

LEGAL SERVICES (SCOTLAND) ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2 – Regulation of Licensed Legal Services

Chapter 1 – Approved Regulators

Compensation arrangements

Section 24 – Choice of arrangements

52. *Section 24* requires each approved regulator to choose one of two options in order to provide for a compensation fund for the purposes of compensating clients for monetary losses suffered by reason of dishonesty on the part of its licensed providers. Approved regulators must either create a compensation fund which it must hold and administer in such a way as corresponds with the Scottish Solicitors Guarantee Fund (“the Guarantee Fund”), or use the Guarantee Fund. The approved regulator must inform the Society of its choice.

Section 25 – Compensation rules: general

53. This section sets out the rules that approved regulators must have about the compensation option chosen under section 24. If an approved regulator chooses to set up its own fund, the compensation rules must set out:
- the purpose of the fund;
 - the minimum amount to be contained within it;
 - the way in which the fund will be administered;
 - the criteria for making payments;
 - the procedure for making a claim, and for determining whether a claim is to be granted;
 - a requirement for licensed providers to contribute to the fund; and
 - the destination of the fund should the approved regulator cease to regulate.

54. If the Guarantee Fund is to be used by an approved regulator, the compensation rules must require licensed providers to contribute to it.

Section 26 – More about compensation arrangements

55. This section provides that compensation rules may include further compensation arrangements if the approved regulator considers this to be necessary or expedient. It also provides the Scottish Ministers with the power to make further provision, by regulations, relating to compensation arrangements.