

Draft Regulations laid before the Scottish Parliament under section 148(2)(a) of the Legal Services (Scotland) Act 2010, for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2012 No.

LEGAL PROFESSION

**The Legal Services (Scotland) Act 2010
(Ancillary Provision) Regulations 2012**

Made - - - - 2012
Coming into force - - 2012

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 148(1) of the Legal Services (Scotland) Act 2010⁽¹⁾ and all other powers enabling them to do so.

In accordance with section 148(2)(a) 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 Legal Services (Scotland) Act 2010 (Ancillary Provision) Regulations 2012 and come into force on 2nd July 2012, or, if later, on the day after the day on which they are made.

Amendment of the Solicitors (Scotland) Act 1980

2.—(1) The Solicitors (Scotland) Act 1980⁽³⁾ is amended as follows.

(2) In section 60A (multi-national practices)⁽⁴⁾, for subsection (4) substitute—

“(4) A foreign lawyer may apply to the Council to be registered as such for the purposes of—

(a) subsection (1); or

(b) having an interest in a licensed legal services provider as a solicitor investor within the meaning given by section 67(6) of the 2010 Act.

(1) 2010 asp 16.

(2) Section 148(2)(a) was modified by paragraph 5 of schedule 3 to the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10).

(3) 1980 c.46.

(4) Section 60A was inserted by the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c.40), section 32 and was amended by S.S.I. 2004/383.

(4ZA) Where an application is made under subsection (4), the Council are to enter the lawyer’s name on the register of foreign lawyers if they are satisfied that the legal profession of which the applicant is a member is so regulated as to make it appropriate for the applicant to be registered for those purposes.”

(3) The title of that section becomes “**Registered foreign lawyers**”.

Amendment of the Legal Aid (Scotland) Act 1986

3.—(1) The Legal Aid (Scotland) Act 1986(5) is amended as follows.

(2) In section 31 (solicitors and counsel), after subsection (3)(c) insert—

“(d) in the case of a solicitor investor in a licensed legal services provider, such conduct on the part of any person who is for the time being a solicitor investor in it.”

(3) In section 41 (interpretation)—

(a) in the definition of “firm”(6), after “incorporated practice,” insert “a licensed legal services provider,”;

(b) after the definition of “legal aid” insert—

““licensed legal services provider” and “solicitor investor” are to be construed in accordance with Part 2 of the Legal Services (Scotland) Act 2010;”;

(c) in the definition of “solicitor connected with a firm”(7), after “sole solicitor” insert “, a solicitor investor in a firm”.

(4) In Schedule 1A(8), after paragraph 1(4)(b) (register of advice organisations) insert—

“(c) a licensed legal services provider.”

Amendment of the Legal Profession and Legal Aid (Scotland) Act 2007

4.—(1) The Legal Profession and Legal Aid (Scotland) Act 2007(9) is amended as follows.

(2) In section 78(1A) (ancillary provision)(10), after “may” insert “by order”.

St Andrew’s House,
Edinburgh
Date

Name
Authorised to sign by the Scottish Ministers

(5) 1986 c.47.

(6) The definition of “firm” was inserted by the Crime and Punishment (Scotland) Act 1997 (c.48), Schedule 1, paragraph 12(10)(b).

(7) The definition of “solicitor connected with a firm” was inserted by the Crime and Punishment (Scotland) Act 1997 (c.48), Schedule 1, paragraph 12(10)(b).

(8) Schedule 1A was inserted by the Legal Profession and Legal Aid (Scotland) Act 2007 (asp 5), section 67(9).

(9) 2007 asp 5.

(10) Section 78(1A) was inserted by the Legal Services (Scotland) Act 2010 (asp 16), section 145(1).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make ancillary provision to the Legal Services (Scotland) Act 2010 (“the 2010 Act”).

Amendment of the Solicitors (Scotland) Act 1980

Section 67(6) of the 2010 Act provides that an investor in a licensed legal services provider who is entitled to practise as a registered foreign lawyer is to be regarded as a solicitor investor in the licensed provider.

Section 60A of the Solicitors (Scotland) Act 1980 (“the 1980 Act”) sets out the purposes for which a foreign lawyer may apply to the Council of the Law Society of Scotland to register as such.

Regulation 2 amends section 60A of the 1980 Act to allow a foreign lawyer to apply for registration with the Council of the Law Society of Scotland for the purposes of having an interest in a licensed legal services provider as a solicitor investor.

Amendment of the Legal Aid (Scotland) Act 1986

Regulation 3 amends the Legal Aid (Scotland) Act 1986 so that the provisions of that Act will extend to licensed legal services providers.

Amendment of the Legal Profession and Legal Aid (Scotland) Act 2007

Regulation 4 amends section 78(1A) of the Legal Profession and Legal Aid (Scotland) Act 2007 (as inserted by section 145(1) of the 2010 Act) so as to clarify that the power to make further provision is exercisable by order.