrictions imposed in relation to the authorisation.

- (2) This sub-paragraph applies if—
- (a) the Tribunal are of the opinion that the complaint discloses no prima facie case of failure on the part of the authorised legal business to comply with—
    - (i) the practice rules forming part of the rules for authorising and regulating the legal business made under (or for the purposes of) section 41(1)(a) of the Regulation of Legal Services (Scotland) Act 2025, or
    - (ii) the terms on which its authorisation is granted including any conditions or restrictions imposed in relation to the authorisation, or
  - (b) the complainer fails to comply with any rule made under section 52.
- 9B(1) Subject to Part 4, the Tribunal may dismiss a regulatory complaint against a licensed provider—
- (a) without requiring the licensed provider to answer the allegations made against it or without holding any enquiry if sub-paragraph (2) applies,
  - (b) without hearing parties if the Tribunal are of the opinion upon consideration of the complaint and other documents that they disclose no case of failure on the part of the licensed provider to—
    - (i) have regard to the regulatory objectives (as described in section 2 of the Regulation of Legal Services (Scotland) Act 2025 (and construed in accordance with section 3 of that Act)),
    - (ii) adhere to the professional principles (as described in section 4(1) of that Act),
    - (iii) comply with the regulatory scheme of the Council, or
    - (iv) comply with the terms and conditions of its licence.
- (2) This sub-paragraph applies if—
- (a) the Tribunal are of the opinion that the complaint discloses no prima facie case of failure on the part of the licensed provider to—
    - (i) have regard to the regulatory objectives (as described in section 2 of the Regulation of Legal Services (Scotland) Act 2025 (and construed in accordance with section 3 of that Act)),
    - (ii) adhere to the professional principles (as described in section 4(1) of that Act),
    - (iii) comply with the regulatory scheme of the Council, or
    - (iv) comply with the terms and conditions of its licence, or
  - (b) the complainer fails to comply with any rule made under section 52.”,
- (b) in paragraph 23, in the opening words, after “section 42ZD(1)” insert “, section 42E(7) or (8)”.

*Procedure relating to complaints*

- 11 After section 42C (powers to examine documents and demand explanations in connection with complaints) of the 1980 Act insert—

**“42D Procedure relating to complaints**

- (1) The Council must make rules as to the procedure for—
  - (a) making a decision under section 47(1A)(a) of the 2007 Act to discontinue an investigation of a conduct complaint,
  - (b) making a decision under section 47(1A)(b) of that Act to reinstate a discontinued investigation of a conduct complaint,
  - (c) making a proposed settlement under section 42ZA(1A) or 42E(1),
  - (d) accepting a proposed settlement under section 42ZA(1B) or 42E(2),
  - (e) making a decision under section 52A(2)(a) of the 2007 Act to discontinue an investigation of a regulatory complaint,
  - (f) making a decision under section 52A(2)(b) of that Act to reinstate a discontinued investigation of a regulatory complaint.
- (2) Before making any rules under this section, the Council must—
  - (a) send to each member of the Society a draft of the rules,
  - (b) after sending the rules under paragraph (a), submit the draft rules to a meeting of the Society, and
  - (c) take into consideration any resolution passed at that meeting relating to amendments to the draft rules.
- (3) Rules made under this section will not have effect unless the Lord President, after considering any objections the Lord President thinks relevant, has approved the rules so made.”.

*Publication of decisions*

- 12 (1) Schedule 4 of the 1980 Act (constitution, procedure and powers of Tribunal) is amended as follows.
- (2) In paragraph 14, the words “and shall, subject to paragraph 14A, be published in full” are repealed.
- (3) After paragraph 14, insert—

**“14ZA The Tribunal must publish—**

- (a) a decision under section 53(1)(a) as respects a conduct complaint suggesting professional misconduct,
- (b) a decision under section 53ZB(1) or (2) where the determination or direction being appealed against has been published by the Council,
- (c) a decision under section 53ZD(1),
- (d) a decision under section 53ZE(1) or (2) where the determination or decision being appealed against has been published by the Council.

14ZB The Tribunal may publish any other decision of the Tribunal.”.

(4) For paragraph 14A substitute—

“14A In publishing a decision under paragraph 14ZA or 14ZB, the Tribunal must not publish any information that identifies or is likely to identify any person to whom the complaint relates, other than the solicitor against whom the complaint was made, unless—

- (a) the Tribunal considers that it is in the public interest to do so, and
- (b) the person consents to the publication of the information.”.

#### *Other modifications*

13 (1) The 1980 Act is amended as follows.

(2) In section 34 (rules as to professional practice, conduct and discipline), after subsection (1D) insert—

“(1E) Before making any rules under this section in pursuance of the Society’s functions under the 2007 Act relating to complaints against members of the Society or authorised legal businesses, the Council must consult the Commission.”.

(3) In section 39A (powers where excessive fees etc. charged), in subsection (10), paragraph (b), for “6(2)(a) or 15(5)(a) of the 2007 Act” substitute “6(2) of the 2007 Act (or treated as having been remitted to them under that section by virtue of section 33A(2) of that Act)”.

(4) In section 40 (power where failure to comply with accounts rules etc.), in subsection (5), in paragraph (b), for “6(2)(a) or 15(5)(a) of the 2007 Act” substitute “6(2) of the 2007 Act (or treated as having been remitted to them under that section by virtue of section 33A(2) of that Act)”.

### **PART 3**

#### MODIFICATION OF OTHER ENACTMENTS IN RELATION TO COMPLAINTS

##### *Legal Aid (Scotland) Act 1986*

14 In section 34 of the Legal Aid (Scotland) Act 1986 (confidentiality of information), in subsection (2)(b), the words “or 15(5)(a)” are repealed.

##### *Law Reform (Miscellaneous Provisions) (Scotland) Act 1990*

15 (1) The 1990 Act is amended as follows.

(2) In section 17 (conveyancing practitioners), subsection (8)(d) is repealed.

(3) In section 20 (professional misconduct etc.)—

- (a) in subsection (1), in the opening words, for “6(2)(a) or 15(5)(a) of the 2007 Act” substitute “6(2) of the 2007 Act (or treated as having been so remitted by virtue of section 33A(2) of that Act)”;

- (b) subsection (2)(ca) is repealed,
  - (c) subsection (2ZB) is repealed,
  - (d) subsection (2B)(aa) is repealed,
  - (e) for subsection (4) substitute—
    - “(4) Any fine imposed under subsection (2)(cb) or (2B)(b) is payable to the Scottish Ministers.”,
  - (f) subsection (6) is repealed,
  - (g) subsection (7) is repealed,
  - (h) subsections (11ZA) to (11ZC) are repealed,
  - (i) subsections (11B) to (11E) are repealed,
  - (j) subsection (11G) is repealed,
  - (k) subsection (11H) is repealed.
- (4) Section 20ZA (remission of complaint by Tribunal to Council) is repealed.
- (5) In section 20ZB (unsatisfactory professional conduct)—
- (a) in subsection (1), in the opening words—
    - (i) for “6(2)(a) or 15(5)(a) of the 2007 Act” substitute “6(2) of the 2007 Act (or is treated as having been so remitted by virtue of section 33A(2) of that Act)”,
    - (ii) after “must” insert “(subject to section 47(1A) of the 2007 Act and subsections (1A) and (1B))”,
  - (b) after subsection (1), insert—
    - “(1A) The Council may propose a settlement in respect of the complaint which they consider is fair and reasonable in the circumstances to the practitioner and the complainer and, if the practitioner accepts the proposal, the Council—
      - (a) must make a direction to that effect, and
      - (b) may not determine the complaint under subsection (1) unless—
        - (i) the practitioner has failed to comply with the direction under paragraph (a), or
        - (ii) the direction is quashed under section 20B(2)(f).
    - (1B) The practitioner may propose a settlement to the Council and the complainer, and if the Council considers the proposed settlement is fair and reasonable in the circumstances the Council—
      - (a) must make a direction to that effect, and
      - (b) may not determine the complaint under subsection (1) unless—
        - (i) the practitioner has failed to comply with the direction under paragraph (a), or
        - (ii) the direction is quashed under section 20B(2)(f).”,

- (c) subsection (2) is repealed,
- (d) in subsection (3), in the opening words—
  - (i) the words “or (2)” are repealed,
  - (ii) after “complaint” insert “or where the Council make a direction under subsection (1A)(a) or (1B)(a)”,
- (e) after subsection (3), insert—
 

“(3A) Where the Council censures a practitioner under subsection (3), the Council may provide that the censure is to have effect for a specified period and must give their reasons for doing so when making an intimation under subsection (8).”
- (f) subsection (4)(c) is repealed,
- (g) in subsection (5)—
  - (i) after “complaint” where it first occurs insert “(including whether to make a proposed settlement under subsection (1A) or accept a proposed settlement made under subsection (1B))”,
  - (ii) after “of” where it first occurs insert “—  
(a)”,
  - (iii) for “(but not a complaint in respect of which an appeal is pending or which has been quashed ultimately on appeal).” substitute “,  
(b) any previous decision made under section 47(1A)(a) of the 2007 Act with respect to a complaint against the practitioner,  
(c) any previous direction made under subsection (1A)(a) or (1B)(a) with respect to a complaint against the practitioner,  
(d) any previous determination of the Commission of a services complaint under section 9(1) of the 2007 Act relating to the same alleged set of circumstances,  
  
but not a determination, decision or direction in respect of which an appeal is pending or which has been quashed ultimately on appeal.”
- (h) for subsection (7) substitute—
 

“(7) Any fine imposed under subsection (4)(b) is payable to the Scottish Ministers.”
- (i) in subsection (8)—
  - (i) in paragraph (a), the words “or (2)” are repealed,
  - (ii) in paragraph (c), after “subsection” insert “(1A)(a), (1B)(a) or”,
  - (iii) in the closing words, after “practitioner” insert “, and to the Commission and any other relevant party,”
  - (iv) in the closing words, after “determination” where it second occurs insert “or the direction under subsection (1A)(a) or (1B)(a)”,
- (j) after subsection (8) insert—

