

2012 No. 152 (C. 14)

LEGAL PROFESSION

**The Legal Services (Scotland) Act 2010 (Commencement No. 2
and Transitional Provisions) Order 2012**

<i>Made</i>	- - - -	<i>17th May 2012</i>
<i>Laid before the Scottish Parliament</i>		<i>21st May 2012</i>
<i>Coming into force</i>	- -	<i>2nd July 2012</i>

The Scottish Ministers make the following Order in exercise of the powers conferred by section 150(2) and (4) of the Legal Services (Scotland) Act 2010(a).

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Legal Services (Scotland) Act 2010 (Commencement No. 2 and Transitional Provisions) Order 2012 and comes into force on 2nd July 2012.

(2) In this Order—

“the 2007 Act” means the Legal Profession and Legal Aid (Scotland) Act 2007(b); and

“the Act” means the Legal Services (Scotland) Act 2010.

Appointed day

2. The day appointed for the coming into force of the provisions of the Act specified in column 1 of the Schedule (the subject matter of which is specified in column 2), in so far as they are not already in force, is 2nd July 2012.

Transitional provision – levies payable by licensed legal services providers

3.—(1) For the purposes of determining the amounts of the annual general levy and the complaints levy which are payable by a licensed provider to the Commission under section 57C of the 2007 Act (as inserted by section 81 of the Act) during the 2012-13 financial year—

- (a) the requirement in section 29(1) of the 2007 Act for the Commission to have had regard to any views expressed in its consultation under subsection (4) is to be construed as a requirement to have had regard to any views expressed in its consultation under subparagraph (b);
- (b) the Commission must consult—
 - (i) the Scottish Ministers; and
 - (ii) each approved regulator and all other bodies that the Scottish Ministers have advised the Commission as having an interest in applying to become approved regulators;

(a) 2010 asp 16.

(b) 2007 asp 5.

- (c) the Commission must publish—
 - (i) the determination as soon as reasonably practicable; and
 - (ii) the responses it has received under sub-paragraph (b) within two months of concluding the consultation with the exception of any responses that it has received which are subject to an express request in writing for confidentiality;
- (d) the Commission must, in so far as is reasonably practicable, secure that the amounts of the annual general levy and the complaints levy are reasonably sufficient to cover its anticipated expenditure during the 2012-13 financial year in respect of sections 57A (complaints about licensed providers) and 57B (regulatory complaints) of the 2007 Act;
- (e) section 29(4) to (10) of that Act does not apply.

(2) In this article, “the annual general levy”, “the complaints levy” and “the Commission” have the meanings given to them in section 46(1) of the 2007 Act.

Transitional provision – levies payable by approved regulators

4. For the purposes of section 80(4) of the Act, where the Commission is determining the amount of the annual levy or complaints levy for the 2012-13 financial year, it is only to be regarded as having consulted each approved regulator where it has consulted each approved regulator and all those other bodies that the Scottish Ministers have indicated to the Commission as having an interest in applying to become approved regulators.

St Andrew’s House,
Edinburgh
17th May 2012

R CUNNINGHAM
Authorised to sign by the Scottish Ministers

SCHEDULE

Article 2

<i>Column 1 (provisions of the Act)</i>	<i>Column 2 (subject matter)</i>
Section 10(2) to (6)	Authorisation to act
Section 11	Request for authorisation
Section 17	Licensing appeals
Section 31	Assessment of licensed providers
Section 32	Giving information to SLAB
Section 33	Reporting to Law Society
Section 34	Steps open to Society
Section 35	Financial inspection by Society
Section 36	Review of own performance
Section 37	Monitoring by Ministers
Section 38	Measures open to Ministers
Section 39	Surrender of authorisation
Section 40	Cessation directions
Section 41	Transfer arrangements
Section 43	Change of approved regulator
Section 46	Guidance on functions
Section 48	Eligibility criteria
Section 49	Majority ownership
Section 50	Key duties
Section 51	Head of Legal Services
Section 52	Head of Practice
Section 53	Practice Committee
Section 54	Notice of appointment
Section 55	Challenge to appointment
Section 56	Disqualification from position
Section 57	Effect of disqualification
Section 58	Conditions for disqualification
Section 60	Working context
Section 61	Listing and information
Section 62	Fitness for involvement
Section 63	Exemption from fitness text
Section 64	Factors as to fitness
Section 65	Ban for improper behaviour
Section 66	Behaving properly
Section 67	More about investors
Section 68	Duty to warn
Section 69	Inability to operate
Section 70	Safeguarding clients
Section 71	Distribution of client account
Section 72	Employing disqualified lawyer
Section 73	Concealing disqualification
Section 74	Pretending to be licensed
Section 75	Professional privilege
Section 77	Role of approved regulators
Section 79	Complaints about regulators

