



# Legal Services (Scotland) Act 2010

## 2010 asp 16

### PART 2

#### REGULATION OF LICENSED LEGAL SERVICES

### CHAPTER 2

#### LICENSED LEGAL SERVICES PROVIDERS

##### *Licensed providers*

#### **47 Licensed providers**

- (1) For the purposes of this Part, a licensed legal services provider is a business entity which, through the designated and other persons within it—
  - (a) provides (or offers to provide) legal services—
    - (i) to the general public or otherwise, and
    - (ii) for a fee, gain or reward, and
  - (b) does so under a licence issued by an approved regulator in accordance with the approved regulator's licensing rules.
- (2) An entity is eligible to be a licensed provider only if it has within it, for the provision of legal services, at least one solicitor who holds a valid practising certificate that is free of conditions (such as may be imposed under section 15(1)(b) or 53(5) of the 1980 Act).
- (3) A licensed provider may not be regulated by more than one approved regulator at the same time.
- (4) In this Part, a reference to a licensed provider is to a licensed legal services provider.

#### **Commencement Information**

**11** S. 47 in force at 1.4.2011 by S.S.I. 2011/180, art. 3, Sch.

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*Changes to legislation: There are currently no known outstanding effects for the Legal Services (Scotland) Act 2010, Cross Heading: Licensed providers. (See end of Document for details)*

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## **48 Eligibility criteria**

- (1) This section—
  - (a) applies for the purposes of licensing an entity as a licensed legal services provider under this Part,
  - (b) does so in conjunction with section 49.
- (2) The following are examples of arrangements which would make an entity eligible to be a licensed provider—
  - (a) the entity has within it—
    - (i) at least one solicitor as mentioned in section 47(2), and
    - (ii) at least one individual practitioner of another type,
 for the carrying out of the sort of legal work for which each is qualified,
  - (b) the entity has within it at least one solicitor as mentioned in section 47(2) but, through also having within it at least one person who is not a solicitor or other type of individual practitioner, additionally provides (or offers to provide)—
    - (i) other professional services, or
    - (ii) services of another kind,
  - (c) the entity has within it at least one solicitor as mentioned in section 47(2) but not every person who has ownership or control of the entity, or another material interest in it, is a solicitor (or a firm of solicitors) or an incorporated practice.
- (3) But an entity, to be eligible to be a licensed provider—
  - (a) need not be a body corporate or a partnership,
  - (b) requires, if it falls—
    - (i) under the ownership or control of another entity, or
    - (ii) within the structure of another entity,
 to be a separate part of the other entity or otherwise distinct from it.
- (4) For the avoidance of doubt, an entity is not eligible to be a licensed provider if it—
  - (a) consists of—
    - (i) a single solicitor practising under the solicitor's own name, or
    - (ii) a solicitor otherwise practising as a sole practitioner,
  - (b) is a firm of solicitors or an incorporated practice, or
  - (c) is a law centre as defined in section 65(1) of the 1980 Act.
- (5) In subsection (2)(a)(ii) and (b), a type of “individual practitioner” (apart from a solicitor) is—
  - (a) an advocate,
  - (b) a conveyancing or executry practitioner,
  - (c) a litigation practitioner, or
  - (d) a confirmation agent or will writer within the meaning of Part 3.
- (6) The Scottish Ministers may by regulations—
  - (a) make—
    - (i) provision specifying other categories of entity that are, or are not, eligible to be a licensed provider,
    - (ii) further provision about criteria for eligibility to be a licensed provider,
  - (b) modify—

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**Changes to legislation:** There are currently no known outstanding effects for the Legal Services (Scotland) Act 2010, Cross Heading: Licensed providers. (See end of Document for details)

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- (i) section 47(2) so as to specify an additional type of legally qualified person (as an alternative to a solicitor as mentioned there),
  - (ii) subsection (5) so as to add a type of legal practitioner to the list there.
- (7) Before making regulations under subsection (6)(b), the Scottish Ministers must consult every approved regulator.

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**Commencement Information**

- I2** S. 48 in force at 1.4.2011 for specified purposes by S.S.I. 2011/180, art. 3, Sch.
- I3** S. 48 in force at 2.7.2012 in so far as not already in force by S.S.I. 2012/152, art. 2, Sch.

## 49 Majority ownership

- (1) An entity is eligible to be a licensed provider only if the qualifying investors in it (taken together) have at least a 51% stake in the total ownership or control of the entity.
- (2) For the purpose of subsection (1), a “qualifying investor” is—
- (a) a solicitor investor, or
  - (b) an investor who is a member of another regulated profession.
- (3) In subsection (2)(b), a “regulated profession” is a profession the professional activities of whose members (and qualifications for membership of which) are, under statutory or administrative arrangements, regulated by a professional association.
- (4) Despite the generality of subsections (2)(b) and (3), the Scottish Ministers—
- (a) are by regulations to specify in connection with those subsections what is, or is not, to be regarded as a regulated profession,
  - (b) may by regulations specify in connection with those subsections what is, or is not, to be regarded as a professional association, professional activities (or qualifications) or membership of a profession.
- (5) Before making regulations under subsection (4), the Scottish Ministers must—
- (a) have the Lord President's agreement, and
  - (b) consult—
    - (i) the Law Society,
    - (ii) every approved regulator,
    - (iii) the [F1CMA], and such other organisation (appearing to them to represent the interests of consumers in Scotland) as they consider appropriate,
    - (iv) such other person or body as they consider appropriate.

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**Textual Amendments**

- F1** Word in s. 49(5)(b)(iii) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), Sch. 6 para. 196; S.I. 2014/416, art. 2(1)(d) (with Sch.)

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**Commencement Information**

- I4** S. 49 in force at 1.4.2011 for specified purposes by S.S.I. 2011/180, art. 3, Sch.
- I5** S. 49 in force at 2.7.2012 in so far as not already in force by S.S.I. 2012/152, art. 2, Sch.

**Changes to legislation:**

There are currently no known outstanding effects for the Legal Services (Scotland) Act 2010,  
Cross Heading: Licensed providers.