- “(8A) An intimation made under subsection (8) must—
- (a) be sent as soon as practicable after the determination or direction under subsection (1A)(a) or (1B)(a) has been made,
  - (b) include information about any right of appeal or ability to make a handling complaint by virtue of section 23 of the 2007 Act.”,
- (k) in subsection (9)—
- (i) in the opening words, for “or (2),” substitute “, a decision to reinstate a discontinued investigation has been made under section 47(1A)(b) of the 2007 Act,”,
  - (ii) in the opening words, for “determination or” substitute “determination, decision or”,
  - (iii) after paragraph (a) insert—  
“(aa) decision,”,
- (l) in subsection (10)—
- (i) after “which” insert “—  
(a)”,
  - (ii) the words “or (2)” are repealed,
  - (iii) for “him, appeal to the Tribunal against the determination.” substitute “the complainer,  
(b) a decision under subsection 47(1A)(a) of the 2007 Act to discontinue an investigation is intimated to the complainer, or  
(c) a direction under subsection (1A)(a) or (1B)(a) is intimated to the complainer,  
appeal to the Tribunal against the determination, decision or direction.”,
- (m) subsection (11) is repealed,
- (n) subsection (12) is repealed,
- (o) subsection (13)(b) is repealed,
- (p) subsection (14)(b) is repealed.
- (6) In section 20ZC—
- (a) in subsection (1), for “20ZB(4)” substitute “20ZB(1A)(a), (1B)(a) or (4)”,
  - (b) in subsection (2)—
    - (i) for “(12)” substitute “(10)”,
    - (ii) for “20ZB(4)” substitute “20ZB(1A)(a), (1B)(a) or (4)”,
  - (c) the title to the section becomes “**Unsatisfactory professional conduct: Council’s powers to monitor compliance with direction under section 20ZB**”.
- (7) After section 20ZE, insert—

**“20ZF Application of procedure relating to complaints**

- (1) The rules made by the Council under section 42D(1)(a) and (b) of the 1980 Act about the procedure for the making of a decision under section 47(1A) of the 2007 Act apply to such decisions made in relation to a complaint against a practitioner.
  - (2) The rules made by the Council under section 42D(1)(c) and (d) of the 1980 Act about the procedure for making and accepting a proposed settlement under section 42ZA(1A) and (1B) of that Act apply to the making and accepting of a proposed settlement under section 20ZB(1A) and (1B).”.
- (8) In section 20B (unsatisfactory professional conduct: powers of Tribunal on appeal)—
- (a) in subsection (1)—
    - (i) paragraph (f) is repealed,
    - (ii) after paragraph (f) insert—
 

“(g) may quash or confirm the decision being appealed against,

(h) if it confirms the decision, may direct the Council as to which aspects of the complaint should be continued.”,
  - (b) in subsection (2)—
    - (i) paragraph (b) is repealed,
    - (ii) after paragraph (c), insert—
 

“(d) may quash or confirm the decision being appealed against,

(e) if it quashes the decision, may direct the Council as to which aspects of the complaint should be continued,

(f) may quash or confirm the direction being appealed against,

(g) if it quashes the direction—

      - (i) must quash any censure and any other associated measures accompanying the direction,
      - (ii) may direct the Council to carry out their duties under section 20ZB(1),
      - (iii) may direct the Council to propose a new settlement under section 20ZB(1A), taking into account any matters specified by the Tribunal,
      - (iv) may dismiss the complaint.”,
  - (c) subsection (3) is repealed,
  - (d) subsection (4) is repealed,
  - (e) for subsection (6) substitute—
 

“(6) Any fine imposed under subsection (1)(e) is payable to the Scottish Ministers.”,
  - (f) subsection (8)(b) is repealed,
  - (g) subsection (9)(b) is repealed.



- (9) In section 20D (unsatisfactory professional conduct: appeal from decisions of Tribunal), in subsection (3)—
- (a) paragraphs (b) to (d) are repealed,
  - (b) paragraph (f) is repealed,
  - (c) paragraph (g) is repealed,
  - (d) after paragraph (g), insert—  
“*(h) a decision under subsection (2)(d) to quash or confirm a decision made under section 47(1A)(a) of the 2007 Act.*”.
- (10) In section 20E (unsatisfactory professional conduct: powers of court on appeal)—
- (a) subsection (1)(b) is repealed,
  - (b) subsection (3)(b) is repealed,
  - (c) subsection (4)(b) is repealed.
- (11) In section 21B (procedures of the Tribunal etc.), in subsection (2)—
- (a) “15” substitute “15A, 16A”,
  - (b) for “, (10), (11) or (12)” substitute “or (10)”.

*Legal Profession and Legal Aid (Scotland) Act 2007*

16 (1) The 2007 Act is amended as follows.

- (2) In section 2 (receipt of complaints: preliminary steps)—
- (a) in subsection (1)(a)(i), for “other than a firm of solicitors or an incorporated practice” substitute “who is an individual”,
  - (b) in subsection (3), for the words from “the”, where it first occurs, to “further” substitute “any”.
- (3) In section 3 (existence of specified regulatory scheme)—
- (a) in subsection (1), after “2(1)” insert “or 2A(1)”,
  - (b) in subsection (2), in the opening words, the words “in writing” are repealed,
  - (c) in subsection (4), the words “taking the preliminary steps referred to in section 2(4) and” are repealed.
- (4) In section 8 (services complaint: local resolution or mediation)—
- (a) in subsection (2), the words “, by notice in writing to the complainer and the practitioner” are repealed,
  - (b) in subsection (3), the words “, by notice in writing,” are repealed,
  - (c) in subsection (4), the words “, by notice in writing to the complainer and the practitioner,” are repealed,
  - (d) in subsection (6), the words from “; and,” to the end of the subsection are repealed.

- (5) In section 9 (services complaint: Commission's duty to investigate and determine)—
  - (a) in subsection (1)—
    - (i) in paragraph (d), the words “under section 2(1A)(a)” are repealed,
    - (ii) in paragraph (d), at the end insert “(in whole or in part)”,
    - (iii) in the closing words, the words “and section 15(2) and (5)” are repealed,
    - (iv) in the closing words, after “complaint” insert “(or the part of the complaint constituting a services complaint)”,
    - (v) in the closing words, for “(4)” substitute “(7)”,
  - (b) subsection (1B) is repealed.
- (6) In section 16 (power to monitor compliance with directions under section 10(2))—
  - (a) in subsection (1), the words “in writing” are repealed,
  - (b) in subsection (2)—
    - (i) for “an appeal” substitute “a review”,
    - (ii) for “section 21(1)” substitute “section 20A”,
    - (iii) for “the appeal” substitute “the review”.
- (7) In section 17 (power to examine documents and demand explanations in connection with conduct or services complaints)—
  - (a) in subsection (1)—
    - (i) after “2,” insert “2A,”,
    - (ii) for “15 or 16” substitute “16, 23 or 24 or any provision in rules made under section 32(1) (but only in so far as the provision in the rules relates to the categorisation of complaints)”,
    - (iii) the words “in writing” are repealed,
  - (b) in subsection (3)(b), for “incorporated practice of which the practice” substitute “authorised legal business of which the business”,
  - (c) in subsection (4)—
    - (i) after “2,” insert “2A,”,
    - (ii) for “or 15, it may give notice in writing” substitute “, 23 or 24 or any provision in rules made under section 32(1), it may give notice”.
- (8) In section 23 (handling by relevant professional organisations of conduct complaints: investigation by Commission), in subsection (5), in paragraph (a), the words “the handling complaint is that” are repealed.
- (9) In section 24 (investigation under section 23: final report and recommendations), in subsection (5), the words “, in writing,” are repealed.
- (10) In section 33 (duty of relevant professional organisations to forward complaints to Commission), in subsection (1)(b), the words “or 15(5)(a)” are repealed.

- (11) In section 34 (Commission’s duty to provide advice)—
- (a) in subsection (1), the words “services complaint or a handling” are repealed,
  - (b) in subsection (2), for “a firm of solicitors or an incorporated practice” substitute “not an individual”.
- (12) In section 37 (obtaining of information from relevant professional organisations), in subsection (2), for “or 15(5)(a)” substitute “(or treated as having been remitted to it under that section by virtue of section 33A(2))”.
- (13) In section 42 (reports: privilege)—
- (a) the title of the section becomes “**Disclosure of information by Commission: privilege**”,
  - (b) for “publication of any report” insert “disclosure of any information by the Commission”,
  - (c) the words “13(1), 23(8),” are repealed,
  - (d) after “36(2)” insert “, 41A”,
  - (e) for “publication” where it second occurs substitute “disclosure”.
- (14) In section 43(2) (restriction upon disclosure of information: Commission), in paragraph (a), after “services complaint” insert “, regulatory complaint”.
- (15) In section 46(1) (interpretation of Part 1)—
- (a) after the definition of “annual general levy” insert—
    - ““authorised legal business” is a legal business (within the meaning of section 39(2) of the 2025 Act) that is authorised to provide legal services by a category 1 regulator,
    - “category 1 regulator” means a body that regulates the provision of legal services and which has been assigned as a category 1 regulator in or under section 7 of the 2025 Act,
    - “category 2 regulator” means a body that regulates the provision of legal services and which has been assigned as or deemed a category 2 regulator in or under section 7 of the 2025 Act,”
  - (b) in the definition of “employing practitioner” for “section 4(4)(a)” substitute “section 2(1ZB)”,
  - (c) in the definition of “inadequate professional services”, in paragraph (a), for sub-paragraphs (iii) and (iv) substitute—
    - “(iii) an authorised legal business, professional services which are in any respect not of the quality which could reasonably be expected of a competent authorised legal business,
    - (iv) a person exercising a right to provide legal services acquired by virtue of Chapter 3 of Part 1 of the 2025 Act (or section 27 of the 1990 Act), professional services which are in any respect not of the quality which could reasonably be expected of a competent person exercising such a right,”

