

LEGAL SERVICES (SCOTLAND) ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 4 – the Legal Profession

Chapter 4 – Other Bodies

Scottish Legal Aid Board

Section 140 – Exclusion from giving legal assistance

282. This section amends section 31 of the 1986 Act. Currently, the Society and the Faculty have the power to prevent solicitors and advocates respectively (on the grounds of their conduct) from being instructed by a client to whom legal aid or advice and assistance is available. This amendment transfers the current powers of the Society and the Faculty to the Board. There is an appeal under the 1986 Act to the Court of Session.

Section 141 – Availability of legal services

283. [Section 141](#) amends the 1986 Act in order to give the Board responsibility for monitoring the availability and accessibility of legal services in Scotland, including by reference to any relevant factors relating particularly to rural or urban areas, and for giving advice to the Scottish Ministers regarding this. This is linked to the regulatory objective of promoting access to justice, as well as the objectives of promoting the interests of consumers, competition in the provision of legal services, and an independent, strong, varied and effective legal profession.

Section 142 – Information about legal services

284. [Section 142](#) requires the Society, the Faculty, and the Scottish Courts Service to provide information that the Board might reasonably require in monitoring the availability and accessibility of legal services in Scotland. This is similar to the duty placed on approved regulators (section 32(1)). In addition, for the purposes of the Board's functions of excluding legal practitioners from giving legal assistance under section 31(3) of the 1986 Act, the Society, the Faculty and the SLCC must inform the Board when they uphold conduct or services complaint about a solicitor or an advocate, and give it a summary of the relevant facts.