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Legal Services Act 2007

2007 CHAPTER 29

An Act to make provision for the establishment of the Legal Services Board and in respect of its functions; to make provision for, and in connection with, the regulation of persons who carry on certain legal activities; to make provision for the establishment of the Office for Legal Complaints and for a scheme to consider and determine legal complaints; to make provision about claims management services and about immigration advice and immigration services; to make provision in respect of legal representation provided free of charge; to make provision about the application of the Legal Profession and Legal Aid (Scotland) Act 2007; to make provision about the Scottish legal services ombudsman; and for connected purposes. [30th October 2007]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Modifications etc. (not altering text)

C1 Act modified (in accordance with art. 1(2) of the amending instrument) by The National Assembly for Wales Commission (Crown Status) Order 2007 (S.I. 2007/1118), **art. 6**

C2 Act modified (28.11.2008) by The Local Government (Structural Changes) (Transitional Arrangements) (No.2) Regulations 2008 (S.I. 2008/2867), **reg. 12(1)(a)(ii)** (with reg.1)

PART 1

THE REGULATORY OBJECTIVES

1 The regulatory objectives

(1) In this Act a reference to "the regulatory objectives" is a reference to the objectives of—

(a) protecting and promoting the public interest;

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(b) supporting the constitutional principle of the rule of law;
(c) improving access to justice;
(d) protecting and promoting the interests of consumers;
(e) promoting competition in the provision of services within subsection (2);
(f) encouraging an independent, strong, diverse and effective legal profession;
(g) increasing public understanding of the citizen's legal rights and duties;
(h) promoting and maintaining adherence to the professional principles;
[F1(i) promoting the prevention and detection of economic crime.**]**

(2) The services within this subsection are services such as are provided by authorised persons (including services which do not involve the carrying on of activities which are reserved legal activities).

(3) The "professional principles" are—
(a) that authorised persons should act with independence and integrity,
(b) that authorised persons should maintain proper standards of work,
(c) that authorised persons should act in the best interests of their clients,
(d) that persons who exercise before any court a right of audience, or conduct litigation in relation to proceedings in any court, by virtue of being authorised persons should comply with their duty to the court to act with independence in the interests of justice, and
(e) that the affairs of clients should be kept confidential.

(4) In this section "authorised persons" means authorised persons in relation to activities which are reserved legal activities.

[F2(5) In subsection (1)(i) "economic crime" has the meaning given by section 193(1) of the Economic Crime and Corporate Transparency Act 2023**]**

Textual Amendments

F1 S. 1(1)(i) inserted (26.10.2023 for specified purposes, 4.3.2024 in so far as not already in force) by Economic Crime and Corporate Transparency Act 2023 (c. 56), **ss. 209(2)**, 219(1)(2)(b); S.I. 2024/269, reg. 2(z63)

F2 S. 1(5) inserted (26.10.2023 for specified purposes, 4.3.2024 in so far as not already in force) by Economic Crime and Corporate Transparency Act 2023 (c. 56), **ss. 209(3)**, 219(1)(2)(b); S.I. 2024/269, reg. 2(z63)

Modifications etc. (not altering text)

C3 S. 1 modified (temp.) (7.3.2008) by The Legal Services Act 2007 (Commencement No.1 and Transitory Provisions) Order 2008 (S.I. 2008/222), **art. 7(1)**

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PART 2

THE LEGAL SERVICES BOARD

Constitution

2 The Legal Services Board

(1) There is to be a body corporate called the Legal Services Board ("the Board").

(2) Schedule 1 is about the Board.

General functions

3 The Board's duty to promote the regulatory objectives etc

(1) In discharging its functions the Board must comply with the requirements of this section.

(2) The Board must, so far as is reasonably practicable, act in a way—

(a) which is compatible with the regulatory objectives, and

(b) which the Board considers most appropriate for the purpose of meeting those objectives.

(3) The Board must have regard to—

(a) the principles under which regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed, and

(b) any other principle appearing to it to represent the best regulatory practice.

4 Standards of regulation, education and training

The Board must assist in the maintenance and development of standards in relation to—

(a) the regulation by approved regulators of persons authorised by them to carry on activities which are reserved legal activities, and

(b) the education and training of persons so authorised.

5 Corporate governance

In managing its affairs, the Board must have regard to such generally accepted principles of good corporate governance as it is reasonable to regard as applicable to it.

6 Annual report

(1) The Board must prepare a report ("the annual report") for each financial year.

(2) The annual report must deal with—

(a) the discharge of the Board's functions,

(b) the extent to which, in the Board's opinion, the Board has met the regulatory objectives, and

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(c) such other matters as the Lord Chancellor may from time to time direct.

(3) As soon as reasonably practicable after the end of each financial year, the Board must give the Lord Chancellor a copy of the annual report prepared for that year.

(4) The Lord Chancellor must lay a copy of the annual report before Parliament.

(5) In this section "financial year" means—

(a) the period beginning with the day on which the Board is established and ending with the next following 31 March, and

(b) each successive period of 12 months.

7 Supplementary powers

The Board may do anything calculated to facilitate, or incidental or conducive to, the carrying out of any of its functions.

Consumer Panel

8 The Consumer Panel

(1) The Board must establish and maintain a panel of persons (to be known as "the Consumer Panel") to represent the interests of consumers.

(2) The Consumer Panel is to consist of such consumers, or persons representing the interests of consumers, as the Board may appoint with the approval of the Lord Chancellor.