- (d) after the definition of “incorporated practice” insert—
  - ““legal services” has the meaning given by section 5 of the 2025 Act,”
- (e) in the definition of “practitioner” for paragraph (d), substitute—
  - “(d) an authorised legal business, whether or not since that time there has been any change in the persons exercising the management and control of the business, the business has ceased to be authorised to provide legal services by a category 1 regulator or the business has ceased to operate,”
- (f) paragraph (e) is repealed,
- (g) for paragraph (f) substitute—
  - “(f) a person exercising a right to provide legal services acquired by virtue of Chapter 3 of Part 1 of the 2025 Act (or section 27 of the 1990 Act) and includes any such person, whether or not the person had acquired the right at that time and notwithstanding that subsequent to that time the person no longer has the right,”
- (h) after the definition of “practitioner”, insert—
  - ““professional services” includes legal services,”
- (i) after the definition of “registered European or foreign lawyer” insert—
  - ““regulatory complaint”—
    - (a) in relation to an authorised legal business, has the meaning given by section 2(1)(c),
    - (b) in relation to a licensed legal services provider (within the meaning of section 47 of the Legal Services (Scotland) Act 2010), has the meaning given by section 57A(4A)(a),”
- (j) for the definition of “relevant professional organisation” substitute—
  - ““relevant professional organisation” means, in relation to a complaint as respects a practitioner who is regulated by—
    - (a) a category 1 regulator, that category 1 regulator,
    - (b) a category 2 regulator, that category 2 regulator,”
- (k) in the definition of “unsatisfactory professional conduct”, in paragraph (c), for “conduct litigation or a right of audience acquired by virtue of section 27 of the 1990 Act” substitute “provide legal services acquired by virtue of Chapter 3 of Part 1 of the 2025 Act (or section 27 of the 1990 Act)”.
- (16) In Part 2, the title of the Part becomes “CONDUCT, SERVICES AND REGULATORY COMPLAINTS ETC.: OTHER MATTERS”.
- (17) In section 47 (conduct complaints: duty of relevant professional organisations to investigate etc.)—
  - (a) in subsection (1)—
    - (i) for “or 15(5)(a)” substitute “(or treated as having been remitted to it under that section by virtue of section 33A(2))”,

- (ii) for “section 15(1) and (6)” substitute “section 33(4) and any rules made under section 32(1)”,
  - (b) in subsection (4), for “52” substitute “52A”.
- (18) In section 48 (conduct complaints and reviews: power of relevant professional organisations to examine documents and demand explanations), in subsection (1), in the opening words—
  - (a) after “section 47” insert “or a regulatory complaint under section 52A,”,
  - (b) for “a conduct”, where it second occurs, substitute “such a”.
- (19) The title of section 48 becomes “**Conduct complaints, regulatory complaints and reviews: power of relevant professional organisations to examine documents and demand explanations**”.
- (20) In section 49 (conduct complaints: financial impropriety), in subsection (1), after “section 47” insert “or a regulatory complaint under section 52A”.
- (21) The title of section 49 becomes “**Conduct complaints and regulatory complaints: financial impropriety**”.
- (22) In section 51 (powers in relation to documents and information from third parties), in subsection (1)—
  - (a) after “section 47” insert “or a regulatory complaint under section 52A,”,
  - (b) for “a conduct”, where it second occurs, substitute “such a”.
- (23) After section 51, insert—

**“51B Disclosure of information by relevant professional organisation: privilege**

For the purposes of the law of defamation, disclosure of any information by a relevant professional organisation under section 51A is privileged unless the disclosure is proved to be made with malice.”.
- (24) In section 52 (restriction upon disclosure of information: relevant professional organisations), in subsection (2)(a), after “complaint” insert “or a regulatory complaint”.
- (25) In section 57A (complaints about licensed providers)—
  - (a) in subsection (2), for the words “and (4)” substitute “to (4A)”,
  - (b) in subsection (4), paragraph (b) is repealed,
  - (c) after subsection (4) insert—

“(4A) In relation to a regulatory complaint about a licensed provider—

    - (a) a regulatory complaint is where any person suggests that the licensed provider is failing (or has failed) to—
      - (i) have regard to the regulatory objectives,
      - (ii) adhere to the professional principles,
      - (iii) comply with the approved regulator’s regulatory scheme,
      - (iv) comply with the terms and conditions of its licence, and

- (b) its approved regulator is to be regarded as the relevant professional organisation.”,
- (d) subsection (5) is repealed.
- (26) Section 57B (regulatory complaints) is repealed.
- (27) In section 57C (levy, advice and guidance)—
  - (a) in subsection (2), after the words “28(1)” insert “to the extent it relates to the annual general levy and the complaints levy”,
  - (b) subsections (4) and (5) are repealed,
  - (c) the title of the section becomes “Levy”.
- (28) In section 57E (handling complaints), in subsection (1), after “conduct complaint” insert “or a regulatory complaint”.
- (29) In section 78 (ancillary provision), in subsection (1), for “of” where it second occurs substitute “made under”.
- (30) In section 79 (regulations or orders), in subsection (3)(b), after “section” insert “28A(3) or”.
- (31) In section 80 (interpretation), after the definition of “the 1990 Act” insert—
  - ““the 2025 Act” means the Regulation of Legal Services (Scotland) Act 2025.”.
- (32) In schedule 1, paragraph 2 (membership of the Commission), for sub-paragraph (6)(d) substitute—
  - “(d) persons exercising a right to provide legal services acquired by virtue of Chapter 3 of Part 1 of the 2025 Act (or section 27 of the 1990 Act).”.
- (33) In schedule 4—
  - (a) after paragraph 1(b), insert—
    - “(c) under section 48A(2) to any person having possession or control of any documents mentioned in subsection (9) of that section,”,
  - (b) after paragraph 2(b), insert—
    - “(c) in the case mentioned in paragraph 1(c), without delay serve on the practitioner in respect of whom the relevant professional organisation is considering initiating the potential complaint mentioned in section 48A(1), and any other person to whom the notice was given,”,
  - (c) the title to the schedule becomes “FURTHER POWERS OF RELEVANT PROFESSIONAL ORGANISATIONS UNDER SECTIONS 48 AND 48A”.

*Legal Services (Scotland) Act 2010*

- 17 (1) The 2010 Act is amended as follows.

- (2) In section 19 (financial sanctions)—
  - (a) in subsection (1)—
    - (i) the words from “the” to the end of the subsection become paragraph (a),
    - (ii) after that paragraph, insert—
      - “(b) the withdrawal of the imposition of a financial penalty if the regulator considers that it would not be reasonable to seek (or to continue to seek) payment of the financial penalty.”,
  - (b) for subsection (2) substitute—
    - “(2) The Scottish Ministers may by regulations specify the maximum amount of a financial penalty that may be imposed by virtue of subsection (1).”,
  - (c) after subsection (5) insert—
    - “(6) Before making regulations under subsection (2), the Scottish Ministers must consult—
      - (a) each approved regulator, and
      - (b) such other person or body as the Scottish Ministers consider appropriate.
    - (7) Regulations under subsection (2) may not be made without the agreement of the Lord President.”.
- (3) In section 38 (measures open to Ministers), in subsection (6), the words “except paragraph (d)” are repealed.
- (4) In section 121 (professional rules), after subsection (3) insert—
  - “(3A) Before making any rule which relates to complaints against advocates, the Faculty must consult the Scottish Legal Complaints Commission.”.
- (5) In schedule 4 (financial penalties), paragraphs 8 to 10 are repealed.

#### **PART 4**

##### **MISCELLANEOUS MODIFICATIONS OF THE 1980 ACT ETC.**

###### *The roll and other registers*

- 18 (1) The 1980 Act is amended as follows.
  - (2) In section 7 (keeping the roll)—
    - (a) in subsection (1), the words “at the office of their secretary” are repealed,
    - (b) for subsection (3) substitute—
      - “(3) The roll must be accessible to, and searchable by, the public, free of charge, by such electronic means as the Council consider appropriate.”.
  - (3) In section 8 (entry in the roll), for subsection (2) substitute—

- “(2) Any solicitor whose name is entered on the roll (in this Act referred to as “an enrolled solicitor”) must—
  - (a) on enrolment, inform the Council of—
    - (i) the address of the solicitor’s place of business, and
    - (ii) any other information the Council consider necessary for the purpose of maintaining the roll, and
  - (b) inform the Council of any change to the information required under paragraph (a) within 28 days of the change.”.
- (4) In section 12A (keeping the register)—
  - (a) in subsection (1), the words “, and shall keep the register at the office of their secretary” are repealed,
  - (b) for subsection (3) substitute—
    - “(3) The register must be accessible to, and searchable by, the public, free of charge, by such electronic means as the Council consider appropriate.”.
- (5) In section 12B (information to be provided by registered European lawyers), for subsection (1) substitute—
  - “(1) Any registered European lawyer must—
    - (a) on registration, inform the Council of—
      - (i) the address of the registered European lawyer’s place of business,
      - (ii) the registered European lawyer’s home professional title, and
      - (iii) the name and address of the competent authority with which the registered European lawyer is registered in the registered European lawyer’s home state, and
    - (b) inform the Council of any change to the information required under paragraph (a) within 28 days of the change.”.
- (6) In section 12C (removal of name from register on request)—
  - (a) in subsection (1), for “solicitor” substitute “registered European lawyer”,
  - (b) in subsection (2)(a), for “solicitor”, in both places it occurs, substitute “registered European lawyer”.
- (7) In section 13 (applications for practising certificates), for subsection (2) substitute—
  - “(2) The register must be accessible to, and searchable by, the public, free of charge, by such electronic means as the Council consider appropriate.”.
- (8) In section 24A (applications for registration certificates), for subsection (2) substitute—
  - “(2) The register referred to in subsection (1)(c) must be accessible to, and searchable by, the public, free of charge, by such electronic means as the Council consider appropriate.”.
- (9) In section 60A (registered foreign lawyers)—
  - (a) for subsection (4A) substitute—



- “(4A) The register of foreign lawyers must be accessible to, and searchable by, the public, free of charge, by such electronic means as the Council consider appropriate.”,
- (b) in subsection (4B), after “hand” insert “and the Council are satisfied that it is otherwise appropriate to do so”.
- (10) In schedule 2 (the roll: powers of the Council and ancillary provisions)—
- (a) in paragraph 1(b)—
- (i) for “send to any solicitor at his address as shown in the roll a letter enquiring” substitute “contact any solicitor to enquire”,
- (ii) for “6 months” substitute “8 weeks”,
- (iii) for “of the posting of the letter” substitute “the enquiry is made”,
- (b) for paragraph 1(c) substitute—
- “(c) where—
- (i) a solicitor on the roll has been so enrolled based on an undertaking to complete any remaining period of training or to meet any other requirements that the solicitor is required to meet in pursuance of regulations under section 5, and
- (ii) the Council are not satisfied that the solicitor has fulfilled that undertaking—
- (A) within the period of 6 months beginning with the last day of service of the training contract which the solicitor entered into in accordance with those regulations, or
- (B) immediately following the termination of such a training contract,
- to contact the solicitor to enquire whether the solicitor intends to fulfil the undertaking and intimating that, unless a reply which the Council regard as satisfactory is received within the period of 8 weeks beginning with the day on which the enquiry is made, the solicitor’s name may be removed from the roll, and”,
- (c) in paragraph 1(d)—
- (i) for “a letter has been so sent” substitute “an enquiry has been made”,
- (ii) for “a letter sent” substitute “an enquiry made”.
- (11) In schedule 4 (constitution, procedure and powers of Tribunal)—
- (a) in paragraph 18, for the words from “shall” to the end of the paragraph substitute “must be accessible to, and searchable by, the public, free of charge, by such electronic means as the Council consider appropriate.”,
- (b) in paragraph 18A, for the words from “open” to the end of the paragraph substitute “accessible to, and searchable by, the public, free of charge, by such electronic means as the Council consider appropriate.”.
- 19 (1) The 1990 Act is amended as follows.

