Legal Services (Scotland) Bill

Marshalled List of Amendments selected for Stage 3

The Bill will be considered in the following order—
Sections 1 to 102  Schedules 1 to 9
Long Title

Amendments marked * are new (including manuscript amendments) or have been altered.

Section 1

Fergus Ewing
1 In section 1, page 1, line 11, at end insert—
   <(  ) the interests of justice,>

Fergus Ewing
2 In section 1, page 1, leave out line 13

Section 2

Fergus Ewing
3 In section 2, page 2, line 4, at end insert <(and keep clients’ affairs confidential)>

Fergus Ewing
4 In section 2, page 2, line 11, leave out <treat the affairs of their clients as confidential and>

Section 4

Fergus Ewing
5 In section 4, page 2, line 33, leave out <arising by virtue of Part 4> and insert—
   <(  ) under section 91A(3) or otherwise arising by virtue of Part 4 (except sections 96(c) and 98A(1))>

Section 4A

Fergus Ewing
6 In section 4A, page 3, line 9, leave out <arising by virtue of Part 4> and insert—
   <(  ) under section 91A(3) or otherwise arising by virtue of Part 4 (except sections 96(c) and 98A(1))>
Section 5

Richard Baker

121 In section 5, page 4, line 6, leave out subsection (5) and insert—

<(5) No more than 3 approved regulators may exist at any time.>

(5A) The Scottish Ministers may—

(a) with the agreement of the Lord President, and

(b) after consulting such other person or body as they consider appropriate,

by regulations amend the number specified in subsection (5).>

Section 6

Fergus Ewing

7 In section 6, page 4, line 11, leave out <, with the consent of the Lord President,>

Fergus Ewing

8 In section 6, page 4, line 17, leave out <knowledge and understanding> and insert <understanding of the application>

Fergus Ewing

9 In section 6, page 4, line 18, leave out <contained in sections 1 and 2>

Fergus Ewing

10 In section 6, page 4, line 29, leave out <, with the consent of the Lord President, approve the applicant as an approved regulator> and insert <give their approval>

Fergus Ewing

11 In section 6, page 4, line 31, leave out subsections (2A) and (2B)

Fergus Ewing

12 In section 6, page 4, line 39, leave out from beginning to <applicant> in line 1 on page 5 and insert <Their approval may be given—>

(a) with restrictions imposed>

Fergus Ewing

13 In section 6, page 5, line 4, leave out <be given>

Fergus Ewing

14 In section 6, page 5, line 7, leave out <with the consent of the Lord President, amend, add or delete> and insert <after consulting the approved regulator, vary (including by addition or deletion)>
Fergus Ewing

15 In section 6, page 5, line 8, leave out <imposed under subsection (2)> and insert <or restrictions imposed under subsection (2) or (2C)>.

Fergus Ewing

16 In section 6, page 5, line 9, leave out subsections (3) to (6).

After section 6

Fergus Ewing

17 After section 6, insert—

<Pre-approval consideration

(1) Before deciding whether or not to approve the applicant as an approved regulator under section 6, the Scottish Ministers must consult—

(a) the Lord President,
(b) the OFT, and such other organisation (appearing to them to represent the interests of consumers in Scotland) as they consider appropriate,
(c) such other person or body as they consider appropriate.

(2) In consulting under subsection (1), the Scottish Ministers—

(a) must send a copy of the application to the consultees,
(b) may send a copy of any revised application to any (or all) of them.

(3) The Scottish Ministers must, with reasons, notify the applicant if they intend to—

(a) refuse to approve it as an approved regulator, or
(b) impose conditions or restrictions under section 6(2) or (2C).

(4) If notification is given to the applicant under subsection (3), it has 28 days beginning with the date of the notification (or such longer period as the Scottish Ministers may allow) to—

(a) make representations to the Scottish Ministers,
(b) take such steps as it may consider expedient.>

Fergus Ewing

18 After section 6, insert—

<Lord President’s agreement

(1) Despite section 6(1), the Scottish Ministers must not approve the applicant as an approved regulator unless the Lord President agrees to its being approved as such.

(2) The Scottish Ministers are to impose under section 6(2) such particular conditions relating to the expertise mentioned in section 6(1)(a)(i) as are reasonably sought by the Lord President when (and if) notifying them of the Lord President’s agreement for the purpose of subsection (1).

(3) The Lord President’s agreement is required for—
(a) the imposition of any—
   (i) conditions under section 6(2) (apart from conditions to which subsection (2) relates),
   (ii) restrictions under section 6(2C),
(b) the variation of any such conditions or restrictions under section 6(2D).>

Section 7

Fergus Ewing
19 In section 7, page 6, line 10, leave out <remove or vary> and insert <vary (including by addition or deletion)>

Fergus Ewing
20 In section 7, page 6, line 11, leave out <conditions imposed under subsection (4)(b)> and insert <restrictions or conditions imposed under subsection (3) or (4)(b)>

Section 8

Fergus Ewing
21* In section 8, page 7, line 7, at end insert—
   <(  ) the compensation rules (see sections (Compensation rules: general) and (More about compensation arrangements)(1)),>

Fergus Ewing
22 In section 8, page 7, line 19, leave out from <before> to <consulted> in line 21 and insert <without—
   (i) the Lord President’s agreement, and
   (ii) consulting>

Section 9

Fergus Ewing
23 In section 9, page 8, line 1, leave out <, with the consent of the Lord President,>

Fergus Ewing
24 In section 9, page 8, line 3, at end insert—
   <(  ) Before making regulations under subsection (3), the Scottish Ministers must have the Lord President’s agreement.>
Section 14

Fergus Ewing

25 In section 14, page 10, leave out line 3

Section 17

Fergus Ewing

26 In section 17, page 11, line 7, leave out <legal services>

After section 19

Fergus Ewing

27 After section 19, insert—

Compensation arrangements

Choice of arrangements

(1) An approved regulator must proceed with either option A or option B as regards a compensation fund from which to make good such relevant losses as may be suffered by reason of dishonesty on the part of its licensed legal services providers.

(2) Option A is for the approved regulator to maintain its own compensation fund (separate from the Guarantee Fund) in relation to its licensed providers.

(3) If option A is proceeded with, the compensation fund is to be—

(a) held by the approved regulator for such purpose as corresponds to the purpose for which the Guarantee Fund is held under section 43(2)(c) of the 1980 Act in relation to licensed providers,

(b) administered by it in such way as corresponds to the administration of the Guarantee Fund in accordance with section 43(3) to (7) of, and Part I of Schedule 3 to, the 1980 Act (so far as applicable in relation to licensed providers).

(4) Option B is for the approved regulator, by not maintaining its own compensation fund as mentioned in option A, to cause the Guarantee Fund to be administered as respects its licensed providers.

(5) For the purpose of option B, see section 43(2)(c) to (8) of, and Part I of Schedule 3 to, the 1980 Act.

