



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

## 1990 CHAPTER 40

### PART II

#### LEGAL SERVICES

##### *Miscellaneous and supplementary*

#### **40 Advisory and supervisory functions of the Director.**

- (1) Before—
  - (a) [<sup>F1</sup>approving any rules made] under section 17(11) or 18(10) of this Act; or
  - (b) approving any rules—
    - <sup>F2</sup>(i) .....
    - (ii) such as are mentioned in section 31(1) or (2),  
of this Act; or
  - (c) considering any provisions of a draft scheme under section 26(1) or (3) of this Act,the Secretary of State shall first send a copy of the proposed regulations, rules or provisions to the Director.
- (2) The Director shall consider whether any such <sup>F3</sup>... rules or provisions as are mentioned in subsection (1) above would have, or would be likely to have, the effect of restricting, distorting or preventing competition to any significant extent.
- (3) When the Director has completed his consideration he shall give such advice to the Secretary of State as he thinks fit.
- (4) The Director may publish any advice given by him under subsection (3) above.
- (5) The Director shall, so far as practicable, exclude from anything published under subsection (4) above any matter—

*Status: Point in time view as at 15/08/2003. This version of this provision has been superseded.*

*Changes to legislation: Law Reform (Miscellaneous Provisions) (Scotland) Act 1990, Section 40 is up to date with all changes known to be in force on or before 09 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (a) which relates to the affairs of a particular person; and
  - (b) the publication of which would, or might in the Director’s opinion, seriously and prejudicially affect the interests of that person.
- (6) For the purposes of the law of defamation, the publication of any advice by the Director under this section shall be absolutely privileged.

#### Textual Amendments

- F1** Words in s. 40(1)(a) substituted (15.8.2003) by [Public Appointments and Public Bodies etc. \(Scotland\) Act 2003 \(asp 4\)](#), s. 21(2), **Sch. 4 para. 12(14)(a)(i)**; S.S.I. 2003/384, art. 2(d)
- F2** S. 40(1)(b)(i) and the word immediately following it repealed (15.8.2003) by [Public Appointments and Public Bodies etc. \(Scotland\) Act 2003 \(asp 4\)](#), s. 21(2), **Sch. 4 para. 12(14)(a)(ii)**; S.S.I. 2003/384, art. 2(d)
- F3** Word in s. 40(2) repealed (15.8.2003) by [Public Appointments and Public Bodies etc. \(Scotland\) Act 2003 \(asp 4\)](#), s. 21(2), **Sch. 4 para. 12(14)(b)**; S.S.I. 2003/384, art. 2(d)

#### Commencement Information

- I1** S. 40 wholly in force at 30.9.1991 see s. 75(2) and S.I. 1991/2151, art. 3, **Sch.**

**Status:**

Point in time view as at 15/08/2003. This version of this provision has been superseded.

**Changes to legislation:**

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