- (2) In section 17 (conveyancing practitioners)—
- (a) in subsection (1), for the words from “shall” to the end of the subsection substitute “must be accessible to, and searchable by, the public, free of charge, by such electronic means as the Council consider appropriate.”,
  - (b) after subsection (9) insert—
    - “(9A) On application to the Council from a conveyancing practitioner whose name has been removed from the register under subsection (9), the Council may, after such inquiry as they think proper, restore the name of that conveyancing practitioner to the register.
    - (9B) Rules made by the Tribunal under section 52 of the 1980 Act may—
      - (a) regulate the making, hearing and determining of applications under subsection (9A),
      - (b) provide for payment by the applicant to the Council of such fee in respect of restoration to the register as the rules may specify.”.
- (3) In section 18 (executry practitioners)—
- (a) in subsection (1), for the words from “shall” to the end of the subsection substitute “must be accessible to, and searchable by, the public, free of charge, by such electronic means as the Council consider appropriate.”,
  - (b) after subsection (8) insert—
    - “(8A) On application to the Council from an executry practitioner whose name has been removed from the register under subsection (9), the Council may, after such inquiry as they think proper, restore the name of that executry practitioner, to the register.
    - (8B) Rules made by the Tribunal under section 52 of the 1980 Act may—
      - (a) regulate the making, hearing and determining of applications under subsection (8A),
      - (b) provide for payment by the applicant to the Council of such fee in respect of restoration to the register as the rules may specify.”.

*Restoration of name to roll: appeals*

- 20 (1) The 1980 Act is amended as follows.
- (2) In section 10 (restoration of name to roll on request)—
- (a) after subsection (1ZA), insert—
    - “(1ZB) Where under subsection (1) or (1ZA) the Tribunal decides not to restore a solicitor’s name to the roll, the solicitor may appeal the decision to the Court.
    - (1ZC) An appeal under subsection (1ZB) must be made before the expiry of the period of 21 days beginning with the day on which the Tribunal’s decision is intimated to the solicitor.
    - (1ZD) On an appeal under subsection (1ZB), the Court may give such directions in the matter as it thinks fit, including directions as to the expenses of the

proceedings before the Court and as to any order by the Tribunal relating to expenses.

(1ZE) A decision of the Court under subsection (1ZD) is final.”,

(b) after subsection (1A), insert—

“(1B) Where under subsection (1A) the Council decides not to restore a solicitor’s name, or annotation against a solicitor’s name, to the roll, the solicitor may appeal the decision to the Tribunal.

(1C) An appeal under subsection (1B) must be made before the expiry of the period of 21 days beginning with the day on which the Council’s decision is intimated to the solicitor.

(1D) On an appeal to the Tribunal under subsection (1B), the Tribunal may—

(a) restore the solicitor’s name, or annotation against the solicitor’s name, to the roll, or

(b) confirm the Council’s decision.”.

(3) In schedule 4 (constitution, procedure and powers of Tribunal)—

(a) in paragraph 23, in the opening words, after “appeal to the Tribunal under section” insert “10(1B), 12D(2A),”,

(b) in paragraph 25, at the beginning, insert “Subject to paragraph 26,”,

(c) after paragraph 25 insert—

“26 In an appeal to the Tribunal under section 10(1B), the Tribunal must—

(a) give notice of the appeal to the solicitor and to the Council, and

(b) enquire into the matter, giving the solicitor and the Council reasonable opportunity to make representations to the Tribunal.”.

#### *Restoration of name to register of European lawyers: appeals*

21 (1) The 1980 Act is amended as follows.

(2) In section 12D (restoration of name to register on request), after subsection (2) insert—

“(2A) Where under subsection (2) the Council decides not to restore a registered European lawyer’s name, or annotation against a registered European lawyer’s name, to the register, the registered European lawyer may appeal the decision to the Tribunal.

(2B) An appeal under subsection (2A) must be made before the expiry of the period of 21 days beginning with the day on which the Council’s decision is intimated to the registered European lawyer.

(2C) On an appeal to the Tribunal under subsection (2A), the Tribunal—

(a) if the Tribunal considers that a registered European lawyer’s name should be restored to the register, must direct the Council—

(i) to restore the registered European lawyer’s name to the register, and

- (ii) to issue to the registered European lawyer a registration certificate, subject to such conditions, if any, as the Tribunal thinks fit,
  - (b) if the Tribunal considers that an annotation against the registered European lawyer's name should be restored to the register, must direct the Council to restore the annotation to the register,
  - (c) may confirm the Council's decision.”.
- (3) In section 52 (procedure on complaints and appeals to Tribunal), in subsection (2)(aa), after “section” insert “10(1B), 12D(2A),”.

*Restoration of name to register of foreign lawyers: appeals*

22 (1) The 1980 Act is amended as follows.

- (2) In section 60A (registered foreign lawyers), after subsection (4F) insert—
  - “(4FA) Where under subsection (4C) the Council decides not to restore a foreign lawyer's name to the register, the foreign lawyer may appeal the decision to the Court.
  - (4FB) Where under subsection (4D) the Tribunal decides not to order the restoration of a foreign lawyer's name to the register, the foreign lawyer may appeal the decision to the Court.
  - (4FC) An appeal under subsection (4FA) or (4FB) must be made before the expiry of the period of 21 days beginning with the day on which the Council's decision or, as the case may be, the Tribunal's decision, is intimated to the foreign lawyer.
  - (4FD) On an appeal to the Court under subsection (4FA) or (4FB), the Court may—
    - (a) order the restoration of the foreign lawyer's name to the register, or
    - (b) confirm the decision of the Council or, as the case may be, the Tribunal.”.

*Restoration of name to roll or register: expenses*

23 (1) The 1980 Act is amended as follows.

- (2) In schedule 4 (constitution, procedure and powers of Tribunal)—
  - (a) after paragraph 19 insert—
    - “19A The Tribunal may make such order as it thinks fit in relation to an application under section 10(1), 12D(1) or 60A(4D) as to the payment by the applicant or the respondent of—
      - (a) the expenses incurred by the other party and by the Tribunal, or
      - (b) a reasonable contribution towards those expenses.”.
  - (b) in paragraph 23, after paragraph (d) insert—
    - “(e) paragraph 19A does not apply.”.

*Practising certificates*

24 (1) The 1980 Act is amended as follows.

(2) In section 15 (discretion of Council in special cases)—

(a) in subsection (2)(i)(i), for “6(2)(a) or 15(5)(a) of the 2007 Act” substitute “6(2) of the 2007 Act (or is treated as having been so remitted by virtue of section 33A(2) of that Act”,

(b) after subsection (2)(j) insert—

“(k) where the solicitor’s practising certificate is subject to conditions.”,

(c) in subsection (3), for “or (h)” substitute “, (h) or (k)”,

(d) after subsection (3) insert—

“(3A) Where the Council decide to issue a practising certificate subject to conditions, the Council may, at the request of the solicitor to whom the certificate is issued or on their own initiative—

(a) vary the conditions,

(b) remove conditions, or

(c) impose further conditions.

(3B) Before making a decision to vary, remove or impose conditions under subsection (3A), the Council must—

(a) notify the solicitor of their intention to exercise the power,

(b) give the solicitor an opportunity to make representations within 14 days of being notified,

and when exercising that power, must take into account any representations made by the solicitor.

(3C) The Council must notify the solicitor to whom the practising certificate is issued of the decision to vary, remove or impose conditions and the reasons for the decision as soon as practicable after making the decision.”,

(e) in subsection (4), after “conditions,” insert “or vary, remove or impose conditions under subsection (3A),”,

(f) after subsection (4) insert—

“(5) If a solicitor fails to comply with any condition of the solicitor’s practising certificate, that failure may be treated as professional misconduct or unsatisfactory professional conduct.”.

(3) After section 15 insert—

**“15A Discretion of Council in other cases**

(1) Except in a case where section 15 has effect, the Council may, subject to subsection (2), take any of the following steps in relation to the practising certificate of a solicitor—

(a) vary any conditions imposed by the Council,

- (b) remove conditions, or
    - (c) impose conditions.
  - (2) The Council may take any of the steps mentioned in subsection (1) only if they consider it necessary to do so—
    - (a) in the public interest, or
    - (b) for the protection of the public.
  - (3) Before making a decision to vary, remove or impose conditions by virtue of subsection (2)(a), the Council must—
    - (a) notify the solicitor of their intention to exercise the power,
    - (b) give the solicitor an opportunity to make representations within 14 days of being notified,

and when exercising that power, must take into account any representations made by the solicitor.
  - (4) Where the Council have made a decision to vary, remove or impose conditions by virtue of subsection (2)(b), the Council—
    - (a) when notifying the solicitor under subsection (5), must give the solicitor an opportunity to make representations within 14 days of being notified, and
    - (b) taking into account any representations made, may vary their decision.
  - (5) The Council must notify the solicitor to whom the practising certificate is issued of their decision to vary, remove or impose conditions and the reasons for the decision as soon as practicable after making the decision.
  - (6) Where the Council decide to vary, remove or impose conditions, they may, if they think fit, postpone the issue of the certificate pending the hearing and determination of an appeal under section 16.
  - (7) If a solicitor fails to comply with any condition of the solicitor's practising certificate, that failure may be treated as professional misconduct or unsatisfactory professional conduct.”
- (4) In section 16 (appeals from decisions of Council)—
- (a) in subsection (2), after “conditions,” insert “or decide to vary, remove or impose conditions,”,
  - (b) after subsection (2) insert—
 

“(2A) Where the Council have varied conditions of, removed conditions from or imposed conditions on a practising certificate under section 15A, the solicitor to whom the certificate is issued may appeal to the Court against that decision within 14 days of being notified of it.”,
  - (c) in subsection (3), in the opening words, after “(2)” insert “or (2A)”.
- (5) In section 17 (date and expiry of practising certificates), in subsection (2), after “(1)” insert “or a different date specified on the certificate”.

