

Regulation of Legal Services (Scotland) Bill

About JustRight Scotland

JustRight Scotland is a registered charity (SC047818) established by an experienced group of human rights lawyers. We use the law to defend and extend people's rights, working collaboratively with non-lawyers across Scotland towards the shared aims of increasing access to justice and reducing inequality.

We provide legal advice and representation on human rights and equalities issues across a range of legal areas including: women's legal justice, trafficking and labour exploitation, EU citizen rights, migration and citizenship, disability and trans legal justice.

Whilst our work is specific to Scotland, our work covers both devolved and reserved policy areas, and as such we endeavour to respond to policy consultations across both Scotland and UK, where appropriate.

As public lawyers for people who face systemic inequalities, discrimination and disadvantage, we use the provisions of the Human Rights Act 1998 (HRA) in our work, daily. In addition to providing direct legal advice to clients, we also run outreach legal surgeries and helplines, deliver rights information, training and legal education, and contribute to research, policy and influencing work.

About SALC

The Scottish Association of Law Centres (SALC) is the national body for the not-for-profit legal sector in Scotland, the community legal sector, and in particular community-based law centres across Scotland.

We are an independent association, established to support the not-for-profit law sector to ensure the provision of free and accessible legal and related services to people, and communities including people experiencing discrimination and disadvantage.

JustRight Scotland

JustRight Scotland is a Scottish Charitable Incorporated Organisation (SC047818) which provides legal services through its limited liability partnership, JustRight Scotland LLP which trades as JustRight Scotland (SO305962). This firm has been authorised to act as solicitors by the Law Society of Scotland (Registered No 53703).

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Our Response

Our response to the consultation on Regulation of Legal Services (Scotland) Bill.

Question 9: Do you have any further comments on the Bill and any positive or negative impacts of it?

The Scottish Association of Law Centres (SALC) is the national body for the not-for-profit legal advice sector in Scotland, the community legal sector, and in particular community-based law centres across Scotland. SALC members comprise law centres, not for profit law firms, legal advice agencies, and other organisations providing advice or voluntary services in Scotland.

JustRight Scotland (JRS) was founded in 2017, with the aim of using the law to defend and extend people's rights. We operate four national centres of legal excellence providing direct legal representation, legal outreach, and legal education: (i) the Scottish Refugee & Migrant Centre; (ii) the Scottish Women's Rights Centre; (iii) the Scottish Anti-Trafficking & Exploitation Centre; and (iv) the Scottish Just Law Centre.

As law centres we welcome the opportunity to respond to this consultation.

JRS operates within the definition of a "law centre" as set out in section 65(1) of the Solicitors (Scotland) Act 1980, insofar as we:

- (a) were established to provide legal services to the public generally, as well as individual members of the public, and
- (b) do not distribute profits made to our members or otherwise, but instead retain profits for the purposes of the law centre.

JRS was founded, a not-for-profit legal organisation with a focus on public service and public interest litigation, through a modest interest-free loan by its founding Directors. The barriers in place restricting law centres from practice and the need to separately incorporate two entities, as well as draft a Service Level Agreement between the entities, in order to satisfy the regulatory requirements of both the charity and legal regulator, created significant additional start-up costs for our law centre.

After reviewing a wide range of approaches taken by law centres across Scotland already in operation, we chose to incorporate as a Scottish Charitable Incorporated

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Organisation (JustRight Scotland SCIO), regulated by OSCR, and also a limited liability partnership (JustRight Scotland LLP), authorised to act as solicitors by the Law Society Scotland.

Although we persevered, and ultimately succeeded, in establishing JustRight Scotland as a law centre which contracts its own legal practice firm – **we welcome the provisions of this draft legislation (set out in sections 78, 79, 81) which widen the eligibility criteria to allow law centres to become a “licenced legal service provider” as well as provisions which widen rights and protections for lawyers working in law centres, citizens advice bodies or charities.**

We believe that this modernisation of legal regulation will lift some of the barriers faced by law centres, charities, advice bodies and third sector organisations, seeking to provide specialist legal advice to the public on a not-for-profit basis. These include not just the barrier posed by the increased start-up costs of establishing separate corporate entities, but also the ongoing regulatory compliance and governance costs – as well as, in some cases – the additional costs of maintaining a complex group accounting and contracting structure, relative to the size of our operations – again, mainly for regulatory purposes.

To that end, we believe that these proposed changes will contribute to the wider aims of increasing access to justice and support the Scottish Government’s Vision for Justice, which aims to empower individuals in exercising their rights and accessing justice services with no financial barriers.

Finally, whilst we appreciate that this is not the subject of the current consultation and draft legislation, we would add that whilst this is a step towards levelling the playing field for providing not-for-profit and charitable legal advice, we believe that further significant steps can and should be taken in order to challenge the assumptions that underlie other barriers to accessing lawyers and courts in our Scottish legal aid and judicial frameworks. These further reforms include, for example, waiving fees for practicing certificates for lawyers fully employed by law centres, citizens advice services and charities – as well as wider or more generous regulations for waiver of court fees for legal actions brought directly on behalf of law centres and charities.

We support these proposals, and we believe they are necessary to underpin Scotland’s commitment to being a leader in the promotion of human rights and creating a fairer and more equal society.

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