



Legal Services (Scotland) Act 2010

2010 asp 16

PART 2

REGULATION OF LICENSED LEGAL SERVICES

CHAPTER 1

APPROVED REGULATORS

Practice rules

18 Practice rules: general

- (1) For the purposes of this Part, the practice rules are rules about—
- (a) the—
 - (i) operation and administration of licensed providers,
 - (ii) standards to be met by licensed providers,
 - (b) the operational positions within licensed providers,
 - (c) accounting and auditing (see section 22),
 - (d) professional indemnity (see section 23),
 - (e) the making and handling of any complaint about—
 - (i) a licensed provider,
 - (ii) a designated or other person within a licensed provider,
 - (f) the measures that may be taken by the approved regulator, in relation to a licensed provider, if—
 - (i) there is a breach of the regulatory scheme, or
 - (ii) a complaint referred to in paragraph (e) is upheld.
- (2) Rules made in pursuance of subsection (1)(f) must allow a licensed provider to make representations to the approved regulator before it takes any of the measures available to it under the rules.

Status: This is the original version (as it was originally enacted).

- (3) Practice rules may include such further arrangements as to the professional practice, conduct or discipline of licensed providers for which provision is (in the approved regulator's opinion) necessary or expedient.
- (4) See also sections 55(6)(a), 57(5) and 65(4) (as well as sections 19 to 23).

19 Financial sanctions

- (1) Practice rules made in pursuance of section 18(1)(f) may provide for the imposition of a financial penalty.
- (2) A financial penalty provided for by virtue of subsection (1) must not exceed the maximum amount permitted by the Scottish Ministers when giving their approval under section 7.
- (3) A financial penalty imposed by virtue of this section is payable to the Scottish Ministers (but the approved regulator may collect it on their behalf).
- (4) A licensed provider may appeal against a financial penalty (or the amount of a financial penalty) imposed on it by virtue of this section—
 - (a) to the sheriff,
 - (b) within the period of 3 months beginning with the date on which the penalty is intimated to it.
- (5) Where an appeal is made under subsection (4), no part of the penalty requires to be paid before the appeal is determined or withdrawn.

20 Enforcement of duties

- (1) Practice rules must include provision that it is a breach of the regulatory scheme for a licensed provider to—
 - (a) fail to comply with section 50, or
 - (b) fail to comply with its—
 - (i) other duties under this Part, or
 - (ii) duties under any other enactment specified in the scheme.
- (2) Practice rules must require a licensed provider to—
 - (a) review and report on its performance (see section 21), and
 - (b) have its performance and that report assessed by the approved regulator.

21 Performance report

- (1) Practice rules made by reference to section 20(2)(a) are (in particular) to give the Head of Practice of a licensed provider the functions of—
 - (a) carrying out an annual review, and
 - (b) sending a report (in a specified form) on the review to the approved regulator.
- (2) The review must include an examination of—
 - (a) the licensed provider's compliance with section 50(1), and
 - (b) the involvement of any non-solicitor investors in the licensed provider.

- (3) Practice rules made by reference to section 20(2)(b) may describe the approved regulator's functions under section 31.

22 Accounting and auditing

Practice rules must—

- (a) require licensed providers to keep in place proper accounting and auditing procedures,
- (b) include provision corresponding to that applying under sections 35 to 37 (accounts rules) of the 1980 Act in relation to an incorporated practice.

23 Professional indemnity

Practice rules must—

- (a) require licensed providers to keep in place sufficient arrangements for professional indemnity,
- (b) include provision corresponding to that applying under section 44 (professional indemnity) of the 1980 Act in relation to an incorporated practice.