Justice Committee

Remit and membership

Remit:

To consider and report on:

a) the administration of criminal and civil justice, community safety and other matters falling within the responsibility of the Cabinet Secretary for Justice; and

b) the functions of the Lord Advocate other than as head of the systems of criminal prosecution and investigation of deaths in Scotland.

Membership:

Roderick Campbell
John Finnie
Christine Grahame (Convener)
Colin Keir
Jenny Marra (Deputy Convener)
Alison McInnes
David McLetchie
Graeme Pearson
Humza Yousaf

Committee Clerking Team:

Peter McGrath
Joanne Clinton
Andrew Proudfoot
Christine Lambourne
The Committee reports to the Parliament as follows—

1. At its meeting on 19 June 2012 the Committee considered the following instruments—
   - the Licensed Legal Services (Specification of Regulated Professions) (Scotland) Regulations 2012 [draft]; and
   - the Legal Services (Scotland) Act 2010 (Ancillary Provision) Regulations 2012 [draft].

2. Both instruments were referred to the Justice Committee as lead committee and were subject to the affirmative resolution procedure. The Minister for Community Safety and Legal Affairs, Roseanna Cunningham, gave evidence on the instruments and also moved the relevant motions recommending approval of each instrument.

3. The instruments were previously considered by the Subordinate Legislation Committee (SLC) at its meeting on 29 May 2012. The SLC agreed that no points arose on either of the instruments.¹

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

*The draft instrument*

4. The Legal Services (Scotland) Act 2010 removed restrictions on how solicitors can organise their businesses, including allowing solicitors to form partnerships with non-solicitors and seek investment from outside the legal profession. These new types of businesses are termed as licensed legal services providers.

5. Section 49 of the 2010 Act requires that 51% of the total ownership or control of any licensed legal services provider must lie with solicitor investors or investors who are members of other regulated professions. The purpose of this instrument is to set out a list of professions which are to be regarded as regulated professions and to describe the individuals who are to be considered as being members of such professions. The list is included in the Schedule to the Regulations, and includes actuaries, chartered accountants and patent attorneys.

Scrutiny by the Justice Committee
6. In her opening remarks to the Committee, the Minister said that the Scottish Government had consulted on what is to be regarded as a regulated profession and it considered that those listed in the Regulations were “robustly regulated professionals who are fit to have a majority stake in a licensed provider.” Ms Cunningham added that the list of regulated professions was not necessarily complete and that the Scottish Government would continue to consider other professions once the regulatory framework was fully operational.

7. The Minister was questioned by the Committee on whether the regulation of licensed legal services providers was “sufficiently robust” to protect them from being owned by those with links to organised crime. Ms Cunningham said that the new arrangements would not “make life any easier for organised crime than at present” and that the Scottish Government would quickly respond to any such threat.

8. At the conclusion of the evidence session, Ms Cunningham then moved motion S4M-3156. The motion was agreed to without debate or dissent.

9. The Justice Committee recommends to the Parliament that it approve the draft instrument.

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

The draft instrument
10. The purpose of this instrument is to make amendments to the Solicitors (Scotland) Act 1980, the Legal Aid (Scotland) Act 1986 and the Legal Profession and Legal Aid (Scotland) Act 2007. These amendments include allowing registered foreign lawyers to be registered in Scotland so that they can become a solicitor investor in a licensed legal services provider and allowing licensed providers to carry out legal aid work.

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2 The term "solicitor investor" is defined in section 67(6) of the Act. It includes those entitled to practice as a solicitor in Scotland, England and Wales, and Northern Ireland; firms of solicitors and incorporated practices; and registered European and foreign lawyers.
6 S4M-3156—That the Justice Committee recommends that the Licensed Legal Services (Specification of Regulated Professions) (Scotland) Regulations 2012 [draft] be approved.
Scrutiny by the Justice Committee

11. When giving evidence to the Committee, the Minister said that the Regulations were “very technical in nature” and restated the policy objectives behind the amendments to the 1980, 1986 and 2007 Acts.

12. Committee members had no questions for the Minister on the instrument.

13. Ms Cunningham then moved motion S4M-3159. The motion was agreed to without debate or dissent.

14. Accordingly, the Justice Committee recommends to the Parliament that it approve the draft instrument.

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8 S4M-3045—That the Justice Committee recommends that the Legal Services (Scotland) Act 2010 (Ancillary Provision) Regulations 2012 [draft] be approved.
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