<i>Column 1 (provisions of the Act)</i>	<i>Column 2 (subject matter)</i>
Section 80	Levy payable by regulators
Section 81	Complaints about providers
Section 82	Register of approved regulators
Section 83	Registers of licence providers
Section 84	Lists of disqualified persons
Section 85	Privileged material
Section 86	Immunity from damages
Section 87	Appeal procedure
Section 88	Corporate offences
Section 89	Effect of professional or other rules
Section 123	Licensed providers as qualified persons
Section 124	Practice rules for licensed providers
Section 128(1)(a)(i) and (iii), (b)(ii), (c) and (d)	Use of Guarantee Fund
Section 129(1)(a)(iii) and (b) to (g) and (3)	Contributions to the Fund
Schedule 1	Performance targets
Schedule 2	Directions
Schedule 3	Censure
Schedule 4	Financial penalties
Schedule 5	Amendment of authorisation
Schedule 6	Rescission of authorisation
Schedule 7	Surrender of authorisation
Schedule 8	Investors in licensed providers

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force the provisions of Part 2 of, and schedules 1 to 8 to, the Legal Services (Scotland) Act 2010 (“the Act”) in so far as these are not already in force. It also brings into force certain provisions of Part 4 of the Act which are connected with Part 2. The day appointed for the commencement of these provisions is 2nd July 2012.

Article 3 makes transitional provision in relation to the determination of the amounts of the levies payable by licensed legal services providers under section 57C of the Legal Profession and Legal Aid (Scotland) Act 2007. Section 29(4) to (10) of that Act will not apply for the purposes of determining the levies payable during the 2012-2013 financial year and the Scottish Legal Complaints Commission will, instead, require to fulfil the consultation requirement set out in that Article.

Article 4 makes transitional provision in relation to the determination of the amounts of the levies payable by approved regulators under section 80(4) of the Act for the first time which requires the Scottish Legal Complaints Commission to consult all those bodies that the Scottish Ministers have indicated as having an interest in applying to become approved regulators.

The Act received Royal Assent on 9th November 2010. Sections 146 to 150 came into force on the day after that day.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

The following provisions of the Act have been brought into force by commencement orders made before the date of this Order.

<i>Provision</i>	<i>Date of Commencement</i>	<i>Instrument No.</i>
Section 1	1st April 2011	S.S.I. 2011/180
Section 2	1st April 2011	S.S.I. 2011/180
Section 3	1st April 2011	S.S.I. 2011/180
Section 4	1st April 2011	S.S.I. 2011/180
Section 5	1st April 2011	S.S.I. 2011/180
Section 6	1st April 2011	S.S.I. 2011/180
Section 7	1st April 2011	S.S.I. 2011/180
Section 8	1st April 2011	S.S.I. 2011/180
Section 9	1st April 2011	S.S.I. 2011/180
Section 10(1)	1st April 2011	S.S.I. 2011/180
Section 10(2) to (6), in part	1st April 2011	S.S.I. 2011/180
Section 12	1st April 2011	S.S.I. 2011/180
Section 13	1st April 2011	S.S.I. 2011/180
Section 14	1st April 2011	S.S.I. 2011/180
Section 15	1st April 2011	S.S.I. 2011/180
Section 16	1st April 2011	S.S.I. 2011/180
Section 18	1st April 2011	S.S.I. 2011/180
Section 19	1st April 2011	S.S.I. 2011/180
Section 20	1st April 2011	S.S.I. 2011/180
Section 21	1st April 2011	S.S.I. 2011/180
Section 22	1st April 2011	S.S.I. 2011/180
Section 23	1st April 2011	S.S.I. 2011/180
Section 24	1st April 2011	S.S.I. 2011/180
Section 25	1st April 2011	S.S.I. 2011/180

