SCOTTISH STATUTORY INSTRUMENTS

2012 No. 155

LEGAL PROFESSION

The Licensed Legal Services (Maximum Penalty and Interest in respect of Approved Regulators) (Scotland) Regulations 2012

Made - - - -	*17th May 2012*
Laid before the Scottish Parliament	*21st May 2012*
Coming into force - -	*2nd July 2012*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by paragraphs 2(2) and 11(2) of schedule 4 to the Legal Services (Scotland) Act 2010(**a**) and all other powers enabling them to do so.

In accordance with section 5 of that Act, the Scottish Ministers considered it appropriate to consult, and have consulted, such persons or bodies as appear to them to have a significant interest in the particular subject matter to which the making of these Regulations relates.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Licensed Legal Services (Maximum Penalty and Interest in respect of Approved Regulators) (Scotland) Regulations 2012 and come into force on 2nd July 2012.

(2) In these Regulations—

"the Act" means the Legal Services (Scotland) Act 2010.

Maximum amount of penalty imposed on an approved regulator

2.—(1) The maximum amount of penalty prescribed for the purpose of paragraph 2 of schedule 4 to the Act is the higher of—

(a) an amount equal to 5 per cent of all income which the approved regulator derived from its regulatory functions under Part 2 of the Act in respect of its most recent accounting period; and

(b) £10,000.

(2) The income which the approved regulator derived from its regulatory functions for a particular accounting period is to be determined by reference to the audited accounts for that period.

(3) The reference to the most recent accounting period in paragraph (1) is to the accounting period which ended most recently before the imposition of the financial penalty and for which audited accounts have been prepared.

(**a**) 2010 asp 16.

(4) In this regulation, "audited accounts" refers to the accounts of the approved regulator which have been drawn up in accordance with generally accepted accounting practice.

Interest

3. The rate of interest prescribed for the purpose of paragraph 11 of schedule 4 to the Act is a rate equivalent to the base rate of the Bank of England from time to time plus 2 per cent.

R CUNNINGHAM
Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
17th May 2012

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision in respect of Part 2 of the Legal Services (Scotland) Act 2010 ("the Act").

Regulation 2

Paragraph 2(1) of schedule 4 to the Act makes provision for the Scottish Ministers to impose a financial penalty on an approved regulator where the regulator has failed to adhere to its internal governance arrangements or comply with a direction given by the Scottish Ministers under schedule 2 to the Act.

Regulation 2 prescribes that the maximum amount for such a penalty is the higher of—

(a) an amount equal to 5 per cent of the income of the approved regulator derived from its regulatory functions under Part 2 of the Act in its most recent accounting period; and

(b) £10,000.

Regulation 3

Paragraph 11(1) of schedule 4 to the Act provides that interest is payable where a financial penalty imposed on an approved regulator under schedule 4 to the Act is not paid timeously.

Regulation 3 prescribes that the rate of interest payable is a rate equivalent to the base rate of the Bank of England from time to time plus 2 per cent.

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