

# LEGAL SERVICES (SCOTLAND) ACT 2010

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 4 – the Legal Profession**

#### *Chapter 3 – Solicitors and Other Representatives*

#### **Removal of practising restrictions**

#### *Section 123 – Licensed providers as qualified persons*

245. **Section 123** makes various amendments to the 1980 Act to remove certain practising restrictions so as to allow the formation of licensed providers and remove particular offences
246. Subsection (1) amends section 26 of the 1980 Act (offence for solicitors to act as agents for unqualified persons) to ensure that a licensed provider is not deemed to be an “unqualified person”.
247. Subsection (2) amends section 30 of the 1980 Act (liability for fees of other solicitor) so that when a solicitor (or incorporated practice) acting on behalf of a client employs a licensed provider, the solicitor (or incorporated practice) is responsible for the licensed provider’s fees unless other arrangements to the contrary have been made.
248. Subsection (3) amends section 31 of the 1980 Act (offence for unqualified persons to pretend to be solicitor or notary public) to require that a licensed provider has the Society’s written permission before they can call themselves solicitors or a firm of solicitors. The Council of the Society is required to make rules setting out the procedure for obtaining permission and the grounds on which it may be refused.
249. Subsection (4) amends section 32 of the 1980 Act (offence for unqualified persons to prepare certain documents) so that it is clear that a licensed provider can prepare writs relating to moveable or heritable estate, writs relating to actions or proceedings in court, and papers relating to an application for grant of confirmation in favour of executors.
250. Subsection (5) amends section 33 of the 1980 Act (unqualified persons not entitled to fees, etc.) which deals with unqualified persons not being entitled to fees or other reward or expenses to ensure that this section does not apply to licensed providers.
251. Subsection (6) adds certain definitions to section 65(1) (interpretation) of the 1980 Act in relation to the amendments made by the Act.
252. Subsection (7) amends section 17 of the 1990 Act (qualified conveyancers) to ensure that independent qualified conveyancers can provide conveyancing services upon the account of, or for the profit of, licensed providers.