(6) As soon as it has decided which of options A and B to proceed with, the approved regulator (where not the Law Society) must inform the Law Society of its decision.>

Robert Brown

27A As an amendment to amendment 27, line 6, at end insert—

Subsection (1) does not apply where the approved regulator is the Law Society as respects its licensed providers but section 43 of, and Part 1 of Schedule 3 to, the 1980 Act apply to those licensed providers by virtue of section 43(2)(c) of that Act.
Robert Brown

27B  As an amendment to amendment 27, line 21, leave out subsection (6) and insert—

<(  ) An approved regulator must—

(a) decide which of Options A and B to proceed with as respects its licensed providers,
(b) if it decides to proceed with Option A, set up its compensation fund, and
(c) notify the Law Society of those decisions and of the details of any such compensation fund before licensing any entity as a licensed legal services provider under section 36.>

Fergus Ewing

28  After section 19, insert—

<Compensation rules: general

(1) For the purposes of this Part, the compensation rules are rules in pursuance of (as the case may be)—

(a) option A in section (Choice of arrangements), or
(b) option B in that section.

(2) In pursuance of option A, the rules must—

(a) state—

(i) the purpose of the approved regulator’s compensation fund,
(ii) as a minimum, the monetary amount to be contained in that fund,
(b) describe the way in which that fund is to be administered by the approved regulator,
(c) specify the criteria for qualifying for payment out of that fund,
(d) provide for the procedure for—

(i) making claims for such payment,
(ii) determining such claims,
(e) require the making of contributions to that fund by a licensed provider in accordance with the relevant scale of annual contributions fixed by virtue of section (Choice of arrangements)(3)(b),
(f) make provision for the destination (or distribution) of that fund in the event that the approved regulator ceases to operate.

(3) In pursuance of option B, the rules must require the making of contributions to the Guarantee Fund by a licensed provider in accordance with the relevant scale of annual contributions fixed under paragraph 1(3) of Schedule 3 to the 1980 Act.>

Robert Brown

28A  As an amendment to amendment 28, line 24, at end insert—
Where the Law Society is the approved regulator it must make rules requiring its licensed providers to make contributions to the Guarantee Fund in accordance with paragraph 1(2B)(b) and (3) of Schedule 3 to the 1980 Act.

**Fergus Ewing**

29 After section 19, insert—

<More about compensation arrangements>

(1) Compensation rules may include such further compensation arrangements as to licensed providers for which provision is (in the approved regulator’s opinion) necessary or expedient.

(2) The Scottish Ministers may by regulations make further provision about compensation arrangements as to licensed providers, including (in particular)—

(a) for the content of compensation rules,

(b) in connection with a compensation fund, for functions of approved regulators and licensed providers.

(3) In sections (Choice of arrangements) and (Compensation rules: general) and this section, the references to the Guarantee Fund are to the Scottish Solicitors Guarantee Fund (which is vested in the Law Society under section 43(1) of the 1980 Act).

**Section 22**

**Fergus Ewing**

30 In section 22, page 13, line 2, leave out <, with the consent of the Lord President,>

**Fergus Ewing**

31 In section 22, page 13, line 6, after <must> insert—

<(  ) have the Lord President’s agreement, and

(  )>

**Section 24**

**Fergus Ewing**

32 In section 24, page 13, line 28, leave out <legal services>

**After section 25**

**Fergus Ewing**

33 After section 25, insert—
<Reporting to Law Society

(1) This section applies in relation to any licensed legal services provider (whose approved regulator is not the Law Society) that is required, by compensation rules made by reference to section (Compensation rules: general)(3), to make contributions to the Guarantee Fund.

(2) The approved regulator must report to the Law Society any—

(a) breach of the regulatory scheme by the licensed provider that the approved regulator discovers as regards the procedures arising under practice rules made by reference to section 18,

(b) suspicion held by the approved regulator that there is engagement in such financial impropriety as may (in the approved regulator’s opinion) give rise to the risk of a claim being made on the Guarantee Fund.

(3) The approved regulator must make available to the Law Society any report prepared by the approved regulator about an inspection carried out by it as regards compliance with—

(a) the procedures arising under practice rules made by reference to section 18,

(b) any other financial procedure as regards which the approved regulator has functions under this Part.

(4) The approved regulator must inform the Law Society of any further action that it intends to take (or has taken) in relation to any of the matters mentioned in subsections (2) and (3).

(5) In this section and section (Steps open to Society), the references to the Guarantee Fund are to it as defined in section (More about compensation arrangements)(3).>

Fergus Ewing

34 After section 25, insert—

<Steps open to Society

(1) Where—

(a) section (Reporting to Law Society) applies, and

(b) the Law Society suspects that the approved regulator is failing to enforce under this Part any financial procedure to which that section relates,

the Society may refer the circumstances to the Scottish Ministers.

(2) But the Society may make a referral under subsection (1) only if—

(a) it has made representations to the approved regulator in respect of its suspicion, and

(b) in light of any response to them (or where none is received timeously), its suspicion is not relieved.

(3) In a referral under subsection (1), the Society may—

(a) request that the Scottish Ministers take such action under this Part as they consider appropriate,

(b) seek their consent to the Society’s taking of the step mentioned in subsection (5).

(4) That consent may be—
(a) sought only if the Society suspects that the suspected failure may be facilitating to any extent engagement in such financial impropriety as may (in the Society’s opinion) give rise to the risk of a claim being made on the Guarantee Fund,

(b) given only if the Scottish Ministers are satisfied (on information provided by the Society) that—
   (i) the Society’s suspicions are reasonable, and
   (ii) it is necessary (by way of investigation) that the step be taken.

(5) The step is that the Society inspect, at the licensed provider’s premises, any document, record or other information (in any form) found there which—
   (a) relates to—
      (i) the licensed provider’s client account, or
      (ii) any other financial account held by it, and
   (b) is relevant in relation to any financial procedure to which section (Reporting to Law Society) relates.

Fergus Ewing

35 After section 25, insert—

<Financial inspection by Society>

(1) If the relevant consent is given under subsection (4)(b) of section (Steps open to Society), the Law Society may take the step mentioned in subsection (5) of that section.

(2) The licensed provider must co-operate with the Society in connection with the taking of the step.

(3) But the Society does not have authority to take the step (or enter the premises) unless the Society has—
   (a) consulted the approved regulator about the taking of it, and
   (b) given the licensed provider at least 48 hours notice of the taking of it.

(4) Following the taking of the step, the Society—
   (a) must report its findings to—
      (i) the approved regulator, and
      (ii) the Scottish Ministers,
   (b) in the report to the Scottish Ministers, may request that they take such action (or further action) under this Part as they consider appropriate.

(5) In this section, the references to taking the step mentioned in section (Steps open to Society)(5) are to its being taken by the Society’s representatives as appointed for the purpose of this section.

