

# LEGAL SERVICES (SCOTLAND) ACT 2010

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 2 – Regulation of Licensed Legal Services**

##### *Chapter 1 – Approved Regulators*

#### **Approved regulators**

##### *Section 7 – Approval of regulators*

23. *Section 7* provides the criteria in relation to which the Scottish Ministers must be satisfied before approving an applicant as an approved regulator. These include, among others, that the applicant:
  - has the necessary expertise as regards the provision of legal services;
  - has a thorough understanding of the application of the regulatory objectives and professional principles; and
  - is adequately resourced.
24. The Scottish Ministers must also be satisfied that the applicant would always exercise its regulatory functions independently of any other person or interest and otherwise properly, that the applicant's regulatory scheme is adequate (with reference to section 12) and that its internal governance arrangements (how it is structured and managed) are suitable (with reference to section 27). The Scottish Ministers must have the consent of the Lord President before approving a body.
25. The Scottish Ministers can approve a body as an approved regulator subject to conditions. Conditions may, for example, restrict an approving body to regulating a particular type of licensed provider, and can be imposed indefinitely or for a period of at least 3 years. The Scottish Ministers may vary any restrictions or conditions following consultation with the approved regulator. This includes adding or deleting any conditions or restrictions.
26. The Scottish Ministers have the power to make regulations regarding the approval of approved regulators, including in relation to the application process and the approval criteria. Regulations about the approval criteria must relate to the capability of applicants to act as approved regulators.
27. The Scottish Ministers are required to consult the OFT and any other person or body that they consider appropriate before approving an applicant as an approved regulator.