

Draft Regulations laid before the Scottish Parliament under section 146(3)(a)(vii) of the Legal Services (Scotland) Act 2010, for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2012 No.

LEGAL PROFESSION

**The Licensed Legal Services (Specification of
Regulated Professions) (Scotland) Regulations 2012**

<i>Made</i>	- - - -	2012
<i>Coming into force</i>	- -	2012

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 49(4) of the Legal Services (Scotland) Act 2010⁽¹⁾ and all other powers enabling them to do so.

In accordance with section 5 of that Act, the Scottish Ministers considered it appropriate to consult, and have consulted, such persons or bodies as appear to them to have a significant interest in the particular subject matter to which the making of these Regulations relates.

In accordance with section 49(5)(b) of that Act, the Scottish Ministers have consulted the persons and bodies specified in that section.

In accordance with section 49(5)(a) of that Act, the Scottish Ministers have obtained the Lord President's agreement to the making of these Regulations.

In accordance with section 146(3)(a)(vii) of that Act⁽²⁾, a draft of these Regulations has been laid before, and approved by resolution of, the Scottish Parliament.

Citation and commencement

1. These Regulations may be cited as the Licensed Legal Services (Specification of Regulated Professions) (Scotland) Regulations 2012 and come into force on 2nd July 2012, or, if later, on the day after the day on which they are made.

Regulated Professions

2. In connection with section 49(2)(b) and (3) (majority ownership) of the Legal Services (Scotland) Act 2010—

(1) 2010 asp 16.

(2) Section 146(3)(a)(vii) has been modified by paragraph 5 of schedule 3 to the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10).

- (a) only a profession specified in the column headed “profession” of the table set out in the Schedule is to be regarded as a regulated profession;
- (b) subject to paragraph (c), only a person who is entitled to practise any such profession under the regulation of the professional association specified in the corresponding entry in the column headed “professional association” of that table is to be regarded as a member of that profession;
- (c) where, in respect of any such profession, any requirements are specified in the corresponding entry in the column headed “other requirements” of that table, a person is only to be regarded as a member of that profession where he or she—
 - (i) is regulated by the professional association specified in the corresponding entry in the column headed “professional association” of that table; and
 - (ii) satisfies those requirements.

St Andrew’s House,
Edinburgh
Date

Name
Authorised to sign by the Scottish Ministers

SCHEDULE

Regulation 2

Regulated Professions

<i>Profession</i>	<i>Professional Association</i>	<i>Other requirements</i>
Actuary	The Institute and Faculty of Actuaries	The person is a fellow or an associate of the Institute and Faculty of Actuaries
Architect	The Architects Registration Board	
Barrister	The General Council of the Bar	The person possesses a valid practising certificate issued by the General Council of the Bar
Chartered Accountant	The Institute of Chartered Accountants in England and Wales, the Institute of Chartered Accountants in Ireland or the Institute of Chartered Accountants of Scotland	The person is entitled to use the designation “chartered accountant”
Chartered Accountant	Certified The Association of Chartered Certified Accountants	
Chartered Accountant	Management The Chartered Institute of Management Accountants	
Chartered Accountant	Public Finance The Chartered Institute of Public Finance and Accountancy	
Chartered Surveyor	The Royal Institution of Chartered Surveyors	
Commercial Attorney	The Association of Commercial Attorneys	The person possesses a right to conduct litigation or a right of audience under the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990(3)
Licensed Conveyancer	The Council for Licensed Conveyancers	
Patent Attorney	The Chartered Institute of Patent Attorneys	
Registered Trade Mark Attorney or Registered Trade Mark Agent	The Institute of Trade Mark Attorneys	

(3) 1990 c.40. See sections 25 to 29.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations specify, in connection with section 49(2) and (3) of the Legal Services (Scotland) Act 2010 (“the Act”), the professions which are to be regarded as regulated professions and the persons who are to be regarded as members of those professions.

By virtue of section 49(2) of the Act, a member of a regulated profession counts as a qualifying investor in a licensed legal services provider and his or her stake in the total ownership or control of the entity counts towards the majority ownership requirement set out in section 49(1).