Section 26

Fergus Ewing

36 In section 26, page 14, line 25, leave out <, with the consent of the Lord President.>
Fergus Ewing
37 In section 26, page 14, line 28, after <must> insert—
   <( ) have the Lord President’s agreement, and
   ( )>

Fergus Ewing
38 Move section 26 to after section 35

Section 27

Fergus Ewing
39 Move section 27 to after section 35

Section 29

Fergus Ewing
40 In section 29, page 16, line 18, leave out subsection (5A) and insert—
   <(5A) The Lord President’s agreement is required for the taking of any of the measures
   mentioned in subsection (4) except paragraph (d).>

Fergus Ewing
41 In section 29, page 16, line 20, leave out <, with the consent of the Lord President.>

Fergus Ewing
42 In section 29, page 16, line 25, after <must> insert—
   <( ) have the Lord President’s agreement, and
   ( )>

Section 31

Fergus Ewing
43 In section 31, page 17, line 4, leave out <legal services>

Section 32

Fergus Ewing
44 In section 32, page 17, line 21, leave out <legal services>
Section 35

Robert Brown
Supported by: James Kelly

122 In section 35, page 19, line 15, after <(2)> insert—

<(  )> without the Lord President’s agreement, and

(  )>

Section 37

Fergus Ewing

45 In section 37, page 19, line 37, at end insert—

<(  )> does so in conjunction with section 37A.>

Section 37A

Fergus Ewing

46* In section 37A, page 21, leave out lines 9 to 22 and insert <the qualifying investors in it (taken together) have at least a 51% stake in the total ownership or control of the entity.>

(1A) For the purpose of subsection (1), a “qualifying investor” is—

(a) a solicitor investor, or

(b) an investor who is a member of another regulated profession.

(1B) In subsection (1A)(b), a “regulated profession” is a profession the professional activities of whose members (and qualifications for membership of which) are, under statutory or administrative arrangements, regulated by a professional association.

(1C) Despite the generality of subsections (1A)(b) and (1B), the Scottish Ministers may by regulations specify in connection with those subsections what is, or is not, to be regarded as a regulated profession, a professional association, professional activities (or qualifications) or membership of a profession.>

Richard Baker

46A As an amendment to amendment 46, line 1, leave out <<the> to end of line 5 and insert—

<(a) solicitor investors have (taken together) at least a 51% (but not a 100%) stake in the total ownership or control of the entity, and

(b) non-solicitor investors who are not members of another regulated profession have (taken together) no more than a 25% stake in the total ownership or control of the entity.>

Richard Baker

46B As an amendment to amendment 46, line 6, leave out <(1A)(b)> and insert <(1)(b)>
Richard Baker
46C  As an amendment to amendment 46, line 9, leave out (1A)(b) and insert (1)(b)

Fergus Ewing
46D* As an amendment to amendment 46, line 9, leave out <may by regulations> and insert—

<(  ) are by regulations to>

Fergus Ewing
46E* As an amendment to amendment 46, line 11, after <profession,> insert—

<(  ) may by regulations specify in connection with those subsections what is, or is not, to be regarded as>

Fergus Ewing
46F* As an amendment to amendment 46, line 12, at end insert—

<(  ) Before making regulations under subsection (1C), the Scottish Ministers must—

(a) have the Lord President’s agreement, and

(b) consult—

   (i) the Law Society,

   (ii) every approved regulator,

   (iii) the OFT, and such other organisation (appearing to them to represent the interests of consumers in Scotland) as they consider appropriate,

   (iv) such other person or body as they consider appropriate.>

Robert Brown
123  In section 37A, page 21, leave out lines 9 to 22 and insert <solicitor investors have (taken together) at least a 51% stake (but not a 100% stake) in the total ownership or control of the entity.>

Section 39

Fergus Ewing
47  In section 39, page 22, line 11, leave out <legal services>

Section 40

Fergus Ewing
48  In section 40, page 23, line 10, leave out <legal services>
Section 41

Fergus Ewing

49 In section 41, page 24, line 2, leave out <legal services>

Section 46

Fergus Ewing

50 In section 46, page 28, line 26, leave out <the equivalent amount to the maximum on level 3 of> and insert <an amount equivalent to level 4 on>

Fergus Ewing

51 In section 46, page 28, line 28, leave out <has been sentenced to imprisonment for a term of 2 years> and insert <sentenced to imprisonment for a term of 12 months>

Section 47

Bill Aitken
Supported by: James Kelly

124 In section 47, page 29, line 6, leave out <carry out legal work> and insert <provide legal services>

Bill Aitken
Supported by: James Kelly

125 In section 47, page 29, line 11, at end insert <not disqualified under section 44(2), (3)(a), (4), (5)(a), (6)(a) or (6)(b) and is>

Fergus Ewing

52 In section 47, page 29, line 13, leave out from <or> to end of line 14

Bill Aitken
Supported by: James Kelly

127 In section 47, page 29, line 17, leave out <work> and insert <services>

Section 50

Bill Aitken
Supported by: James Kelly

128 In section 50, page 32, line 1, after <dishonesty> insert <or violence>

Fergus Ewing

53 In section 50, page 32, line 2, leave out <the equivalent amount to the maximum on level 3 of> and insert <an amount equivalent to level 4 on>
In section 50, page 32, line 4, leave out <has been sentenced to imprisonment for a term of 2 years> and insert <sentenced to imprisonment for a term of 12 months>.

In section 50, page 32, line 7, leave out <control or substantial influence in the body’s affairs> and insert <- (a) ownership or control of the body, or (b) any other material interest in it>.

Section 50A

In section 50A, page 32, line 13, leave out <legal services>.

Section 51

In section 51, page 32, line 37, leave out <legal services>.

Section 52

In section 52, page 33, line 21, leave out <with the consent of the Lord President>.

In section 52, page 33, line 36, at end insert—

<(  ) for circumstances where an interest is held by a body, set out—
(i) what interest (or type) in the body counts towards the interest held by it, (ii) the extent to which the interest in it so counts.>.

In section 52, page 33, line 36, at end insert—

<(  ) Before making regulations under subsection (2A), the Scottish Ministers must have the Lord President’s agreement.>.

In section 52, page 34, line 6, at end insert <a firm of solicitors or an incorporated practice,>.