<i>Provision</i>	<i>Date of Commencement</i>	<i>Instrument No.</i>
Section 26	1st April 2011	S.S.I. 2011/180
Section 27	1st April 2011	S.S.I. 2011/180
Section 28	1st April 2011	S.S.I. 2011/180
Section 29	1st April 2011	S.S.I. 2011/180
Section 30	1st April 2011	S.S.I. 2011/180
Section 31, in part	1st April 2011	S.S.I. 2011/180
Section 38, in part	1st April 2011	S.S.I. 2011/180
Section 42	1st April 2011	S.S.I. 2011/180
Section 43, in part	1st April 2011	S.S.I. 2011/180
Section 44	1st April 2011	S.S.I. 2011/180
Section 45	1st April 2011	S.S.I. 2011/180
Section 47	1st April 2011	S.S.I. 2011/180
Section 48, in part	1st April 2011	S.S.I. 2011/180
Section 49, in part	1st April 2011	S.S.I. 2011/180
Section 51, in part	1st April 2011	S.S.I. 2011/180
Section 52, in part	1st April 2011	S.S.I. 2011/180
Section 53, in part	1st April 2011	S.S.I. 2011/180
Section 55, in part	1st April 2011	S.S.I. 2011/180
Section 56, in part	1st April 2011	S.S.I. 2011/180
Section 57, in part	1st April 2011	S.S.I. 2011/180
Section 59	1st April 2011	S.S.I. 2011/180
Section 62, in part	1st April 2011	S.S.I. 2011/180
Section 63, in part	1st April 2011	S.S.I. 2011/180
Section 65, in part	1st April 2011	S.S.I. 2011/180
Section 67(1) to (5), in part	1st April 2011	S.S.I. 2011/180
Section 67(6) and (7)	1st April 2011	S.S.I. 2011/180
Section 70, in part	1st April 2011	S.S.I. 2011/180
Section 76	1st April 2011	S.S.I. 2011/180
Section 78	1st April 2011	S.S.I. 2011/180
Section 79, in part	1st April 2011	S.S.I. 2011/180
Section 81, in part	1st April 2011	S.S.I. 2011/180
Section 83, in part	1st April 2011	S.S.I. 2011/180
Section 84, in part	1st April 2011	S.S.I. 2011/180
Section 91, in part	1st April 2011	S.S.I. 2011/180
Section 92, in part	1st April 2011	S.S.I. 2011/180
Section 93, in part	1st April 2011	S.S.I. 2011/180
Section 95, in part	1st April 2011	S.S.I. 2011/180
Section 100, in part	1st April 2011	S.S.I. 2011/180
Section 102, in part	1st April 2011	S.S.I. 2011/180
Section 103, in part	1st April 2011	S.S.I. 2011/180
Section 104, in part	1st April 2011	S.S.I. 2011/180
Section 106, in part	1st April 2011	S.S.I. 2011/180
Section 111, in part	1st April 2011	S.S.I. 2011/180
Section 112, in part	1st April 2011	S.S.I. 2011/180
Section 114, in part	1st April 2011	S.S.I. 2011/180
Section 119	1st April 2011	S.S.I. 2011/180
Section 120	1st June 2011	S.S.I. 2011/180
Section 121	1st June 2011	S.S.I. 2011/180
Section 122	1st June 2011	S.S.I. 2011/180
Section 125	1st April 2011	S.S.I. 2011/180
Section 126	1st September 2011	S.S.I. 2011/180
Section 127	1st September 2011	S.S.I. 2011/180

<i>Provision</i>	<i>Date of Commencement</i>	<i>Instrument No.</i>
Section 128(1)(a)(ii), (1)(b)(i), (2) and (3)	1st April 2011	S.S.I. 2011/180
Section 129(1)(a)(i) and (ii) and (2)	1st April 2011	S.S.I. 2011/180
Section 130	1st April 2011	S.S.I. 2011/180
Section 131	1st April 2011	S.S.I. 2011/180
Section 132	30th June 2011	S.S.I. 2011/180
Section 133, in part	1st April 2011	S.S.I. 2011/180
Section 133, insofar as not already in force	1st June 2011	S.S.I. 2011/180
Section 134	1st May 2011	S.S.I. 2011/180
Section 135	1st May 2011	S.S.I. 2011/180
Section 136	1st May 2011	S.S.I. 2011/180
Section 137	1st May 2011	S.S.I. 2011/180
Section 138	1st May 2011	S.S.I. 2011/180
Section 139	1st May 2011	S.S.I. 2011/180
Section 140	1st May 2011	S.S.I. 2011/180
Section 141	1st April 2011	S.S.I. 2011/180
Section 142	1st April 2011	S.S.I. 2011/180
Section 143	1st April 2011	S.S.I. 2011/180
Section 144	1st April 2011	S.S.I. 2011/180
Section 145	1st April 2011	S.S.I. 2011/180
Schedule 1, in part	1st April 2011	S.S.I. 2011/180
Schedule 2, in part	1st April 2011	S.S.I. 2011/180
Schedule 3, in part	1st April 2011	S.S.I. 2011/180
Schedule 4, in part	1st April 2011	S.S.I. 2011/180
Schedule 5, in part	1st April 2011	S.S.I. 2011/180
Schedule 6, in part	1st April 2011	S.S.I. 2011/180
Schedule 8, in part	1st April 2011	S.S.I. 2011/180

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