- (6) In section 18 (suspension of practising certificates)—
- (a) after subsection (1ZA) insert—
- “(1ZB) The Council may suspend a solicitor from practice as a solicitor if the Council consider it necessary to do so—
- (a) in the public interest, or
- (b) for the protection of the public.
- (1ZC) Before making a decision to suspend a solicitor from practice by virtue of subsection (1ZB)(a), the Council must—
- (a) notify the solicitor of their intention to make a decision,
- (b) give the solicitor an opportunity to make representations within 14 days of being notified,
- and when making a decision, must take into account any representations made by the solicitor.
- (1ZD) Where the Council have made a decision to suspend a solicitor from practice by virtue of subsection (1ZB)(b), the Council—
- (a) when notifying the solicitor under subsection (1ZE), must give the solicitor an opportunity to make representations within 14 days of being notified, and
- (b) taking into account any representations made, may vary their decision.
- (1ZE) Where the Council have made a decision to suspend a solicitor from practice under subsection (1ZB), the Council must notify the solicitor of the suspension as soon as practicable and give reasons for the suspension.”,
- (b) after subsection (3A) insert—
- “(4) Where the Council have been notified by the Commission that a solicitor has failed to comply with a direction under section 10 of the 2007 Act, the Council may, when considering a suspension under this section, contact the Commission to ascertain whether the solicitor has since complied with the direction.”,
- (c) the title of section 18 becomes “**Suspension from practice as solicitor**”.
- (7) In section 19 (further provisions relating to suspension of practising certificates)—
- (a) subsection (1) is repealed,
- (b) for subsections (4) and (5) substitute—
- “(4) Where a solicitor has been suspended from practice as a solicitor by virtue of section 18(1)(c) or (d), the suspension expires on the solicitor being granted a discharge.
- (5) Where a solicitor has been suspended from practice as a solicitor by virtue of section 18(1)(e), the suspension expires on the judicial factor being granted a discharge.”,
- (c) subsection (5B) is repealed,
- (d) in subsection (5C), for “(5B)” substitute “(5A)”.

- (e) after subsection (5C), insert—
  - “(5D) Where a solicitor is suspended from practice as a solicitor by virtue of paragraphs (c), (d) or (e) of section 18(1) or by virtue of section 18(1ZA) or (1ZB), the Council may, on their own initiative, decide to terminate the suspension with or without conditions.”,
- (f) in subsection (6), after “section 18(1ZA)” insert “or (1ZB)”,
- (g) after subsection (7), insert—
  - “(7A) Where the Council have made a decision—
    - (a) to terminate the suspension of a solicitor under subsection (5D),
    - (b) to grant an application to terminate the suspension of a solicitor under subsection (7)(a), or
    - (c) to refuse an application to terminate the suspension of a solicitor under subsection (7)(b),
 the Council must notify the solicitor of the decision and the reasons for the decision as soon as practicable after making the decision.”,
- (h) the title of section 19 becomes “**Further provisions relating to suspension from practice as solicitor**”.
- (8) In section 20 (Council’s duty to supply lists of solicitors holding practising certificates), after subsection (1)(b) insert—
  - “(c) any other body the Council consider necessary for the fulfilment of the Council’s regulatory duties,”.

#### *Registration certificates*

- 25 (1) The 1980 Act is amended as follows.
- (2) In section 24C (discretion of Council in special cases)—
  - (a) in subsection (2)(h)—
    - (i) in the opening words, the words “, after a complaint has been made” are repealed,
    - (ii) in sub-paragraph (i), for “relating to his conduct of the business of a client” substitute “the Council are investigating a conduct complaint remitted to them under section 6(2) of the 2007 Act (or is treated as having been so remitted by virtue of section 33A(2) of that Act),”,
    - (iii) in sub-paragraph (ii), at beginning insert “after a complaint has been made”,
  - (b) after subsection (2)(i) insert—
    - “(j) where the registered European lawyer’s registration certificate is subject to conditions.”,
  - (c) in subsection (3), for “or (g)” substitute “, (g) or (j)”,
  - (d) after subsection (3) insert—



- “(3A) Where the Council decide to issue a registration certificate subject to conditions, the Council may, at the request of the registered European lawyer to whom the certificate is issued or on their own initiative—
- (a) vary the conditions,
  - (b) remove conditions, or
  - (c) impose further conditions.
- (3B) Before making a decision to vary, remove or impose conditions under subsection (3A), the Council must—
- (a) notify the registered European lawyer of their intention to exercise the power,
  - (b) give the registered European lawyer an opportunity to make representations within 14 days of being notified,
- and when exercising that power, must take into account any representations made by the registered European lawyer.
- (3C) The Council must notify the registered European lawyer to whom the registration certificate is issued of the decision to vary, remove or impose conditions and the reasons for the decision as soon as practicable after making the decision.”,
- (e) in subsection (4), after “conditions,” insert “or vary, remove or impose conditions under subsection (3A),”,
  - (f) after subsection (4) insert—
- “(5) If a registered European lawyer fails to comply with any condition of the lawyer’s registration certificate, that failure may be treated as professional misconduct or unsatisfactory professional conduct.”.
- (3) After section 24C insert—
- “24CA Discretion of Council in other cases**
- (1) Except in a case where section 24C has effect, the Council may, subject to subsection (2), take any of the following steps in relation to the registration certificate of a registered European lawyer—
    - (a) vary any conditions imposed by the Council,
    - (b) remove conditions, or
    - (c) impose conditions.
  - (2) The Council may take any of the steps mentioned in subsection (1) only if they consider it necessary to do so—
    - (a) in the public interest, or
    - (b) for the protection of the public.

- (3) Before making a decision to vary, remove or impose conditions by virtue of subsection (2)(a), the Council must—
  - (a) notify the registered European lawyer of their intention to exercise the power,
  - (b) give the registered European lawyer an opportunity to make representations within 14 days of being notified,
 and when exercising that power, must take into account any representations made by the registered European lawyer.
- (4) Where the Council have made a decision to vary, remove or impose conditions by virtue of subsection (2)(b), the Council—
  - (a) when notifying the registered European lawyer under subsection (5), must give the registered European lawyer an opportunity to make representations within 14 days of being notified, and
  - (b) taking into account any representations made, may vary their decision.
- (5) The Council must notify the registered European lawyer to whom the registration certificate is issued of their decision to vary, remove or impose conditions and the reasons for their decision.
- (6) Where the Council decide to vary, remove or impose conditions, they may, if they think fit, postpone the issue of the certificate pending the hearing and determination of an appeal under section 24D.”.
- (4) In section 24D (appeals from decisions of Council)—
  - (a) in subsection (2), after “conditions,” insert “or decide to vary, remove or impose conditions,”
  - (b) after subsection (2) insert—
    - “(2A) Where the Council have varied conditions of, removed conditions from or imposed conditions on a registration certificate under section 24C(3A) or 24CA, the registered European lawyer to whom the certificate is issued may appeal to the Court against that decision within 14 days of being notified of it.”,
  - (c) subsection (3), in the opening words, after “(2)” insert “or (2A)”.
- (5) In section 24E (date and expiry of registration certificate), in subsection (2), after “(1)” insert “or a different date specified on the certificate”.
- (6) In section 24F (suspension of registration certificate)—
  - (a) after subsection (1A) insert—
    - “(1B) The Council may suspend a registered European lawyer from practice as a registered European lawyer if the Council consider it necessary to do so—
      - (a) in the public interest, or
      - (b) for the protection of the public.

- (1C) Before making a decision to suspend a registered European lawyer from practice by virtue of subsection (1B)(a), the Council must—
  - (a) notify the lawyer of their intention to make a decision,
  - (b) give the lawyer an opportunity to make representations within 14 days of being notified,and when making a decision, must take into account any representations made by the lawyer.
- (1D) Where the Council have made a decision to suspend a registered European lawyer from practice by virtue of subsection (1B)(b), the Council—
  - (a) when notifying the lawyer under subsection (1E), must give the lawyer an opportunity to make representations within 14 days of being notified, and
  - (b) taking into account any representations made, may vary their decision.
- (1E) Where the Council have made a decision to suspend a registered European lawyer from practice under subsection (1B), the Council must notify the lawyer of the suspension as soon as practicable and give reasons for the suspension.”,
- (b) after subsection (3) insert—
  - “(4) Where the Council have been notified by the Commission that a registered European lawyer has failed to comply with a direction under section 10 of the 2007 Act, the Council may, when considering a suspension under this section, contact the Commission to ascertain whether the lawyer has since complied with the direction.”,
- (c) title of section 24F becomes “**Suspension from practice as registered European lawyer**”.
- (7) In section 24G (further provisions relating to suspension of registration certificate)—
  - (a) subsection (1) is repealed,
  - (b) for subsection (2) substitute—
    - “(2A) Where a registered European lawyer has been suspended from practice as a registered European lawyer by virtue of section 24F(1)(c) or (d), the suspension expires on the lawyer being granted a discharge.”,
  - (c) for subsection (3), substitute—
    - “(3A) Where a registered European lawyer has been suspended from practice as a registered European lawyer by virtue of section 24F(1)(e), the suspension expires on the judicial factor being granted a discharge.”,
  - (d) subsection (4A) is repealed,
  - (e) in subsection (4B), for “(4A)” substitute “(4)”,
  - (f) after subsection (4B), insert—
    - “(4C) Where a registered European lawyer is suspended from practice as a registered European lawyer by virtue of paragraphs (c), (d) or (e) of section 24F(1) or

by virtue of section 24F(1A) or (1B), the Council may, on their own initiative, decide to terminate the suspension with or without conditions.”,

(g) in subsection (5), after “section 24F(1A)” insert “or (1B)”,

(h) after subsection (6), insert—

“(6A) Where the Council have made a decision—

(a) to terminate the suspension of a registered European lawyer under subsection (4C),

(b) to grant an application to terminate the suspension of a registered European lawyer under subsection (6)(a), or

(c) to refuse an application to terminate the suspension of a registered European layer under subsection (6)(b),

the Council must notify the registered European lawyer of the decision and the reasons for the decision as soon as practicable after making the decision.”,

(i) the title of section 24G becomes “**Further provisions relating to suspension from practice as registered European lawyer**”.