In section 52, page 34, line 9, after <European> insert <or foreign>.
In section 52, page 34, line 9, at end insert—

<( ) the reference to a “solicitor investor” in a licensed provider is to be construed accordingly.>

Section 54

In section 54, page 34, line 27, at end insert—

<( ) through the application of section 37 or 37A or otherwise, a licensed provider is no longer eligible to remain as such,>

In section 54, page 34, line 28, leave out <legal services>

In section 54, page 35, line 4, after <delay> insert <and no later than 7 days after an event referred to in subsection (1)>

In section 54, page 35, line 11, at end insert—

<(3A) Even if the exception mentioned in subsection (3) is made out, the approved regulator may suspend the licence pending rectification of the situation.>

In section 54, page 35, line 12, leave out <subsection (3)> insert <subsections (3) and (3A)>

In section 54, page 35, line 13, at end insert—

<( ) For so long as the licensed provider’s licence is not revoked or suspended under subsection (3) or (3A) in connection with the situation, the situation alone does not prevent the licensed provider from continuing (or recommencing) to provide legal services.>

Where within 28 days of subsection (1) first applying to a licensed provider that subsection no longer applies and—

(a) having complied with subsection (2), and

(b) the licensed provider satisfies the approved regulator that subsection (1) no longer applies,
the licensed provider will continue to be licensed or, as the case may be, have its licence reinstated.>

Section 55

Fergus Ewing

69 In section 55, page 35, line 23, leave out <legal services>

Section 65

Bill Aitken
Supported by: James Kelly

131* In section 65, page 43, line 2 after <provider> insert <and, for this purpose, a practitioner includes a designated person within the meaning of section 47>

Fergus Ewing

70 In section 65, page 43, line 5, at end insert—

<(  ) Where an approved regulator receives (from a person other than the Commission) a complaint about the conduct of, or any services provided by, a practitioner within one of its licensed providers, the approved regulator must without delay send to the Commission the complaint and any material that accompanies it.>

Fergus Ewing

71 In section 65, page 43, line 15, after <terms> insert <and conditions>

Fergus Ewing

72 In section 65, page 45, line 2, leave out <Sections 23 to 25> and insert <Parts 1 and 2>

Fergus Ewing

73 In section 65, page 45, line 6, leave out <sections> and insert <Parts>

Fergus Ewing

74 In section 65, page 45, line 8, at end insert—

<57DA Effectiveness of compensation fund

(1) Section 39 also applies in relation to a compensation fund of its own that is maintained by an approved regulator in furtherance of section (Choice of arrangements)(2) of the Legal Services (Scotland) Act 2010.

(2) For the application of section 39 by virtue of subsection (1)—

(a) any such compensation fund is to be regarded as falling within subsection (1)(c) of that section,

(b) the approved regulator is to be regarded as the relevant professional organisation.>
Bill Aitken
Supported by: James Kelly

132 In section 65, page 45, line 11, at end insert—
   <“designated person”,>
In section 74, page 50, line 1, leave out <with the consent of the Lord President, amend, add or delete> and insert <after consulting the approving body, vary (including by addition or deletion)>

Section 81C

In section 81C, page 56, line 7, leave out from <(any) to end of line 8 and insert—

<(  ) The Scottish Ministers may, after consulting the approving body, vary (including by addition or deletion) any conditions imposed under subsection (2)(c).>

Section 83

In section 83, page 62, line 18, leave out <its> and insert <the relevant>

In section 83, page 62, line 21, leave out <Sections 23 to 25> and insert <Parts 1 and 2>

In section 83, page 62, line 25, leave out <sections> and insert <Parts>

In section 83, page 63, line 6, leave out <licensed providers> and insert <confirmation agents or (as the case may be) will writers>

After section 84A

After section 84A, insert—

<Corporate offences

(1) Subsection (2) applies where—

(a) an offence under this Part is committed by a relevant organisation, and

(b) the commission of the offence—

(i) involves the connivance or consent of, or

(ii) is attributable to the neglect of,

a responsible official of the organisation.

(2) The official (as well as the organisation) commits the offence.

(3) For the purpose of this section—

(a) a “relevant organisation” is—
(i) a company,
(ii) a limited liability partnership,
(iii) an ordinary partnership, or
(iv) any other body or association,
(b) a “responsible official” is—
   (i) in the case of a company, a director, secretary, manager or other similar officer,
   (ii) in the case of a limited liability partnership, a member,
   (iii) in the case of an ordinary partnership, a partner,
   (iv) in the case of another body or association, a person who is concerned in the management or control of its affairs,
   but in each case also extends to a person purporting to act in such a capacity.

After section 85

Richard Baker
133 After section 85, insert—

<Regulation of estate administrators

(1) The Scottish Ministers may by regulations make provision in relation to estate administrators which is equivalent to the provision made in relation to confirmation agents by Chapter 1 (whether by amending that Chapter to include reference to estate administrators or otherwise).

(2) For the purposes of this section, an estate administrator is a person who provides services (other than the services mentioned in section 72(2)) relating to the administration of the estate of a deceased person (for example, investigating and establishing the assets and liabilities contained within the estate of a deceased person, establishing the executors’ title to the deceased person’s assets, administering and handling the assets of a deceased person or accounting for the executor’s receipts and payments with the deceased person’s assets).

After section 91

Bill Aitken
134* After section 91, insert—

<Practice rules: registered firms of solicitors

(1) In section 34(1A) of the 1980 Act—
   (a) after paragraph (e)(ii) insert—
   “(iia) that any recognition granted under this section shall have effect from the date it bears but shall expire on 31 October next after it is issued;”

   (b) paragraph (e)(iii) is repealed.

(2) After section 34(1A) (Rules as to professional practice etc) of the 1980 Act insert—
“(1AA) Rules under this section may make provision requiring firms of solicitors to register with the Council and providing for their regulation and subsection (1A) shall apply for the purpose of regulating and registering such firms as it applies for the purpose of regulating and recognising incorporated practices, subject to any necessary modifications (and firms of solicitors when registered and for as long as they are registered are in this Act referred to as “registered firms of solicitors”).

(1AB) In subsection (1AA), a “firm of solicitors” includes—

(a) a single solicitor practising under the solicitor’s own name; and

(b) a solicitor otherwise practising as a sole practitioner.”

(3) In section 65(1) of the 1980 Act, after the definition of “registered European lawyer” insert—

““Registered firms of solicitors” shall be construed in accordance with section 34(1AA);”

(4) In Schedule 1 to the 1980 Act (the Law Society of Scotland), after paragraph 6A insert—

“6B (1) Every practice shall, for each year, pay to the Society such subscription as may be fixed from time to time by the Society in general meeting and different subscriptions may be fixed for different kinds of practices.

(2) The subscription shall be payable by the practice at the time of its application for registration or recognition.

(3) If a practice is first registered or recognised after the beginning of any year, the subscription payable by it shall be calculated by reference to the number of months remaining in that year after it is registered or recognised.

(4) In this paragraph and in paragraph 6C,

“practice” means a registered firm of solicitors or an incorporated practice; and

“year” means the period of 12 months commencing on 1 November or such other day as may be fixed by the Council.

6C (1) The Society may, in addition to the subscription imposed in paragraph 6B(1), impose in respect of any year a special subscription on all practices of such amount and payable at such time and for such specified purposes as the Society may determine in general meeting.

(2) The Society may determine in general meeting that different special subscriptions may be imposed under sub-paragraph (1) in respect of different kinds of practices or that the special subscription shall not be payable by a kind of practice.

