
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make further provision in respect of licensed legal services.

Complaints about licensed legal services providers

Section 57A of the Legal Profession and Legal Aid (Scotland) Act 2007 (“the 2007 Act”) provides that Parts 1 and 2 of that Act apply to complaints made about licensed legal services providers as they apply in relation to complaints about practitioners.

Regulation 2 modifies the way in which Part 1 of the 2007 Act operates in relation to complaints about licensed legal services providers.

Firstly, it provides that a services complaint about a licensed legal services provider may be made in respect of the provision of legal services (as defined in section 3 of the Legal Services (Scotland) Act 2010 (“the 2010 Act”)) and such other professional services which are customarily provided by a practitioner (paragraph (2)).

Secondly, it allows the Scottish Legal Complaints Commission to refer any element of a services complaint about a licensed legal services provider which concerns the professional activities of a professional who is not a practitioner to the appropriate professional association rather than dealing with the complaint itself (paragraphs (3) and (4)).

Complaints about approved regulators

Section 79 of the 2010 Act provides for complaints to be made to the Scottish Legal Complaints Commission about approved regulators and requires the Scottish Ministers to investigate any complaint referred to them by the Commission under this section. The requirements in relation to the Scottish Ministers may, however, be delegated to the Commission.

Regulation 3 provides that, where the Scottish Ministers delegate their functions under section 79 of the 2010 Act to the Commission, the Commission must give notice to the Scottish Ministers of any complaint that it upholds, the reasons for doing so and any other information which will assist the Scottish Ministers in deciding whether to take measures under section 38 of the 2010 Act in relation to the approved regulator.

Compensation arrangements regarding the Guarantee Fund

Section 24 of the 2010 Act requires an approved regulator to make arrangements for a compensation fund from which to make good losses which may be suffered as a result of dishonesty on the part of the licensed legal services providers which it regulates.

Regulations 4 to 8 make provision in relation to licensed legal services providers (other than those regulated by the Law Society of Scotland) which are required, by compensation rules made by reference to section 25(3) of the 2010 Act, to make contributions to the Scottish Solicitors Guarantee Fund. The Guarantee Fund is vested in the Law Society of Scotland under section 43(1) of the Solicitors (Scotland) Act 1980 (c.46).

Regulation 5 requires an approved regulator to notify the Law Society of Scotland of certain information about a licensed legal services provider where the approved regulator issues a licence to that body.

Status: *This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

Regulation 6 requires an approved regulator to notify the Law Society of Scotland of certain changes in circumstances regarding a licence.

Regulations 7 and 8 require an approved regulator to notify the Law Society of Scotland of certain changes in circumstances regarding a licensed legal services provider.