*Powers where excessive fees etc. charged*

26 (1) Section 39A of the 1980 Act (powers where excessive fees etc. charged) is amended as follows.

(2) After subsection (2), insert—

“(2A) On their own initiative the Council may decide to terminate the suspension of a solicitor under subsection (2) and, where they do so, must restore to the solicitor any practising certificate held by the solicitor for the practice year then current and may impose conditions on the certificate.

(2B) Where the Council have made a decision to terminate the suspension of a solicitor under subsection (2A), the Council must notify the solicitor of the decision and the reasons for the decision as soon as practicable after making the decision.”.

(3) In subsection (3)—

(a) for the words “, unless they are of the opinion that the solicitor or incorporated practice is liable to disciplinary proceedings under Part IV, shall” substitute “may”,

(b) for the words “and shall” substitute “and, where they do so, must”,

(c) after “current” insert “and may impose conditions on the certificate”.

(4) In subsection (8)—

(a) the words from “a decision” to “certificate,” become paragraph (a),

(b) after that paragraph insert—

“(b) a decision under subsection (2A) to restore a solicitor’s practising certificate subject to conditions,

- (c) a decision under subsection (3) to refuse to terminate a solicitor's suspension from practice or to restore a solicitor's practising certificate subject to conditions,”
  - (c) the words from “appeal” to the end of the subsection become the closing words of the subsection.
- (5) After subsection (8) insert—
  - “(8A) Nothing in subsection (8) prevents a solicitor or authorised legal business from subsequently satisfying the Council under subsection (3).”.

*Powers where failure to comply with rules*

- 27 (1) Section 40 of the 1980 Act (power where failure to comply with accounts rules etc.) is amended as follows.
- (2) After subsection (1) insert—
    - “(1A) On their own initiative the Council may decide to terminate the suspension of a solicitor under subsection (1) and, where they do so, must restore to the solicitor any practising certificate held by the solicitor for the practice year then current and may impose conditions on the certificate.
    - (1B) Where the Council have made a decision to terminate the suspension of a solicitor under subsection (1A), the Council must notify the solicitor of the decision and the reasons for the decision as soon as practicable after making the decision.”.
  - (3) In subsection (2)—
    - (a) after “provisions” insert “or has complied with the provisions”,
    - (b) for the words “, unless they are of opinion that the solicitor or, as the case may, the incorporated practice is liable to disciplinary proceedings under Part IV, shall” substitute “may”,
    - (c) for “shall” where it second occurs substitute “, where they do so, must”,
    - (d) after “current” insert “and may impose conditions on the certificate”.
  - (4) After subsection (2), insert—
    - “(2A) If the Council make a decision under subsection (2) to terminate the suspension of a solicitor from practice on the basis that the solicitor (or the authorised legal business) is willing and able to comply with the applicable provisions—
      - (a) the Council must specify the period within which the solicitor or authorised legal business is to comply with the provisions, and
      - (b) the solicitor or authorised legal business must, before the end of that period, notify the Council of having complied with the provisions.
    - (2B) If a solicitor or authorised legal business, without reasonable excuse, fails to comply with the requirements of subsection (2A), the Council may, as the case may be—
      - (a) withdraw the practising certificate held by the solicitor, or

- (b) withdraw the practising certificate or certificates of any or all of the solicitors who are members, owners, partners or, as the case may be, directors of the authorised legal business,
- and suspend the solicitor from practice as a solicitor.”.
- (5) In subsection (3), after “certificate” insert “or a decision under subsection (1A) or (2) to restore a solicitor’s practising certificate subject to conditions”.

*Previous findings of record*

28 After section 42E of the 1980 Act (powers relating to regulatory complaints) as inserted by this Act insert—

**“42F Previous findings of record**

- (1) This section applies where the Council are exercising their functions under this Part.
- (2) Where a person has been convicted of a criminal offence committed in the United Kingdom—
  - (a) an extract conviction of the crime bearing to have been issued by an officer whose duties include the issue of extract convictions is conclusive proof of—
    - (i) the conviction, and
    - (ii) the findings of fact upon which the conviction is based, and
  - (b) the only evidence which may be adduced by the person in rebuttal of the conviction is evidence for the purpose of proving that the person is not the person referred to in the extract conviction.
- (3) Where the Council have made a finding based upon an extract conviction for a conviction which is subsequently quashed the Council may, on the application of the person who was convicted of the criminal offence, revoke their finding.
- (4) The judgment of any civil court in or outside Scotland may be proved by producing a certified copy of the judgment and the findings of fact upon which that judgment was based are admissible as proof but not conclusive proof of those facts.
- (5) In this section, “extract conviction” includes a copy of a certificate of conviction issued from any court of justice of the United Kingdom.”.

*The Client Protection Fund*

- 29 (1) The 1980 Act is amended as follows.
- (2) In section 21 (consultants to hold practising certificates)—
  - (a) in subsection (1), for “Guarantee” substitute “Client Protection”,
  - (b) in subsection (2), for “the Guarantee” substitute “The Client Protection”.
- (3) In section 37A (accounts and anti-money laundering fees), in subsection (1)(a), for “Guarantee” substitute “Client Protection”.

- (4) In section 41 (appointment of judicial factor)—
  - (a) in paragraph (b)(iii), for “Guarantee” substitute “Client Protection”,
  - (b) in paragraph (c)(iii), for “guarantee fund” substitute “Client Protection Fund”.
- (5) In section 43 (Guarantee Fund)—
  - (a) in subsection (1)—
    - (i) for ““The Scottish Solicitors Guarantee Fund”” substitute ““The Client Protection Fund””,
    - (ii) for ““the Guarantee Fund”,” substitute ““the Client Protection Fund)””,
  - (b) in subsection (2), in the opening words, for “Guarantee” substitute “Client Protection”,
  - (c) in subsection (6), for “Guarantee” substitute “Client Protection”,
  - (d) in subsection (7), for “Guarantee” in both places it occurs substitute “Client Protection”.
- (6) In schedule 3—
  - (a) in paragraph 1(1), for “Guarantee” substitute “Client Protection”,
  - (b) in paragraph 1(2B), for “Guarantee Fund” substitute “Client Protection Fund—”,
  - (c) in paragraph 1(4)—
    - (i) for “Guarantee” substitute “Client Protection”,
    - (ii) for “£250,000 or such other” substitute “such”,
  - (d) in paragraph 1(5), for “Guarantee” substitute “Client Protection”,
  - (e) in paragraph 1A(2)(b), for “Guarantee” substitute “Client Protection”,
  - (f) in paragraph 1B(2)(b), for “Guarantee” substitute “Client Protection”,
  - (g) in paragraph 1B(4), for “Guarantee” substitute “Client Protection”,
  - (h) in paragraph 2(1), for “Guarantee” substitute “Client Protection”,
  - (i) in paragraph 2(2), for “Guarantee” substitute “Client Protection”,
  - (j) in paragraph 2(3), for “Guarantee” substitute “Client Protection”,
  - (k) in paragraph 2(5), for “Guarantee” in each place it occurs substitute “Client Protection”,
  - (l) in paragraph 3(1), for “Guarantee” substitute “Client Protection”,
  - (m) in paragraph 4(1), for “Guarantee” substitute “Client Protection”,
  - (n) in paragraph 4(2), for “Guarantee” substitute “Client Protection”,
  - (o) in paragraph 4(3), for “Guarantee” substitute “Client Protection”,
  - (p) in paragraph 4(3A), for “Guarantee” substitute “Client Protection”,
  - (q) in paragraph 4(4), for “Guarantee Fund” in both places it occurs substitute “Client Protection Fund”,
  - (r) the title of Part 1 becomes “The Client Protection Fund”.

- 30 (1) The 2007 Act is amended as follows.
- (2) In section 39 (monitoring effectiveness of guarantee funds etc.)—
- (a) in subsection (1)—
    - (i) in paragraph (a)—
      - (A) for “Scottish Solicitors Guarantee Fund” substitute “Client Protection Fund”,
      - (B) for ““the Guarantee Fund”” substitute ““the Client Protection Fund””,
    - (ii) in paragraph (c), for “Guarantee” substitute “Client Protection”,
  - (b) the title of section 39 becomes “**Monitoring effectiveness of funds etc.**”.
- 31 (1) The 2010 Act is amended as follows.
- (2) In section 24 (choice of arrangements)—
- (a) in subsection (2), for “Guarantee” substitute “Client Protection”,
  - (b) in subsection (3)—
    - (i) in paragraph (a), for “Guarantee” substitute “Client Protection”,
    - (ii) in paragraph (b), for “Guarantee” substitute “Client Protection”,
  - (c) in subsection (4), for “Guarantee” substitute “Client Protection”.
- (3) In section 25 (compensation rules: general), in subsection (3), for “Guarantee” substitute “Client Protection”.
- (4) In section 26 (more about compensation arrangements), subsection (3)—
- (a) for “the Guarantee” substitute “the Client Protection”,
  - (b) for “Scottish Solicitors Guarantee” substitute “Client Protection”.
- (5) In section 33 (reporting to Law Society)—
- (a) in subsection (1), for “Guarantee” substitute “Client Protection”,
  - (b) in subsection (2)(b), for “Guarantee” substitute “Client Protection”,
  - (c) in subsection (5), for “Guarantee” substitute “Client Protection”.
- (6) In section 34 (steps open to Society), in subsection (4)(a), for “Guarantee” substitute “Client Protection”.

#### *Investment business certificates*

- 32 (1) The 1980 Act is amended as follows.
- (2) In section 53 (powers of Tribunal)—
- (a) in subsection (2)(g), for “an investment business certificate” substitute “a licence to carry on incidental financial business”,
  - (b) in subsection (7A), for the words from ““investment” to the end of the subsection substitute ““licence to carry on incidental financial business” means a licence issued by the Society as a designated professional body under section 326(1) of the Financial Services and Markets Act 2000.”,



- (c) for subsection (8)(b) substitute—
  - “(b) the definition of “licence to carry on incidental financial business” in subsection (7A).”.
- (d) after subsection (8) insert—
  - “(8A) The power in subsection (8)(b) includes the power to make supplementary, incidental, consequential, transitional, transitory or saving provision.”.
- (3) In section 53D (suspension etc. of investment business certificates: appeal to Tribunal)—
  - (a) in subsection (1)—
    - (i) for “an investment business certificate” substitute “a licence to carry on incidental financial business”,
    - (ii) for “incorporated practice” substitute “authorised legal business”,
  - (b) in subsection (2A), for “incorporated practice” substitute “authorised legal business”,
  - (c) the title of section 53D becomes “**Suspension etc. of licence to carry on incidental financial business: appeal to Tribunal**”.
- (4) In schedule 4 (constitution, procedure and powers of Tribunal), in paragraph 16(h), for “an investment business certificate” substitute “a licence to carry on incidental financial business”.