(3) No imposition may be made under sub-paragraph (1) unless a majority of members voting at the general meeting at which it is proposed has, whether by proxy or otherwise, voted in favour of its being made.”>
Section 91D

Fergus Ewing

85 In section 91D, page 71, line 16, at end insert—

<(  ) in paragraph (b), after “director” insert “, member”,>  

Fergus Ewing

86 In section 91D, page 71, line 18, after <it> insert <in connection with its provision of legal services (with the same meaning as for Part 2 of the 2010 Act)>  

Fergus Ewing

87 In section 91D, page 71, line 21, after <(3),> insert—

<(  ) in paragraph (cc), after “director” in the second place where it occurs insert “, member”,

( )>  

Bill Aitken  
Supported by: James Kelly

135 In section 91D, page 71, leave out lines 22 to 25 and insert—

<(cd) to a licensed provider or any investor or person who owns, manages or controls or is within the licensed provider in respect of a loss suffered by it or any such person in connection with the licensed provider’s provision of legal services by reason of dishonesty on the part of any such persons;”;>  

Fergus Ewing

88 In section 91D, page 71, line 23, leave out from <in> to end of line 25  

Bill Aitken  
Supported by: James Kelly

136* In section 91D, page 71, line 25, at end insert—

<(  ) the word “or” immediately preceding paragraph (g) is repealed,

(  ) after paragraph (g) insert “; or

(h) in respect of any default of a licensed legal services provider or any person within it unless the Council is satisfied—

(i) that the act of default is closely connected with the provision of legal services (within the meaning of the 2010 Act) by that provider; and>
(ii) that the provider and any investor in it and any person who owns, manages or controls it shall have submitted to the Council an irrevocable undertaking it or they will, jointly and severally (as the case may be), reimburse to the Society the amount of any grants and that to the extent to which the Society is unable to recover that amount from that provider or any liquidator, administrator or trustee in bankruptcy of it.”

**Fergus Ewing**

89 In section 91D, page 71, line 31, leave out <a> and insert <its own>

**Bill Aitken**

137 In section 91D, page 71, line 32, at end insert—

<\(8A)\) In the case where the Council is not the approved regulator of the licensed legal services provider and without prejudice to any action which that approved regulator may take, the Council may take action to—

\((a)\) enable the Council to ascertain—

\((i)\) whether the rules made under section 18 of the 2010 Act are being complied with by that provider; and

\((ii)\) whether any provider which has failed to comply with those rules has remedied that failure and is complying with those rules; and

\((b)\) recover from that provider any costs incurred by the Council in so doing as the Council may do in relation to a licensed legal services provider regulated by them in accordance with account rules made under section 35.>

**Fergus Ewing**

90 In section 91D, page 71, line 36, at end insert—

<\(\) In section 43 of the 1980 Act—

\((a)\) in subsection (2), after paragraph (a) insert—

“\((aa)\) any conveyancing or executry practitioner or an employee of the practitioner in connection with the practitioner’s practice as such, even if subsequent to the act concerned the practitioner has ceased to provide conveyancing or executry services;”;

\((b)\) in subsection (3), after paragraph (c) insert—

“\((ca)\) to a conveyancing or executry practitioner in respect of a loss suffered by reason of dishonesty on the part of a partner or employee of the practitioner in connection with the practitioner’s practice as such;”.

\(\) Section 21C of the 1990 Act is repealed, but—

\((a)\) the fund maintained under subsection (1) of that section immediately before its repeal by this subsection continues to be vested in the Council, and

\((b)\) the Council is to apply that fund to the Scottish Solicitors Guarantee Fund (which is vested in the Law Society under section 43(1) of the 1980 Act).>
Section 91E

Fergus Ewing
Supported by: James Kelly

91 In section 91E, page 72, line 5, at end insert—

<(< ) after “directors” (in that head), insert “or members”>.

Bill Aitken
Supported by: James Kelly

138 In section 91E, page 72, line 7, after “providers” insert <, or—

(c) partners in a registered firm of solicitors, or
(d) in a case where the registered firm of solicitors is a sole practitioner, a single solicitor practising under the solicitor’s own name or a solicitor otherwise practising as a sole practitioner.”.

Fergus Ewing

92 In section 91E, page 72, line 26, after <directors> insert <, members>

Fergus Ewing

93 In section 91E, page 72, line 33, at end insert—

<(< ) In Schedule 3 to the 1980 Act, after paragraph 1B insert—

“1C (1) Paragraph 1 applies to a conveyancing or executry practitioner as it applies to a solicitor.

(2) But it does so with the following of its provisions to be disregarded—

(a) the reference in sub-paragraph (1) to an application for a practising certificate,

(b) sub-paragraphs (2), (2A), (6) and (9).

(3) If a conveyancing or executry practitioner fails to pay an annual contribution due by virtue of this paragraph, the Council may suspend (pending payment) the relevant entry in the register maintained by them under section 17(1) or 18(1) of the 1990 Act.

(4) For the purposes of section 43 and this paragraph, the references to a conveyancing or executry practitioner (or conveyancing or executry services) are to be construed in accordance with section 23 of the 1990 Act.”.

Bill Aitken
Supported by: James Kelly

139 In section 91E, page 72, line 33, at end insert—

<(< ) In Schedule 3 to the 1980 Act, in paragraph 1—

(a) after sub-paragraph (2B) insert—
“(2BB) Subject to the provisions of this Act, there shall be paid to the Society on behalf of the Guarantee Fund by every registered firm of solicitors in respect of each year during which, or part of which, it is registered under section 34(1AA) a contribution (hereafter referred to as an “annual practice contribution”) in accordance with the relevant scale of such contributions referred to in sub-paragraph (3).”,

(b) in sub-paragraph (3), after “corporate contributions” insert “and the annual practice contributions”;

(c) after sub-paragraph (3) insert—

“(3B) The scales of annual practice contributions—
(a) are to be fixed by reference to all relevant factors including the number of solicitors who are partners, members or employees of the registered firm of solicitors; and
(b) may make different provision for different classes of registered firms of solicitors.”,

(d) in sub-paragraph (4), after “provider” insert “and no annual practice contribution by a registered firm of solicitors”;

(e) in sub-paragraph (5)—
(i) the words from “every” in the first place it occurs to “upon” in the second place it occurs become head (a),
(ii) the words from “upon” in the second place it occurs to “contribution”)” become head (b),
(iii) after head (b) (as so numbered) insert—
“(c) every registered firm of solicitors a contribution (hereafter referred to as a “special practice contribution”),
(iv) after “scale” insert “or scales”,
(v) for the word “(3)” substitute “(3A) and (3B)”, and
(vi) after “contribution” where it second occurs insert—
“(d) and a special practice contribution”,

(f) in sub-paragraph (8), after “provider” insert “or of a registered firm of solicitors”.

