

# LEGAL SERVICES (SCOTLAND) ACT 2010

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

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

##### *Chapter 3 – Further Provision*

##### **Miscellaneous**

##### *Section 85 – Privileged material*

183. *Section 85* provides that any publication of any advice, report, or notice or of other material under Part 2 of this Act is privileged in relation to the law on defamation unless there was malicious intent in publishing the material.

##### *Section 86 – Immunity from damages*

184. *Section 86* provides that an approved regulator is (and those who work in it are) not liable for any damages for any act or omission in the exercise of their functions, provided the act or omission was not in bad faith.

##### *Section 87 – Appeal procedure*

185. This section deals with appeals to the sheriff under Part 2 of the Act (regulation of licensed legal services). It provides that an appeal to the sheriff is to be by summary application, details what the sheriff may do with regard to an appeal and provides that the sheriff's determination is final.

##### *Section 88 – Corporate offences*

186. This section provides that if an offence under Part 2 of the Act is committed by a relevant organisation and the offence involves the connivance, consent, or negligence of a responsible official within that organisation, the official, in addition to the organisation, also commits the offence. Both "relevant organisation" and "responsible official" are defined.

##### *Section 89 – Effect of professional or other rules*

187. This section makes it clear that the Act does not affect any professional rules which regulate professional practice, conduct or discipline of persons (other than solicitors and advocates) who provide professional services. In other words, if the rules of any other profession contain provisions which would forbid or restrict their operating in a business alongside legal professionals, they would not be able to participate in licensed providers unless and until those rules were changed. Sections 121(5) and 124(3) of the Act deal with the effect of professional rules of advocates and solicitors.