*Appeals from decisions of Tribunal*

- 33 (1) Section 54 of the 1980 Act (appeals from decisions of Tribunal) is amended as follows.
- (2) After subsection (1B) insert—
  - “(1BA) Section 43 of the Regulation of Legal Services (Scotland) Act 2025 does not apply to an appeal under subsection (1B)(c).”.
- (3) In subsection (1C)—
  - (a) for “a decision by the Tribunal under section 53(2) or (5)” substitute “any decision by the Tribunal mentioned in subsection (1CA)”,
  - (b) the words “; but the Council may not appeal to the Court against a decision of the Tribunal under section 53(2)(bb) or (bc)” are repealed.
- (4) After subsection (1C) insert—
  - “(1CA) The decision is—
    - (a) the finding that the solicitor has been not guilty of professional misconduct,
    - (b) a decision under section 53(2), (5) or (5A).”.

*Constitution of Tribunal*

- 34 (1) Schedule 4 of the 1980 Act (constitution, procedure and powers of Tribunal) is amended as follows.

- (2) In paragraph 1A—
  - (a) in paragraph (a), after “Council” insert “after consultation with the Tribunal”, and
  - (b) in paragraph (b), after “the Scottish Ministers” insert “and the Tribunal”.
- (3) After paragraph 1A insert—
  - “1AA Each solicitor member must have in force a practising certificate when appointed under paragraph 1A(a) or re-appointed under paragraph 2(b).
  - 1AB The Council must notify the Tribunal where—
    - (a) a solicitor member has been suspended from practice as a solicitor,
    - (b) a solicitor member’s practising certificate ceases to have effect,
    - (c) the Council have—
      - (i) issued a solicitor member’s practising certificate subject to conditions, or
      - (ii) placed a condition on, added a condition to, removed a condition from or varied a condition of a solicitor member’s practising certificate.
  - 1AC When notifying the Tribunal under paragraph 1AB, the Council must give reasons for, as the case may be—
    - (a) the solicitor member’s suspension,
    - (b) the solicitor member’s practising certificate ceasing to have effect,
    - (c) the solicitor member’s practising certificate being issued subject to conditions,
    - (d) the condition being placed on or added to the solicitor member’s practising certificate,
    - (e) the condition of the solicitor member’s practising certificate being varied, or
    - (f) the condition being removed from the solicitor member’s practising certificate.
  - 1AD Where the Tribunal has been notified about a solicitor member under paragraph 1AB, the Chair (see paragraph 4) may request that the Lord President terminates the appointment of the solicitor member (see paragraph 3).”.
- (4) In paragraph 2—
  - (a) in paragraph (a), after “the Secretary of State” insert “and the Tribunal”,
  - (b) in paragraph (b), after “Council” insert “after consultation with the Tribunal”.
- (5) In paragraph 3—
  - (a) after “Council” insert “after consultation with the Tribunal”, and
  - (b) after “the Secretary of State” insert “and the Tribunal”.
- (6) In paragraph 4, for “chairman” substitute “Chair”.
- (7) After paragraph 4 insert—

“4A The Tribunal may appoint one or more of their number to be vice-Chair.

4B The Chair may arrange for any of the Chair’s functions to be discharged on the Chair’s behalf by a vice-Chair.”.

(8) In paragraph 14, for “chairman” substitute “Chair”.

*Procedure of Tribunal*

35 (1) The 1980 Act is amended as follows.

(2) In section 52 (procedure on complaints and appeals to Tribunal), after subsection (2)(ab) insert—

“(ac) for regulating an arrangement under paragraph 6A of schedule 4,”.

(3) In schedule 4 (constitution, procedure and powers of Tribunal), after the title to Part 2 insert—

*“Procedure*

6A The Tribunal may arrange for any of their functions (other than an excepted function) to be discharged on their behalf by one of their number.

6B An “excepted function” is the making of a decision under—

- (a) section 10,
- (b) section 12D,
- (c) section 42ZD,
- (d) section 47,
- (e) section 52,
- (f) section 53,
- (g) section 53ZAA,
- (h) section 53ZB,
- (i) section 53ZD,
- (j) section 53ZE,
- (k) section 53D,
- (l) section 54,
- (m) section 60A.”.

*Communicating and giving effect to Tribunal decisions*

36 (1) The 1980 Act is amended as follows.

(2) In schedule 4 (constitution, procedure and powers of tribunal)—

- (a) in paragraph 15, after “of appeal” insert “, if any,”,
- (b) after paragraph 15, insert—

“15A A copy of every decision by the Tribunal certified by the clerk must be sent to the Commission.”,

(c) in paragraph 16—

(i) after paragraph (d), insert—

“(da) directing a solicitor to undertake education or training,  
or

(db) ordering that the practising certificate of a solicitor  
be subject to such conditions as they may direct, or”,

(ii) in the closing words, for the words “shall forthwith” to the end of the closing words substitute “must comply with paragraph 16A.”,

(d) after paragraph 16, insert—

“16A When the Council receives a copy of a decision by virtue of paragraph 16, the Council must—

- (a) give effect to any order as to striking the solicitor off the roll,
- (b) give effect to any conditions directed by the Tribunal under section 53(5), 53ZAA(4)(c), 53ZB(2)(a)(iii), 53ZD(2)(b) or 53ZE(1)(h) or (2)(g),
- (c) give effect to any direction requiring a solicitor to undertake education or training,
- (d) in any other case in relation to a solicitor, cause a note of the effect of the decision to be entered against the name of the solicitor in the roll,
- (e) give effect to any order revoking the recognition under section 34(1A) of an incorporated practice, or
- (f) give effect to the withdrawal of, or imposition of conditions in relation to, the authorisation of a legal business to provide legal services.

16B In the case of a decision by the Tribunal—

- (a) relating to the discontinuation of an investigation of a conduct complaint or a regulatory complaint,
- (b) relating to the reinstatement of a discontinued investigation of a conduct complaint or a regulatory complaint,
- (c) directing the Council to carry out their duties under section 42ZA(1),
- (d) directing the Council to propose a new settlement under section 42ZA(1A)(a),
- (e) under section 53ZD,
- (f) under section 53ZE,

on the expiration of the days of appeal without an appeal being lodged or, where an appeal has been lodged, as soon as the appeal is withdrawn

or a decision by the Court confirming the decision of the Tribunal is given, the clerk of the Tribunal must send a certified copy of the decision of the Tribunal to the Council, and where relevant the Council must give effect to the decision.”.

- (3) In section 53, in subsection (5), the words “terms and” are repealed.

*Appeal against decision of Tribunal to dismiss before enquiry*

- 37 (1) The 1980 Act is amended as follows.

- (2) After section 54B (as inserted by this Act), insert—

**“54C Appeals from decisions of Tribunal to dismiss without inquiry**

- (1) Where under paragraph 9, 9A or 9B of schedule 4, the Tribunal dismisses a complaint against a solicitor, an authorised legal business or, as the case may be, a licensed provider, the Council may appeal the decision to the Court.
- (2) An appeal under subsection (1) must be made before the expiry of the period of 21 days beginning with the day on which the Tribunal’s decision is intimated to the Council.
- (3) Where under paragraph 24 of schedule 4, the Tribunal dismisses an appeal, the appellant may appeal the decision to the Court.
- (4) An appeal under subsection (3) must be made before the expiry of the period of 21 days beginning with the day on which the Tribunal’s decision is intimated to the appellant.”.

*Finality of decisions*

- 38 (1) The 1980 Act is amended as follows.

- (2) In section 16 (appeals from decisions of Council), after subsection (3) insert—

“(4) A decision of the Court under subsection (1), (2) or (2A) is final.”.

- (3) In section 19 (further provisions relating to suspension of practising certificates), after subsection (8) insert—

“(9) A decision of the Court under subsection (8) is final.”.

- (4) In section 24D (appeals from decisions of Council), after subsection (3) insert—

“(4) A decision of the Court under subsection (1), (2) or (2A) is final.”.

- (5) In section 24G (further provisions relating to suspension of registration certificate), after subsection (7) insert—

“(8) A decision of the Court under subsection (7) is final.”.

- (6) In section 47 (restriction on employing solicitor struck off or suspended), after subsection (4) insert—

“(5) A decision of the Court under subsection (3) or (4) is final.”.

*Other modifications*

- 39 (1) The 1980 Act is amended as follows.
- (2) In section 18 (suspension of practising certificates)—
    - (a) in subsection (2), the words “in writing” are repealed,
    - (b) in subsection (3), the words “in writing” are repealed.
  - (3) In section 19 (further provisions relating to suspension of practising certificates), in subsection (5C), the words “in writing” are repealed.
  - (4) In section 23B, the following section title is inserted: “**Professional misconduct for registered foreign lawyer to practise without a registration certificate**”.
  - (5) In section 24D (appeals from decisions of Council), subsection (1)(b) is repealed.
  - (6) In section 24F (suspension of registration certificate)—
    - (a) in subsection (2), the words “in writing” are repealed,
    - (b) in subsection (3), the words “in writing” are repealed.
  - (7) In section 24G (further provisions relating to suspension of registration certificate), in subsection (4B), the words “in writing” are repealed.
  - (8) In section 26 (offence for solicitors to act as agents for unqualified persons), in subsection (2), the words “employed full-time on a fixed salary by a body corporate or” are repealed.
  - (9) In section 30 (liability for fees of other solicitor)—
    - (a) after “employs” insert “or otherwise engages”,
    - (b) for “employed” substitute “other”,
    - (c) after “employment” insert “or engagement”.
  - (10) In section 32 (offence for unqualified persons to prepare certain documents), for subsection (2B) substitute—
    - “(2B) Subsection (1)(b) does not apply to—
      - (a) a person who is, by virtue of an act of sederunt made under section 104(1) of the Courts Reform (Scotland) Act 2014 (power to regulate procedure etc. in the sheriff court and the Sheriff Appeal Court) permitted to represent—
        - (i) a party to a simple procedure case,
        - (ii) a debtor or hirer in proceedings for—
          - (A) a time order under section 129 of the Consumer Credit Act 1974 (time orders), or
          - (B) variation or revocation, under section 130(6) of that Act (variation and revocation of time orders), of a time order made under section 129,
      - (b) an approved lay representative within the meaning of section 5F of the Heritable Securities (Scotland) Act 1894 or section 24E of the Conveyancing and Feudal Reform (Scotland) Act 1970 (lay representation

in proceedings by creditors for repossession of residential property) while acting in pursuance of the section in question.”.