After section 91G

Bill Aitken

141* After section 91G, insert—

<Membership of the Society

(1) In section 2 (membership of the Society) of the 1980 Act—

(a) in subsection (2)—

(i) after “Society” insert—
“(a) any solicitor who by virtue of section 24 is exempted from taking out a practising certificate;
(b) the words from “on” to “determine” are repealed,
(b) after subsection (2) insert—

“(2A) The Council may admit as an honorary member of the Society any solicitor
who has ceased to hold a practising certificate but no such honorary member is
to be entitled to vote at meetings of the Society or to pay an annual
subscription.

(2B) The Council may admit as an associate member of the Society on such terms
and conditions as they may determine (including payment of an annual
subscription)—

(a) any solicitor who is not otherwise a member of the Society,
(b) any student or graduate of a law course at a university or other person
who appears to them to have legal qualifications or experience,
provided that, in any case, the Council considers that solicitor or person to be a
fit and proper person to be admitted as an associate member of the Society.

(2C) Without prejudice to any power which the Council may have, the Council
may—

(a) create different classes of membership of the Society and, in particular,
may distinguish between practising and non-practising members,
(b) determine any terms, conditions, rights and obligations of membership of
each class including, in particular, the annual subscription payable by
members of each class (subject to the exception for honorary members),
and different provision may be made for different classes.”.

(2) In Schedule 1 to the 1980 Act (the Law Society of Scotland)—

(a) in paragraph 2, before head (a) insert—

“(za) the constitution, membership and classes of members, management and
proceedings of the Society;”

(b) in paragraph 3—

(i) heads (a) and (b) are repealed; and
(ii) in head (c), after “contain” insert “, or may authorise the Council to make
standing orders which contain,”.

Section 92

Bill Aitken
142 In section 92, page 73, line 34, leave out <solicitor members to the Council> and insert
<members of the Society who are solicitors to be “solicitor members of the Council”>

Bill Aitken
143 In section 92, page 73, line 35, leave out <non-solicitor members to the Council> and insert
<persons who are not members of the Society and who satisfy paragraph 3A(3) to be “non-
solicitor members of the Council”>
Bill Aitken
144 In section 92, page 74, leave out lines 1 and 2

Section 93

Fergus Ewing
94 In section 93, page 74, line 12, leave out <section 3B> and insert <sections 3B to 3G>

Fergus Ewing
95 In section 93, page 74, line 18, at end insert <, and

( ) ensure that the committee continues so to exercise those functions (in particular, for the discharge of the Council’s responsibility as mentioned in section 3A(9)(a)).>

Bill Aitken
145 In section 93, page 74, line 24, leave out <(acting in any other capacity)>

Fergus Ewing
96 In section 93, page 74, line 24, after <not> insert—

(a) exercise their regulatory functions through any other means, or

(b)>

Fergus Ewing
97 In section 93, page 74, line 25, at end insert—

<(2B) Subsection (2A)(a) is subject to—

(a) any determination made by the regulatory committee in a particular case that it is necessary, for ensuring that something falling within the Council’s regulatory functions is achieved appropriately, that specific action be taken otherwise than through the regulatory committee, and

(b) such directions as the regulatory committee gives the Council (acting in any other capacity) in connection with the determination.>

Robert Brown
146 In section 93, page 74, line 25, at end insert—

<( ) Subsection (2A) does not prevent the Council setting performance targets, standards and timescales for the conduct of the work of the regulatory committee.>

Robert Brown
147 In section 93, page 74, line 25, at end insert—

<( ) Subsection (2A) does not prevent the Council removing a member of the regulatory committee from office as such if the member—
(a) becomes insolvent,
(b) has been absent from meetings of the committee without permission for longer than 6 consecutive months,
(c) has been convicted of an offence, or
(d) is otherwise unable or unfit to discharge the functions of a member of the committee.

Fergus Ewing

98 In section 93, page 74, line 25, at end insert—

<3C Particular rules applying>

Robert Brown

148 In section 93, page 74, line 33, leave out from <committee> to end of line and insert <Council is to appoint one of its non-solicitor members as convener of the committee,>

Bill Aitken

149 In section 93, page 74, line 35, insert—

<( ) the committee may arrange for any of its functions to be discharged by a sub-committee of it,>

Fergus Ewing

99 In section 93, page 74, leave out lines 36 to 38 and insert—

<( ) Any sub-committee of the regulatory committee (formed under section 3A(2)(a)) is subject to the particular rules applying as respects the regulatory committee, except that—

(a) a meeting of the sub-committee need not be chaired by one of its lay members,
(b) it may co-opt members from outside the membership of the regulatory committee.>

Fergus Ewing

100 In section 93, page 75, line 1, leave out <But>

Fergus Ewing

101 In section 93, page 75, leave out lines 4 to 17

Fergus Ewing

102 In section 93, page 75, leave out lines 27 to 35

Fergus Ewing

103 In section 93, page 75, line 35, at end insert—
3D Resolving regulatory disputes

(1) This section applies in relation to any dispute arising between the regulatory committee and the Council (acting in any other capacity) with respect to the application of section 3B.

(2) If the dispute cannot be settled by the parties, it is to be submitted to (and resolved by) arbitration.

(3) The arbitrator is to be appointed—
   (a) jointly by the parties, or
   (b) in the absence of agreement for joint appointment, by the Lord President on a request made by either (or both) of them.

(4) The arbitrator’s resolution of the dispute is final and binding on the parties.

3E Further provision for section 3B etc.

(1) The Scottish Ministers may by regulations—
   (a) prescribe a maximum—
      (i) number of members that the regulatory committee, or any sub-committee of it, may have,
      (ii) proportion of the membership (of either) that may comprise co-opted members,
   (b) make further provision about the Council’s regulatory functions if they believe that such provision is necessary for ensuring that those functions are exercised in accordance with the purpose stated in section 3B(2),
   (c) modify (by elaboration or exception) the definition in sections 3F and 3G if they believe that such modification is appropriate.

(2) Before making regulations under subsection (1), the Scottish Ministers must consult the Council (and take account of sections 4 and 4A of the 2010 Act).

(3) The power to make regulations under subsection (1) is exercisable by statutory instrument; but—
   (a) a statutory instrument containing regulations under subsection (1)(a) is subject to annulment in pursuance of a resolution of the Scottish Parliament,
   (b) a statutory instrument containing regulations under subsection (1)(b) or (c) is not to be made unless a draft of the instrument has been laid before, and approved by a resolution of, the Parliament.

3F Meaning of “regulatory functions”

(1) For the purposes of sections 3B to 3E, the Council’s “regulatory functions” are their functions of regulating in respect of any matter the professional practice, conduct and discipline of—
   (a) solicitors (including firms of solicitors) and incorporated practices,
   (b) other legal practitioners, for example—
(i) registered European or foreign lawyers,
(ii) conveyancing or executry practitioners.

(2) Those functions include (in particular) their functions as to—
(a) setting standards of qualification, education and training,
(b) admission of persons to the profession,
(c) keeping the roll and other registers,
(d) administering the Guarantee Fund,
(e) making regulatory rules under any relevant enactment.

