



# Legal Services (Scotland) Act 2010

## 2010 asp 16

### PART 2

#### REGULATION OF LICENSED LEGAL SERVICES

### CHAPTER 2

#### LICENSED LEGAL SERVICES PROVIDERS

##### *Discontinuance of services*

#### **70 Safeguarding clients**

- (1) Subsections (2) and (3) apply where—
  - (a) a licensed provider—
    - (i) has given (or is required to give) notice to its approved regulator under section 68(2)(a) or 69(2)(a), or
    - (ii) has had (or is to have) its licence revoked or suspended under this Part, and
  - (b) the approved regulator has not informed it (or has not had an opportunity to do so) that the approved regulator is satisfied that it has made sufficient arrangements for the safeguarding of its clients' interests.
- (2) The licensed provider must—
  - (a) prepare—
    - (i) in the case of revocation, final accounts,
    - (ii) in the case of suspension, interim accounts,which (in particular) detail all sums held on behalf of clients,
  - (b) comply with any directions given under subsection (3).
- (3) The approved regulator may direct the licensed provider to take specified action (or refrain from doing something) if the approved regulator considers that to be necessary or expedient for safeguarding the interests of the licensed provider's legal services clients.

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*Status: This is the original version (as it was originally enacted).*

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- (4) Directions given under subsection (3) may (in particular) require the licensed provider to make available to a relevant person or body any—
- (a) document or information (of whatever kind) held in the licensed provider's possession or control which—
    - (i) relates to, or is held on behalf of, a client of the licensed provider, or
    - (ii) relates to any trust of which the licensed provider (or one of the designated persons within it) is sole trustee or co-trustee only with other designated persons in the licensed provider,
  - (b) sum of money held by the licensed provider—
    - (i) on behalf of a client,
    - (ii) subject to any trust of the kind mentioned in paragraph (a)(ii).
- (5) For the purposes of subsection (4), a relevant person or body is—
- (a) the particular client,
  - (b) the approved regulator,
  - (c) a provider of legal services that is properly instructed by the licensed provider, or the approved regulator, to act in place of the licensed provider.
- (6) The Court of Session may, on an application by the approved regulator, make an order—
- (a) confirming that the licensed provider is required to comply with a direction given under subsection (3),
  - (b) varying the direction or imposing such conditions as the Court considers appropriate in the circumstances,
  - (c) that, without the leave of the Court, no payment be made by any bank, building society or other body named in the order out of any account (or any sum otherwise deposited) in the name of the licensed provider.
- (7) Before making such an order, the Court must—
- (a) give the licensed provider and any other person with an interest an opportunity to be heard,
  - (b) be satisfied that the direction or (as the case may be) freezing of an account represents an appropriate course of action in all the circumstances of the case.
- (8) The approved regulator may recover from the licensed provider any expenditure reasonably incurred by the approved regulator in consequence of its taking action under this section.
- (9) Where a licensed provider has ceased to exist, its functions under (or arising by virtue of) this section fall—
- (a) to its former Head of Practice or (if unavailable) its former Head of Legal Services,
  - (b) if neither Head is available, to a person nominated by its approved regulator.
- (10) The Scottish Ministers may by regulations make further provision about the steps that are, in the circumstances within subsection (1), to be taken to safeguard the interests of clients of licensed providers.
- (11) In this section, a reference to a licensed provider includes (as the context requires) a former licensed provider.