
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2016 No.

EVIDENCE

**The Apologies (Scotland) Act 2016 (Excepted Proceedings)
Regulations 2016**

Made - - - - - *2016*

Coming into force - - - *1st December 2016*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 2(4) of the Apologies (Scotland) Act 2016^(a) and all other powers enabling them to do so.

In accordance with section 2(5) of that Act, a draft of this instrument has been laid before, and approved by resolution of, the Scottish Parliament.

Citation and commencement

1. These Regulations may be cited as the Apologies (Scotland) Act 2016 (Excepted Proceedings) Regulations 2016 and come into force on 1st December 2016.

Excepted proceedings

2.—(1) Section 2 of the Apologies (Scotland) Act 2016 is amended in accordance with paragraphs (2) and (3).

(2) In subsection (1)—

(a) for paragraph (a) substitute—

“(a) inquiries held under section 1 of the Inquiries Act 2005^(b), including inquiries which are converted under section 15 of that Act into inquiries under that Act,”;

(b) omit the “and” following paragraph (c);

(c) after “proceedings” in paragraph (d) insert—

“, and

(e) proceedings of a professional regulatory body that have as their main purpose the determination of whether or not a person meets—

(i) that body’s requirements for registration,

(ii) the standards or requirements for practising a profession regulated by that body”.

(a) 2016 asp 5.

(b) 2005 c.12.

(3) After subsection (1) insert—

“(1A) In subsection (1) “professional regulatory body” means a body, whether incorporated or not, which keeps a register of persons who have satisfied the body (whether by the passing of an examination or by some other means) that they meet—

- (a) that body’s requirements for registration,
- (b) the standards or requirements for practising a profession regulated by that body.”.

Name
Authorised to sign by the Scottish Ministers

St Andrew’s House,
Edinburgh
Date

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend section 2 of the Apologies (Scotland) Act 2016 (“the 2016 Act”).

Section 1 of the 2016 Act sets out the effect of an apology made outside of the legal proceedings to which the Act applies. The legal proceedings covered by the 2016 Act are detailed in section 2. The 2016 Act does not apply to any criminal proceedings (section 2(3)). The 2016 Act applies to all civil proceedings except the categories of proceedings specified in section 2(1) and (2).

Section 2(1)(a) of the 2016 Act excepts inquiries caused to be held by Scottish Ministers under the Inquiries Act 2005. Regulation 2(2) substitutes section 2(1)(a) of the 2016 Act to extend the exception to all inquiries held in Scotland under the Inquiries Act 2005, including inquiries in Scotland caused to be held by UK Ministers.

Regulation 2(2) also inserts a new exception to section 2(1) of the 2016 Act. This excepts proceedings of a professional regulatory body that have the main purpose of determining whether or not a person meets the body’s requirements for registration and/or meets the standards or requirements for practising a profession regulated by that body. This would include proceedings that determine whether or not the person meets the body’s requirements to practise or to continue to practise the profession and proceedings concerning their fitness to practise a profession. These are all proceedings which may ultimately decide whether or not a person will be allowed to work or continue to work in a particular profession.

Regulation 2(3) inserts a definition of “professional regulatory body” into section 2 of the 2016 Act.

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