(3) In subsection (1)(b)(ii), the reference to conveyancing or executry practitioners is to be construed in accordance with section 23 of the 1990 Act.

3G Extended meaning under section 3F

If the Society acts as an approved regulator as mentioned in section 1A, the Council’s “regulatory functions” for the purposes of sections 3B to 3E also comprise such regulatory functions as—
(a) fall within the meaning of that expression as given for the purposes of Part 2 of the 2010 Act (by section 23(1) of that Act), and
(b) are exercisable under that Part of that Act by the Society in its capacity as an approved regulator as so mentioned.”.>

Fergus Ewing

104 In section 93, page 75, line 35, at end insert—
\(<( ) In section 65(1) of the 1980 Act, at the appropriate alphabetical place insert—
““regulatory committee” means the regulatory committee formed in accordance with section 3B(1);”>.>

Section 94A

Fergus Ewing

105 In section 94A, page 77, line 7, at end insert—
\(<( ) In section 18 (suspension of practising certificates) of the 1980 Act—
(a) after subsection (1) insert—
“(1ZA)The Council may suspend from practice a solicitor who—
(a) has been convicted of an offence involving dishonesty, or
(b) in respect of an offence, has been—
(i) fined an amount equivalent to level 4 on the standard scale or more (whether on summary or solemn conviction), or
(ii) sentenced to imprisonment for a term of 12 months or more.”,
(b) in subsection (2), after “subsection (1)” insert “or (1ZA)”>.>
In section 94A, page 77, line 10, leave out from beginning to \<(5A)> in line 11 and insert—
\<\"(5B) A suspension from practice arising by virtue of section 18(1ZA) expires if the
grounds for it no longer apply.
(5C) On the occurrence of any of the circumstances mentioned in subsections (4) to (5B)\>.

In section 94A, page 77, line 12, at end insert—
\<(  ) in subsection (6), after “section 18(1)” insert “or by virtue of section 18(1ZA)”\>.

In section 94A, page 77, line 12, at end insert—
\<\( ) In section 24F (suspension of registration certificate) of the 1980 Act—
(a) after subsection (1) insert—
“(1A) The Council may suspend from practice a registered European lawyer who—
(a) has been convicted of an offence involving dishonesty, or
(b) in respect of an offence, has been—
(i) fined an amount equivalent to level 4 on the standard scale or more
(whether on summary or solemn conviction), or
(ii) sentenced to imprisonment for a term of 12 months or more.”,
(b) in subsection (2), after “subsection (1)” insert “or (1A)”\>.

In section 94A, page 77, line 15, leave out from beginning to \<(4)> in line 16 and insert—
\<\“(4A) A suspension from practice arising by virtue of section 24F(1A) expires if the
grounds for it no longer apply.
(4B) On the occurrence of any of the circumstances mentioned in subsections (2) to (4A)\>.

In section 94A, page 77, line 17, at end insert—
\<(  ) in subsection (5), after “section 24F(1)” insert “or by virtue of section 24F(1A)”\>.

In section 94A, page 77, line 17, at end insert—
\<\( ) in subsection (6), after “section 18(1)” insert “or by virtue of section 18(1ZA)”\>.

In section 94A, page 77, line 17, at end insert—
\<(  ) in subsection (6), after “section 18(1)” insert “or by virtue of section 18(1ZA)”\>.

After section 94A

After section 94A, insert—
\<Accounts rules fee
(1) After section 37 of the 1980 Act insert—\>
“37A Accounts fee

(1) An annual fee set in accordance with this section (the “accounts fee”) is to be paid by each—

(a) solicitor who is required by paragraph 1 of Schedule 3 (as read with section 43(7)) to pay an annual contribution on behalf of the Guarantee Fund,

(b) incorporated practice that is required by that paragraph of that Schedule to pay an annual corporate contribution on that behalf.

(2) The accounts fee is also to be paid by each—

(a) registered European lawyer or registered foreign lawyer who is required by virtue of paragraph 1A or 1B of that Schedule to pay an annual contribution on that behalf,

(b) multi-national practice to which the accounts rules apply by virtue of an enactment.

(3) The accounts fee is to be set by the Council for the purpose of funding the exercise of their function of securing compliance (by the categories specified in subsections (1) and (2)) with the accounts rules.

(4) The accounts fee is to be—

(a) set—

(i) no later than 30 September each year in respect of the 12 month period beginning with 1 November that year, or

(ii) by reference to such other dates as the Council may fix,

(b) paid to the Council by such date as they may fix.

(5) The accounts fee may be set—

(a) so as to involve different amounts (including nil) for different—

(i) categories (as specified in subsections (1) and (2)),

(ii) circumstances (by reference to all relevant factors),

(b) in the case of incorporated practices, by particular reference to the number of solicitors that they have as directors, members or employees.

(6) The Council may take such steps as they consider necessary for recovering the accounts fee due in accordance with this section.”.

(2) In section 65(1) of the 1980 Act, at the appropriate alphabetical place insert—

““accounts fee” has the meaning given by section 37A(1);”.

Fergus Ewing

112 After section 94A, insert—

<Powers of Tribunal

(1) In section 53 (Powers of Tribunal) of the 1980 Act—

31
(a) in subsection (1)(b), for “sentenced to a term of imprisonment of not less than 2 years” substitute “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”.

(b) in subsection (2), after paragraph (bb) insert—

“(bc) where—

(i) an incorporated practice has been convicted, or has been found to have failed, as referred to in subsection (1)(c) or (d), and

(ii) the Tribunal consider that the complainer has been directly affected by any misconduct by the practice to which the conviction or failure is (to any extent) attributable,

direct the practice to pay to the complainer compensation (for loss, inconvenience or distress resulting from the misconduct) of such amount not exceeding £5,000 as the Tribunal may specify;”;

(c) in subsection (3A), for “subsection (2)(e), (d) and (c)” substitute “subsection (2)(bb) to (e),

(d) in subsection (7C), after “paragraph (bb)” insert “or (bc),

(e) in subsection (9), after “subsection (2)(bb)” insert “and (bc)”.

(2) In section 54 (Appeals from decisions of Tribunal) of the 1980 Act, in subsections (1C), (1D) and (1E), after “section 53(2)(bb)” in each place where it occurs insert “or (bc)”.

Bill Aitken

After section 94A, insert—

Powers of the Law Society

After paragraph 11A of Schedule 1 (Law Society of Scotland) to the 1980 Act insert—

“(1) For the avoidance of doubt, the Council may, in accordance with a scheme of charges fixed from time to time by it, charge such fees as it may determine in respect of the discharge of the Society’s functions.

(2) The Council may fix charges in a scheme under sub-paragraph (1) by reference to such matters, and may adopt such methods and principles for the calculation and imposition of the charges, as appear to it to be appropriate.”.

