



# Legal Services (Scotland) Act 2010

## 2010 asp 16

### PART 2

#### REGULATION OF LICENSED LEGAL SERVICES

### CHAPTER 3

#### FURTHER PROVISION

##### *Miscellaneous*

#### **85 Privileged material**

- (1) Subsection (2) applies to the publication under this Part of any—
  - (a) advice, report or notice, or
  - (b) other material.
- (2) For the purposes of the law on defamation, the publication is privileged.
- (3) But subsection (2) is ineffective if it is proved that the publication was made with malice.

#### **86 Immunity from damages**

- (1) Neither an approved regulator nor any of its officers, members or employees is liable in damages for any act or omission occurring in the exercise (or purported exercise) of its functions under this Part.
- (2) But subsection (1) is ineffective if it is shown that the act or omission was in bad faith.

#### **87 Appeal procedure**

- (1) This section applies in relation to an appeal to the sheriff under this Part.
- (2) The appeal is to be made by way of summary application.

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*Status: This is the original version (as it was originally enacted).*

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- (3) In the appeal, the sheriff may—
  - (a) uphold, vary or quash the decision that is the subject of the appeal,
  - (b) make such further order (including for the expenses of the parties) as is necessary in the interests of justice.
- (4) The sheriff’s determination in the appeal is final.

## **88 Corporate offences**

- (1) Subsection (2) applies where—
  - (a) an offence under this Part is committed by a relevant organisation, and
  - (b) the commission of the offence—
    - (i) involves the connivance or consent of, or
    - (ii) is attributable to the neglect of, a responsible official of the organisation.
- (2) The official (as well as the organisation) commits the offence.
- (3) For the purpose of this section—
  - (a) a “relevant organisation” is—
    - (i) a company,
    - (ii) a limited liability partnership,
    - (iii) an ordinary partnership, or
    - (iv) any other body or association,
  - (b) a “responsible official” is—
    - (i) in the case of a company, a director, secretary, manager or other similar officer,
    - (ii) in the case of a limited liability partnership, a member,
    - (iii) in the case of an ordinary partnership, a partner,
    - (iv) in the case of another body or association, a person who is concerned in the management or control of its affairs,
 but in each case also extends to a person purporting to act in such a capacity.

## **89 Effect of professional or other rules**

- (1) Sections 121(5) and 124(3) respectively make provision (in connection with this Part) as to the effect of professional rules to which advocates and solicitors are subject.
- (2) Nothing in this Part affects the operation of any rule which regulates in respect of any matter the professional practice, conduct or discipline of other persons who provide professional services (in particular, as it may relate to their involvement in or with licensed legal services providers).
- (3) This Part is without prejudice to any function of a person or body—
  - (a) arising by virtue of the application of another enactment (or a regulatory rule made under another enactment), and
  - (b) to regulate in any respect the provision of any professional or other services by licensed legal services providers.