

# **Regulation of Legal Services (Scotland) Bill**

## **Pre-Screening Notification**

**May 2023**

# **PRE-SCREENING NOTIFICATION**

Scottish Government version

## SEA PRE-SCREENING DOCUMENT

**Responsible Authority:**

[Box 1.](#)

Scottish Government

**Title of the plan:**

[Box 2.](#)

Regulation of Legal Services (Scotland) Bill

**What prompted the plan:**

(e.g. a legislative, regulatory or administrative provision)

[Box 3.](#)

Legislative

In 2015 the Law Society of Scotland (“Law Society”) set out proposals that would deliver reforms to their regulatory powers in order to support growth in the legal services sector, through a more modern and proportionate approach to regulation, and to strengthen consumer protection.

The following year, the Scottish Legal Complaints Commission (“SLCC”) published a paper setting out its priorities for reform. The SLCC raised concerns that the statute underpinning the legal complaints system is too restrictive and unable to act in a proportionate and risk-based way, adding undue cost and time for consumers and legal professionals.

The Scottish Government then established an independent review of the regulation of legal services which was taken forward by an independent panel chaired by Esther Roberton.

‘Fit for the Future – the Report of the Independent Review of Legal Services Regulation in Scotland’ was published in 2018. The ‘Roberton report’ made 40 recommendations intended to reform and modernise the current regulatory framework to ensure a proportionate approach, supporting growth and competitive provision in the legal services sector, whilst placing consumer interests at its heart.

The Roberton report took the view that the current framework of legal services regulation operating in Scotland is dated and in need of reform to ensure that it is fit for the 21st Century. The report also accepted that the legal complaints system could be improved, and the legislative structure streamlined.

**Plan subject:**

(e.g. transport)

[Box 4.](#)

Justice

Reform of legal services regulation in Scotland.

**Brief summary of the plan:**

(including the area or location to which the plan related)

Box 5.

The overarching policy objective of this Bill is to provide a modern, forward-looking legal services regulation framework for Scotland that will best promote competition, innovation, and the public and consumer interest in an efficient, effective, and independent legal sector. The Bill will implement a number of key recommendations from the 'Independent Review of Legal Services Regulation in Scotland' by Esther Roberton (the Roberton report).

The Bill made up of five parts as follows:

**Part 1** deals with the overarching regulatory framework and breaks down into three chapters—

- Chapter 1 sets regulatory objectives and professional principles for the regulation and operation of legal services,
- Chapter 2 divides legal services regulators into two categories and imposes different conditions based on the category to which a regulator is assigned,
- Chapter 3 provides for new regulators to enter the market and their members to acquire rights to provide legal services.

**Part 2** introduces a requirement for category 1 regulators (at present just the Law Society) to create and apply a set of rules for the regulation of legal businesses.

**Part 3** reconstitutes the SLCC as the Scottish Legal Services Commission, adjusts its powers and provides for an updated complaints regime.

**Part 4** makes provision in relation to a range of other matters, including—

- changing the ownership requirements for licensed legal services providers (sometimes referred to as alternative business structures) and adjusting the restrictions on their businesses,
- removing certain practising restrictions for charities and third sector organisations,
- creating a range of offences in connection with people pretending to be a lawyer or using particular titles etc. that would infer that they are regulated in a certain way,
- conferring power on the Scottish Ministers to require more (or fewer) legal services be provided only by regulated persons.

**Part 5** deals with a number of general matters.

The Key themes of the Bill relate to:

- The regulatory objectives and professional principles

- The legal services regulatory framework
- Standards, monitoring & reporting
- Definition of legal services
- Alternative business structures
- Rights to provide legal services
- Regulation of legal businesses
- Protection of professional legal titles
- LegalTech
- Compensation funds and professional indemnity insurance
- The legal complaints system

**Brief summary of the likely environmental consequences:**

(including whether it has been determined that the plan is likely to have no or minimum effects, either directly or indirectly)

[Box 6.](#)

We considered the following activities for their likelihood of environmental effects.

The significant changes to the regulatory framework do not include any new organisations or buildings and so the carbon footprint is not anticipated to change.

Provisions in respect of regulatory waivers may allow for innovations in relation to environmental practices in relation to legal services provision.

These potential impacts are organisation dependant and are considered to have minimal effect in relation to the environment, as the Bill seeks to build on and improve the current regulatory framework. Based on this opinion we have reached the view that Bill can be considered exempt, as per Section 7 of the Environmental Assessment (Scotland) Act 2005.

**Brief summary of how environmental principles have been considered:**

(including whether any of the guiding principles, as set out in section 13 of the Continuity Act, are relevant to the plan)

[Box 7.](#)

The environmental principles have been considered against the proposals which are:

- a) the principle that protecting the environment should be integrated into the making of policies,
- b) the precautionary principle as it relates to the environment,
- c) the principle that preventative action should be taken to avert environmental damage,
- d) the principle that environmental damage should as a priority be rectified at source,
- e) the principle that the polluter should pay.

It is not anticipated that the proposals within the Bill will negatively impact upon the environmental principles.

**Contact details:**

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**Date of opinion:**



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