



Legal Services (Scotland) Act 2010

2010 asp 16

PART 2

REGULATION OF LICENSED LEGAL SERVICES

CHAPTER 1

APPROVED REGULATORS

Relationship with other bodies

32 Giving information to SLAB

- (1) An approved regulator must provide the Scottish Legal Aid Board with such information as the Board may reasonably require for the purpose mentioned in subsection (2).
- (2) The purpose is the Board's exercise of its function under section 1(2A) of the 1986 Act.

33 Reporting to Law Society

- (1) This section applies in relation to any licensed legal services provider (whose approved regulator is not the Law Society) that is required, by compensation rules made by reference to section 25(3), to make contributions to the Guarantee Fund.
- (2) The approved regulator must report to the Law Society any—
 - (a) breach of the regulatory scheme by the licensed provider that the approved regulator discovers as regards the procedures arising under practice rules made by reference to section 22,
 - (b) suspicion held by the approved regulator that there is engagement in such financial impropriety as may (in the approved regulator's opinion) give rise to the risk of a claim being made on the Guarantee Fund.
- (3) The approved regulator must make available to the Law Society any report prepared by the approved regulator about an inspection carried out by it as regards compliance with—

Status: This is the original version (as it was originally enacted).

- (a) the procedures arising under practice rules made by reference to section 22,
 - (b) any other financial procedure as regards which the approved regulator has functions under this Part.
- (4) The approved regulator must inform the Law Society of any further action that it intends to take (or has taken) in relation to any of the matters mentioned in subsections (2) and (3).
- (5) In this section and section 34, the references to the Guarantee Fund are to it as defined in section 26(3).

34 Steps open to Society

- (1) Where—
- (a) section 33 applies, and
 - (b) the Law Society suspects that the approved regulator is failing to enforce under this Part any financial procedure to which that section relates,
- the Society may refer the circumstances to the Scottish Ministers.
- (2) But the Society may make a referral under subsection (1) only if—
- (a) it has made representations to the approved regulator in respect of its suspicion, and
 - (b) in light of any response to them (or where none is received timeously), its suspicion is not relieved.
- (3) In a referral under subsection (1), the Society may—
- (a) request that the Scottish Ministers take such action under this Part as they consider appropriate,
 - (b) seek their consent to the Society's taking of the step mentioned in subsection (5).
- (4) That consent may be—
- (a) sought only if the Society suspects that the suspected failure may be facilitating to any extent engagement in such financial impropriety as may (in the Society's opinion) give rise to the risk of a claim being made on the Guarantee Fund,
 - (b) given only if the Scottish Ministers are satisfied (on information provided by the Society) that—
 - (i) the Society's suspicions are reasonable, and
 - (ii) it is necessary (by way of investigation) that the step be taken.
- (5) The step is that the Society inspect, at the licensed provider's premises, any document, record or other information (in any form) found there which—
- (a) relates to—
 - (i) the licensed provider's client account, or
 - (ii) any other financial account held by it, and
 - (b) is relevant in relation to any financial procedure to which section 33 relates.

35 Financial inspection by Society

- (1) If the relevant consent is given under subsection (4)(b) of section 34, the Law Society may take the step mentioned in subsection (5) of that section.

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

- (2) The licensed provider must co-operate with the Society in connection with the taking of the step.
- (3) But the Society does not have authority to take the step (or enter the premises) unless the Society has—
 - (a) consulted the approved regulator about the taking of it, and
 - (b) given the licensed provider at least 48 hours notice of the taking of it.
- (4) Following the taking of the step, the Society—
 - (a) must report its findings to—
 - (i) the approved regulator, and
 - (ii) the Scottish Ministers,
 - (b) in the report to the Scottish Ministers, may request that they take such action (or further action) under this Part as they consider appropriate.
- (5) In this section, the references to taking the step mentioned in section 34(5) are to its being taken by the Society's representatives as appointed for the purpose of this section.