



# Legal Services (Scotland) Act 2010

## 2010 asp 16

### PART 4

#### THE LEGAL PROFESSION

### CHAPTER 3

#### SOLICITORS AND OTHER REPRESENTATIVES

#### *Guarantee Fund*

#### **128 Use of Guarantee Fund**

- (1) In section 43 (Guarantee Fund) of the 1980 Act—
- (a) in subsection (2)—
    - (i) the word “or” immediately preceding paragraph (b) is repealed,
    - (ii) in paragraph (b), after “director” insert “, member”,
    - (iii) after paragraph (b) insert “; or
  - (c) any licensed legal services provider or person within it in connection with its provision of legal services (with the same meaning as for Part 2 of the 2010 Act), even if—
    - (i) the Society is not its approved regulator, or
    - (ii) subsequent to the act concerned it has ceased to operate.”,
  - (b) in subsection (3)—
    - (i) in paragraph (cc), after “director” in the second place where it occurs insert “, member”,
    - (ii) after paragraph (cc) insert—
      - “(cd) to a licensed provider or any investor or person who owns, manages or controls or is within the licensed provider in respect of a loss suffered by it or any such person in connection with the licensed provider's

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*Changes to legislation: There are currently no known outstanding effects for the  
 Legal Services (Scotland) Act 2010, Section 128. (See end of Document for details)*

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- provision of legal services by reason of dishonesty  
on the part of any such persons;”,
- (c) in subsection (7)(c), after “incorporated practice” insert “ or a licensed provider ”,
- (d) after subsection (7) insert—
- “(8) In the case of licensed providers, this section and Part I of Schedule 3 apply in relation to (and only to) such licensed providers as are regulated by an approved regulator that in furtherance of section 24(4) of the 2010 Act does not maintain its own compensation fund as referred to in that section.
- (9) In this section and paragraph 1 of Schedule 3—  
 “approved regulator”,  
 “investor”,  
 are to be construed in accordance with Part 2 of the 2010 Act.”.
- (2) In section 43 of the 1980 Act—
- (a) in subsection (2), after paragraph (a) insert—  
 “(aa) any conveyancing or executry practitioner or an employee of the practitioner in connection with the practitioner's practice as such, even if subsequent to the act concerned the practitioner has ceased to provide conveyancing or executry services;”,
- (b) in subsection (3), after paragraph (c) insert—  
 “(ca) to a conveyancing or executry practitioner in respect of a loss suffered by reason of dishonesty on the part of a partner or employee of the practitioner in connection with the practitioner's practice as such;”.
- (3) Section 21C of the 1990 Act is repealed, but—
- (a) the fund maintained under subsection (1) of that section immediately before its repeal by this subsection continues to be vested in the Council, and
- (b) the Council is to apply that fund to the Scottish Solicitors Guarantee Fund (which is vested in the Law Society under section 43(1) of the 1980 Act).

#### **Commencement Information**

- I1** S. 128(1)(a)(i)(iii)(b)(ii)(c)(d) in force at 2.7.2012 by S.S.I. 2012/152, art. 2, **Sch.**
- I2** S. 128(1)(a)(ii)(b)(i)(2)(3) in force at 1.4.2011 by S.S.I. 2011/180, art. 3, **Sch.**

**Changes to legislation:**

There are currently no known outstanding effects for the Legal Services (Scotland) Act 2010, Section 128.