Fergus Ewing

Before section 98, insert—

Relevant practitioners

In section 46(1) (Interpretation of Part 1) of the 2007 Act—

(a) in the definition of “inadequate professional services”, after paragraph (a)(v) insert—
“(vi) a registered European or foreign lawyer, professional services that are in any respect not of the quality which could reasonably be expected of a competent lawyer of that type;”,

(b) in the definition of “practitioner”, after paragraph (g) insert—

“(h) a registered European or foreign lawyer, whether or not registered at that time and notwithstanding that subsequent to that time the lawyer’s registration has ceased to have effect or the lawyer has stopped practising;”,

(c) after the definition of “practitioner” insert—

““registered European or foreign lawyer” is to be construed in accordance with section 65(1) of the 1980 Act;”,

(d) in the definition of “relevant professional organisation”, after paragraph (d) insert—

“(c) a registered European or foreign lawyer, the Council;”,

(e) in the definition of “unsatisfactory professional conduct”, after paragraph (d) insert—

“(e) a registered European or foreign lawyer, conduct that is not of the standard which could reasonably be expected of a competent and reputable lawyer of that type;”.

After section 98

Bill Aitken

151* After section 98, insert—

<Further amendments to the 1980 Act

Schedule (Amendments to the 1980 Act consequential upon, or supplementary to, the 2007 Act) amends the 1980 Act in connection with the 2007 Act which makes consequential and supplemental provision to that Act for the purposes, or in consequence, of or in connection with, the 2007 Act.>

Section 99

Richard Baker

152 In section 99, page 79, line 26, at end insert—

< ( ) section 5(5A),>

Fergus Ewing

114 In section 99, page 79, line 31, at end insert—

< ( ) section 37A(1C),>

Richard Baker

153 In section 99, page 80, line 2, at end insert—
<(  ) section (Regulation of estate administrators),>

Section 99A

Richard Baker
154 In section 99A, page 80, line 9, leave out <percentage specified in section 37A(1)(a)> and insert—

<(  ) first of the two percentages specified in subsection (1)(a) of section 37A,
(  ) percentage specified in subsection (1)(b) of that section,>

Robert Brown
155 In section 99A, page 80, line 9, leave out <percentage specified in section 37A(1)(a)> and insert
<first of the two percentages specified in section 37A(1),>

Fergus Ewing
115 In section 99A, page 80, line 9, leave out <37A(1)(a)> and insert <subsection (1) of section 37A>

Fergus Ewing
116 In section 99A, page 80, line 10, at end insert <(and consequentially the references in this Act to
that section)>

Schedule 3

Fergus Ewing
117 In schedule 3, page 87, line 19, leave out <, with the consent of the Lord President,>

After schedule 8

Bill Aitken
156* After schedule 8, insert—

<SCHEDULE
(introduced by section (Further amendments to the 1980 Act))

AMENDMENTS TO THE 1980 ACT CONSEQUENTIAL UPON, OR SUPPLEMENTARY TO, THE 2007 ACT

1 (1) The 1980 Act is amended as follows.
(2) In section 13(3) and 24A(3), for “by him for the purposes of Part IV” substitute “or unsatisfactory professional conduct”.
(3) In section 23(2), 23A and 23B(3), for “for the purposes of Part IV” substitute “or unsatisfactory professional conduct”.
(4) In section 15, after subsection (2)(c) insert—
“(ea) without having paid in full any amount owed by him to the Commission under section 27 or 28 of the 2007 Act; or
(eb) without having paid in full any compensation awarded by the Council under section 42ZA(4)(c) or by the Tribunal under section (53(2)(bb) or by the Commission under section 10(2)(d) of the 2007 Act; or”.

(5) In section 42ZA, after subsection (15) insert—

“(16) In this section and in sections 42ZB to 42ZD, “solicitor” shall be construed in the same way as references to a “solicitor” are construed for the purposes of Part IV by virtue of section 51(1A).”

(6) In section 52, after subsection (3) insert—

“(4) For the avoidance of doubt, rules made by the Tribunal under subsection (2) may provide for the functions of the Tribunal to be exercised on behalf of the Tribunal, in relation to a particular case or part of a case—

(a) by any particular tribunal constituted in accordance with paragraph 5 of Schedule 4 to deal with that case or part;

(b) by the chairman or vice-chairman of the Tribunal other than the functions of hearing and determining the merits of any case.”.

(7) In section 53—

(a) in subsection (2), after paragraph (bb) insert—

“(bc) where the Tribunal considers that the solicitor does not have sufficient competence in relation to any aspect of the law or legal practice, to direct the solicitor to undertake such education or training as regards the law or legal practice as the Tribunal considers appropriate in that respect.”,

(b) subsection (3A) is repealed.

(8) In section 54—

(a) after subsection (1B), insert—

“(1BA) In any case where the Tribunal has found the solicitor guilty of professional misconduct and has made certain decisions under section 53(2) or (5) but has not determined whether any amount of compensation is payable to the complainant under section 53(2)(bb)—

(a) any appeal by the solicitor against any of those decisions of the Tribunal shall not prevent the Tribunal from making a decision under section 53(2)(bb), but

(b) this is without prejudice to any appeal being made under section 54(1A) against any decision made by the Tribunal under that section.”,

(b) in subsection (1C), after “53” insert “(1)”.

(9) In section 54A, after subsection (3) insert—

“(3A) The Council may, before the expiry of 21 days beginning with the day on which the decision by the Tribunal under section 53ZB(1) and (2) is intimated to them, appeal to the Court against the decision, but the Council may not appeal to the Court against a decision of the Tribunal under section 53ZA(1)(f) or (2)(b).”

(10) After section 54A, insert—

“54B Appeals from decisions of Tribunal in other cases

(1) Where a decision of the Tribunal under—
(a) section 10(1),
(b) section 12D(1), or
(c) section 60A(4D)

is that the solicitor, registered European lawyer or foreign lawyer is not to have his name restored to the roll or register (as the case may be), the solicitor, registered European lawyer or foreign lawyer may, before the expiry of the period of 21 days beginning with the day on which the decision is intimated to him, appeal to the Court against the decision.

(2) On an appeal under subsection (1), the Court may give such directions in the matter as it thinks fit, including direction as to the expenses of the proceedings before the Court and as to any order by the Tribunal relating to expenses.

(3) A decision of the Court under subsection (2) shall be final.”,

(11) In section 65(1), in the definition of “solicitor” insert at the end “but for the purposes of sections 42ZA to 42ZD and Part IV shall be construed in accordance with section 51(1A).”.

Schedule 9

Fergus Ewing

In schedule 9, page 102, line 9, leave out <and non-solicitor investor> and insert <, non-solicitor investor and solicitor investor>

Long Title

Fergus Ewing

In the long title, page 1, line 3, after <persons;> insert <to regulate will and other testamentary writing by non-lawyers;>

Fergus Ewing

In the long title, page 1, line 4, after <subject;> insert <to allow court rules to permit the making of oral submissions by lay representatives in civil cases;>