



Legal Services (Scotland) Act 2010

2010 asp 16

PART 2

REGULATION OF LICENSED LEGAL SERVICES

CHAPTER 1

APPROVED REGULATORS

Licensing rules

14 Licensing rules: general

- (1) For the purposes of this Part, the licensing rules are rules about—
 - (a) the procedure for becoming a licensed provider, including (in particular)—
 - (i) the making of applications,
 - (ii) the criteria to be met by applicants,
 - (iii) the determination of applications,
 - (iv) the issuing of licences,
 - (b) the terms of licences and attaching to licences of conditions or restrictions,
 - (c) the—
 - (i) renewal of licences,
 - (ii) circumstances in which licences may be revoked or suspended,
 - (d) licensing provision affecting non-solicitor investors in licensed providers,
 - (e) licensing fees that are chargeable by the approved regulator.
- (2) Rules made in pursuance of subsection (1)(a) to (c) must allow for review by the approved regulator of any decision made by it under the rules that materially affects an applicant for a licence or (as the case may be) a licensed provider.
- (3) Licensing rules may include such further licensing arrangements as to licensed providers for which provision is (in the approved regulator's opinion) necessary or expedient.

- (4) See also sections 55(6)(b), 57(4), 62(2), 63(3) and 67(2)(b) and paragraph 4(2) of schedule 8 (as well as sections 15 and 16).

15 Initial considerations

- (1) Licensing rules must provide for—
- (a) consultation with the OFT, where appropriate in accordance with subsection (2), in relation to a licence application,
 - (b) how the approved regulator is to deal with a licence application where it believes that granting it would cause (directly or indirectly) a material and adverse effect on the provision of legal services.
- (2) For the purpose of subsection (1)(a), it is appropriate to consult the OFT where the approved regulator believes that the granting of the licence application may have the effect of—
- (a) preventing competition within the legal services market, or
 - (b) significantly restricting or distorting such competition.

16 Other licensing rules

- (1) Licensing rules may allow for—
- (a) an applicant to be issued with a provisional licence—
 - (i) in anticipation of its becoming (or becoming eligible to be) a licensed provider, and
 - (ii) whose full effect as a licence is conditional on its becoming a licensed provider (and such other relevant matters as the rules may specify), or
 - (b) a licensed provider to be issued with a provisional licence—
 - (i) in anticipation of its transferring to the regulation of the approved regulator, and
 - (ii) whose full effect as a licence is conditional on the transfer occurring (and such other relevant matters as the rules may specify).
- (2) Licensing rules must—
- (a) state that a licence application may be refused on the ground that the applicant appears to be incapable (for any reason) of complying with the regulatory scheme,
 - (b) provide for grounds for non-renewal, revocation or suspension of a licence where the licensed provider is breaching (or has breached) the regulatory scheme.

17 Licensing appeals

- (1) An applicant for a licence or (as the case may be) a licensed provider may appeal against a relevant licensing decision taken by virtue of this Part—
- (a) to the sheriff,
 - (b) within the period of 3 months beginning with the date on which that decision is intimated to it.
- (2) A relevant licensing decision is a decision to—
- (a) refuse the licensed provider's application for—

Status: This is the original version (as it was originally enacted).

- (i) a licence, or
- (ii) renewal of its licence,
- (b) attach conditions or restrictions to its licence, or
- (c) revoke or suspend its licence.