

# LEGAL SERVICES (SCOTLAND) ACT 2010

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## EXPLANATORY NOTES

### OVERVIEW OF THE STRUCTURE OF THE ACT

6. This Act has 150 sections and 9 schedules. Section 149 contains definitions used in the Act and schedule 9 is an index of expressions used in the Act. The Act is structured into 5 Parts, and these Explanatory Notes are divided into 5 Parts reflecting that structure. A brief overview is set out below which is followed by a detailed description of the sections of the Act in the commentary on the sections. Terms are defined when first used but not otherwise. An explanation to accompany each schedule is contained within the section that introduces the schedule.
7. [Part 1](#) sets out the regulatory objectives and principles that will govern regulators, the professional principles that will be required of practitioners, and a definition of legal services.
8. [Part 2](#) establishes the regulatory framework within which approved regulators and licensed providers will operate.
  - Chapter 1 sets out the requirements to be met by any organisation seeking to become an approved regulator, and the role of the Scottish Ministers in approving and authorising regulators and in overseeing the regulatory system thereafter.
  - Chapter 2 sets out the requirements and duties placed on licensed providers.
  - Chapter 3 contains further details of the regulatory framework, including the application of the regulatory objectives and professional principles to approved regulators, the role of the Office of Fair Trading (“OFT”), how complaints against licensed providers and approved regulators should operate, and various registers and lists which must be maintained.
  - Schedules 1 to 6 set out how various powers and sanctions open to the Scottish Ministers in respect of approved regulators should operate.
  - Schedule 7 sets out the procedure for surrender of authorisation of an approved regulator.
  - Schedule 8 makes provision in relation to investors in licensed providers.
9. [Part 3](#) contains provisions relating to confirmation agents and non-lawyer will writers.
  - Chapter 1 creates a new process by which bodies may apply to authorise professionals who are not solicitors to prepare documentation in relation to confirmation – part of the process of winding up the estate of a deceased person.
  - Chapter 2 creates a new process by which bodies may apply to authorise non-lawyer will writers, and amends the 1980 Act to make it an offence for non-lawyers to provide will writing services for fee, gain or reward without such authorisation.
10. [Part 4](#) contains provisions affecting the regulation of individual legal professionals (as opposed to licensed providers) and modifying the duties of other public bodies.

*These notes relate to the Legal Services (Scotland) Act 2010  
(asp 16) which received Royal Assent on 9 November 2010*

- Chapter 1 imposes duties on the Society, the Faculty and others involved in the regulation of legal professionals with regard to the regulatory objectives in Part 1.
  - Chapter 2 creates a statutory basis for the regulation of the Faculty.
  - Chapter 3 makes various amendments to the 1980 Act. Amendments are also made to the Court of Session Act 1988 and the Sheriff Courts (Scotland) Act 1971 to allow rules of court to be made to permit lay representatives to make oral submissions to the Court.
  - Chapter 4 creates new responsibilities for the Board and makes adjustments to the legislation governing the SLCC.
11. [Part 5](#) contains general and ancillary provisions. Also, schedule 9 contains an index of expressions used in the Act.