- (11) In section 33B, the following section title is inserted: “**Privilege of registered foreign lawyers from disclosure etc.**”.
- (12) In section 34 (rules as to professional practice, conduct and discipline), after subsection (4D) insert—
  - “(5) Where the Council refuse to recognise a body corporate as being suitable in terms of subsection (1A)(b), the body corporate may apply to the Court, who may make such order in the matter as it thinks fit.
  - (6) A decision of the Court under subsection (5) is final.”.
- (13) In section 44 (professional indemnity), in subsection (5)—
  - (a) in paragraph (a), for “Part 4” substitute “Part 4A”,
  - (b) in paragraph (b), for “Part 4” substitute “Part 4A”,
  - (c) paragraphs (c) and (d) are repealed.
- (14) In section 55 (powers of Court), in subsection (2), after “(3)” insert “and (3A)”.
- (15) In section 61A (solicitors’ fees), in subsection (1), for paragraphs (a) and (b) substitute—
  - “(a) section 103(2)(j) of the Courts Reform (Scotland) Act 2014, or
  - (b) section 104(2)(j) of that Act.”.
- (16) In section 63, subsections (3) and (4) are repealed.
- (17) After section 63, insert—

**“63A Individual culpability for offending by an organisation**

- (1) Subsection (2) applies where—
  - (a) an offence under this Act is committed by a relevant organisation, and
  - (b) the commission of the offence involves the connivance or consent of, or is attributable to the neglect of—
    - (i) a responsible official of the organisation, or
    - (ii) an individual purporting to act in the capacity of a responsible official.
- (2) The responsible official (or, as the case may be, the individual purporting to act in that capacity), as well as the organisation, commits the offence.
- (3) “Relevant organisation” means—
  - (a) a company,
  - (b) a partnership (including a limited liability partnership),
  - (c) another body or association.
- (4) “Responsible official” means—
  - (a) in the case of a company—
    - (i) a director, secretary, manager or similar officer, or

- (ii) where the affairs of the company are managed by its members, a member,
  - (b) in the case of a limited liability partnership, a member,
  - (c) in the case of a partnership other than a limited liability partnership, a partner,
  - (d) in the case of another body or association, a person who is concerned in the management or control of its affairs.”.
- (18) In section 65 (interpretation)—
- (a) after the definition of “building society” insert—
    - ““category 1 regulator” means a body that regulates the provision of legal services and which has been assigned as a category 1 regulator in or under section 7 of the Regulation of Legal Services (Scotland) Act 2025,
    - “category 2 regulator” means a body that regulates the provision of legal services and which has been assigned as or deemed a category 2 regulator in or under section 7 of the Regulation of Legal Services (Scotland) Act 2025,”.
  - (b) after the definition of “law centre” insert—
    - ““legal services” has the meaning given by section 5 of the Regulation of Legal Services (Scotland) Act 2025,”.

## PART 5

### MISCELLANEOUS MODIFICATIONS OF OTHER ENACTMENTS

#### *Freedom of information*

- 40 (1) The Freedom of Information (Scotland) Act 2002 is amended as follows.
- (2) In Part 7 of schedule 1, after paragraph 61C insert—
- “61D A body that is assigned as a category 1 regulator in or under section 7 of the Regulation of Legal Services (Scotland) Act 2025, but only in respect of information relating to the exercise of its regulatory functions within the meaning of section 6 of that Act.”.

#### *Removal of special provision for confirmation agents and will writers etc.*

- 41 In the 2007 Act, Part 2B (special provision for confirmation agents and will writers) is repealed.
- 42 (1) The 2010 Act is amended as follows.
- (2) In section 48(5) (eligibility criteria)—
    - (a) at the end of paragraph (b), insert “or”,
    - (b) paragraph (d) and the “or” immediately preceding it are repealed.



- (3) In section 72(1)(c) (employing disqualified lawyer)—
    - (a) at the end of sub-paragraph (ii) insert “or”,
    - (b) sub-paragraph (iv) and the “or” immediately preceding it are repealed.
  - (4) In section 73(1)(c) (concealing disqualification)—
    - (a) at the end of sub-paragraph (ii) insert “or”,
    - (b) sub-paragraph (iv) and the “or” immediately preceding it are repealed.
  - (5) Part 3 (confirmation and will writing services) is repealed.
  - (6) In section 146(3)(a) (regulations)—
    - (a) at the end of sub-paragraph (viii) insert “or”,
    - (b) sub-paragraphs (x) to (xiv) are repealed.
  - (7) In section 149(4)(b) (definitions), for “Parts 2 and 3” substitute “Part 2”.
  - (8) In schedule 9 (index of expressions used), the entries relating to the following definitions (and the preceding heading relating to “Part 3 expressions”) are repealed—
    - (a) “approving body (of confirmation agent)”,
    - (b) “approving body (of will writer)”,
    - (c) “confirmation agent and confirmation services”,
    - (d) “regulatory scheme (of approving body)”,
    - (e) “will writer and will writing services”.
- 43 In the Enterprise and Regulatory Reform Act 2013, in schedule 6 (regulatory repeals etc: minor and consequential amendments), paragraphs 198 to 200 are repealed.

*Civil enforcement of certain offences*

- 44 After section 63A of the 1980 Act (inserted by paragraph 39(17)) insert—

**“63B Civil enforcement in relation to certain offences**

- (1) This section applies if a category 1 or category 2 regulator considers that a person has committed an offence under any of the following provisions—
  - (a) section 23(1) (offence of practising as solicitor without practising certificate),
  - (b) section 26(1) (offence for solicitor to act as agent for unqualified person),
  - (c) section 28 (offence for disqualified solicitor to seek employment without informing employer),
  - (d) section 31(1) (offence for unqualified person to pretend to be solicitor or notary public),
  - (e) section 32(1) (offence for unqualified person to provide certain legal services).

- (2) The regulator may apply to the sheriff or the Court of Session for interdict (including interim interdict) against the person to seek to prevent the person from doing anything that constitutes or would constitute the offence.
- (3) Following an application under subsection (2), the sheriff or the Court of Session may grant such interdict (or interim interdict) on such terms as it considers appropriate for the purpose of preventing the person from doing anything that constitutes or would constitute the offence.
- (4) This section does not restrict a category 1 or category 2 regulator from seeking any other court order against a person mentioned in this section.”.

45 After section 74 of the 2010 Act insert—

**“74A Civil enforcement in relation to certain offences**

- (1) Subsection (2) applies if an approved regulator considers that a person has committed an offence under either of the following provisions—
  - (a) section 73(2) (offence of employee concealing disqualification from licensed provider employer),
  - (b) section 74(1) (offence of pretending to be licensed provider).
- (2) The approved regulator may apply to the sheriff or the Court of Session for interdict (including interim interdict) against the person to seek to prevent the person from doing any thing that constitutes or would constitute the offence.
- (3) Following an application under subsection (2), the sheriff or the Court of Session may grant such interdict (or interim interdict) on such terms as it considers appropriate for the purpose of preventing the person from doing any thing that constitutes or would constitute the offence.
- (4) If an approved regulator considers that a body has committed an offence under section 73(5) (offence of concealing revocation as incorporated practice), the regulator may apply to the sheriff or the Court of Session for interdict (including interim interdict) against the body, or a person connected to the body, to seek to prevent—
  - (a) the body from doing anything that constitutes or would constitute the offence, or
  - (b) the person from doing anything that contributes to, or would contribute to, the commission of the offence by the body.
- (5) Following an application under subsection (4), the sheriff or the Court of Session may grant such interdict (or interim interdict) on such terms as it considers appropriate for the purpose of preventing anything mentioned in subsection (4)(a) or (b) from being done.
- (6) This section does not restrict an approved regulator from seeking any other court order against a person or body mentioned in this section.”.

*Disclosure requirements in connection with new offences*

46 (1) The Disclosure (Scotland) Act 2020 is amended as follows.

- (2) In schedule 1 (list A offences)—
- (a) after paragraph 43 (insolvency), insert—
- “Legal professions etc.*
- 43A An offence under the Solicitors (Scotland) Act 1980.
- 43B An offence under either of the following provisions of the Legal Services (Scotland) Act 2010—
- (a) section 73(2) (offence of concealing disqualification),
- (b) section 74 (offence of pretending to be licensed).
- 43C An offence under any of the following provisions of the Regulation of Legal Services (Scotland) Act 2025—
- (a) section 31(1) (offence of pretending to have acquired rights),
- (b) section 39(5) (offence of owning or operating a legal business without authorisation),
- (c) section 40(1) (offence of pretending to be an authorised legal business),
- (d) section 90(1) (offence of taking or using the title of lawyer),
- (e) section 91(1) (offence of pretending to be a regulated provider of legal services),
- (f) section 92(1) (offence of pretending to be a member of the Faculty of Advocates).”
- (b) paragraph 60 (solicitors) and the heading immediately preceding it are repealed.
- 47 (1) The Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2013 (S.S.I. 2013/50) is amended as follows.
- (2) In schedule A1 (offences which must be disclosed subject to exceptions)—
- (a) after paragraph 32B (insolvency), insert—
- “Legal professions etc.*
- 32C An offence under the Solicitors (Scotland) Act 1980.
- 32D An offence under either of the following provisions of the Legal Services (Scotland) Act 2010—
- (a) section 73(2) (offence of concealing disqualification),
- (b) section 74 (offence of pretending to be licensed).
- 32E An offence under any of the following provisions of the Regulation of Legal Services (Scotland) Act 2025—
- (a) section 31(1) (offence of pretending to have acquired rights),
- (b) section 39(5) (offence of owning or operating a legal business without authorisation),
- (c) section 40(1) (offence of pretending to be an authorised legal business),

- (d) section 90(1) (offence of taking or using the title of lawyer),
  - (e) section 91(1) (offence of pretending to be a regulated provider of legal services),
  - (f) section 92(1) (offence of pretending to be a member of the Faculty of Advocates).”,
- (b) paragraph 44D (solicitors) and the heading immediately preceding it are revoked.
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