



Legal Services (Scotland) Act 2010

2010 asp 16

PART 2

REGULATION OF LICENSED LEGAL SERVICES

CHAPTER 2

LICENSED LEGAL SERVICES PROVIDERS

Appointment to position etc.

58 Conditions for disqualification

- (1) This section applies for the purposes of section 56.
- (2) The first condition is that—
 - (a) P—
 - (i) is subject to a trust deed granted by P for the benefit of P's creditors,
 - (ii) is subject to an individual voluntary arrangement under the Insolvency Act 1986, to repay P's creditors,
 - (iii) has been adjudged bankrupt and has not been discharged from bankruptcy, or
 - (iv) has been sequestrated (that is, sequestration of P's estate has been awarded) and the sequestration has not been discharged, and
 - (b) the approved regulator is satisfied accordingly that P is unsuitable for the position.
- (3) The second condition is that—
 - (a) P is subject to a bankruptcy restrictions order ^{F1}... under the Bankruptcy (Scotland) Act 1985, [^{F2}the Bankruptcy (Scotland) Act 2016,] the Insolvency Act 1986 or corresponding Northern Ireland legislation, and
 - (b) the approved regulator is satisfied accordingly that P is unsuitable for the position.
- (4) The third condition is that—

Changes to legislation: There are currently no known outstanding effects for the Legal Services (Scotland) Act 2010, Section 58. (See end of Document for details)

- (a) P—
 - (i) is subject to a disqualification order or undertaking under the Company Directors Disqualification Act 1986 or corresponding Northern Ireland legislation,
 - (ii) is disqualified by a court from holding, or otherwise has been removed by a court from, a position of business responsibility (for example, from being a director of a charity), and
 - (b) the approved regulator is satisfied accordingly that P is unsuitable for the position.
- (5) The fourth condition is that—
- (a) P—
 - (i) has been convicted of an offence involving dishonesty, or
 - (ii) in respect of an offence, has been fined an amount equivalent to level 4 on the standard scale or more (whether on summary or solemn conviction) or sentenced to imprisonment for a term of 12 months or more, and
 - (b) the approved regulator is satisfied accordingly that P is unsuitable for the position.
- (6) The fifth condition is that—
- (a) P (acting in the relevant capacity) has—
 - (i) failed in a material regard to fulfil any of P's duties under (or arising by virtue of) this Part, or
 - (ii) caused, or substantially contributed to, a material breach of the terms or conditions of the licensed provider's licence, and
 - (b) the approved regulator is satisfied accordingly that P is unsuitable for the position.
- (7) In subsections (3)(a) and (4)(a)(i), “Northern Ireland legislation” has the meaning given in section 24(5) of the Interpretation Act 1978.

Textual Amendments

- F1** Words in s. 58(3)(a) omitted (30.11.2016) by virtue of [Bankruptcy \(Scotland\) Act 2016 \(asp 21\)](#), s. 237(2), [sch. 8 para. 26\(2\)\(a\)](#) (with ss. 232, 234(3), 235, 236); S.S.I. 2016/294, reg. 2
- F2** Words in s. 58(3)(a) inserted (30.11.2016) by [Bankruptcy \(Scotland\) Act 2016 \(asp 21\)](#), s. 237(2), [sch. 8 para. 26\(2\)\(b\)](#) (with ss. 232, 234(3), 235, 236); S.S.I. 2016/294, reg. 2
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Commencement Information

- I1** S. 58 in force at 2.7.2012 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, Section 58.