(3) The Board must appoint one of the members of the Consumer Panel to be the chairman of the Panel.

(4) The Board must secure that the membership of the Consumer Panel is such as to give a fair degree of representation to both—

(a) those who are using (or are or may be contemplating using), in connection with businesses carried on by them, services provided by persons who are authorised persons in relation to activities which are reserved legal activities, and

(b) those who are using (or are or may be contemplating using) such services otherwise than in connection with businesses carried on by them.

(5) The Consumer Panel must not include any person who is—

(a) a member of the Board or of its staff;

(b) a member of the Office for Legal Complaints (see Part 6), an ombudsman appointed by it or a member of its staff appointed under paragraph 13 of Schedule 15;

(c) a member of the governing body, or of the staff, of an approved regulator;

(d) an authorised person in relation to an activity which is a reserved legal activity;

[[F3](e) an authorised person (within the meaning given in section 31 of the Financial Services and Markets Act 2000 (authorised persons)) in relation to regulated claims management activity (within the meaning given by section 417(1) of that Act (definitions));**]**

(f) an advocate in Scotland;

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(g) a solicitor in Scotland;
(h) a member of the Bar of Northern Ireland; or
(i) a solicitor of the Court of Judicature of Northern Ireland.

(6) The chairman and other members of the Consumer Panel are to be—
(a) appointed for a fixed period, and on other terms and conditions, determined by the Board, and
(b) paid by the Board in accordance with provision made by or under the terms of appointment.

(7) But a person may be removed from office in accordance with those terms and conditions only with the approval of the Lord Chancellor.

(8) A person who ceases to be chairman or another member of the Consumer Panel may be re-appointed.

Textual Amendments

F3 S. 8(5)(e) substituted (29.11.2018 for specified purposes, 1.4.2019 in so far as not already in force) by The Financial Services and Markets Act 2000 (Claims Management Activity) Order 2018 (S.I. 2018/1253), arts. 1(2)(3), **95(2)**

Commencement Information

I1 S. 8 wholly in force at 1.1.2009, see s. 211 and S.I. 2008/3149, **art. 2(a)** (subject to art. 3)

9 Committees and the procedure of the Consumer Panel

(1) The Consumer Panel may make such arrangements as it thinks fit for committees established by the Panel to give advice to the Panel about matters relating to the carrying out of the Panel's functions.

(2) The Consumer Panel may make such other arrangements for regulating its own procedure, and for regulating the procedure of the committees established by it, as it thinks fit.

(3) Those arrangements may include arrangements as to quorums and as to the making of decisions by a majority.

(4) The committees established by the Consumer Panel may include committees the membership of which includes persons who are not members of the Panel.

(5) The membership of every committee established by the Consumer Panel must contain at least one person who is a member of the Panel.

(6) Where a person who is not a member of the Consumer Panel is a member of a committee established by it, the Board may pay to that person such remuneration and expenses as the Board may determine.

10 Representations by the Consumer Panel

(1) The Board must consider any representations made to it by the Consumer Panel.

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(2) If the Board disagrees with a view expressed, or proposal made, in the representations, it must give the Consumer Panel a notice to that effect stating its reasons for disagreeing.

(3) The Consumer Panel may publish such information as it thinks fit about any representations made by it to the Board.

(4) Where the Consumer Panel publishes information about any representations made by it, the Board must publish any notice it gives under subsection (2) in respect of those representations.

11 Advice and research functions of the Consumer Panel

(1) The Consumer Panel may, at the request of the Board—

(a) carry out research for the Board;

(b) give advice to the Board.

(2) The Board must consider any advice given and the results of any research carried out under this section.

(3) The Consumer Panel may publish such information as it thinks fit about advice it gives, and about the results of research carried out by it, under this section.

PART 3

RESERVED LEGAL ACTIVITIES

Reserved legal activities

12 Meaning of "reserved legal activity" and "legal activity"

(1) In this Act "reserved legal activity" means—

(a) the exercise of a right of audience;

(b) the conduct of litigation;

(c) reserved instrument activities;

(d) probate activities;

(e) notarial activities;

(f) the administration of oaths.

(2) Schedule 2 makes provision about what constitutes each of those activities.

(3) In this Act "legal activity" means—

(a) an activity which is a reserved legal activity within the meaning of this Act as originally enacted, and

(b) any other activity which consists of one or both of the following—

(i) the provision of legal advice or assistance in connection with the application of the law or with any form of resolution of legal disputes;

(ii) the provision of representation in connection with any matter concerning the application of the law or any form of resolution of legal disputes.

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(4) But "legal activity" does not include any activity of a judicial or quasi-judicial nature (including acting as a mediator).

(5) For the purposes of subsection (3) "legal dispute" includes a dispute as to any matter of fact the resolution of which is relevant to determining the nature of any person's legal rights or liabilities.

(6) Section 24 makes provision for adding legal activities to the reserved legal activities.

Commencement Information

I2 S. 12 wholly in force at 1.1.2010; s. 12 not in force at Royal Assent see s. 211; s. 12 in force for certain purposes at 7.3.2008 by S.I. 2008/222, **art. 3**; s. 12 in force for certain further purposes at 31.3.2009 by S.I. 2009/503, **art. 3**; s. 12 in force otherwise at 1.1.2010 by S.I. 2009/3250, **art. 2(b)** (with art. 9)

Carrying on the activities

13 Entitlement to carry on a reserved legal activity

(1) The question whether a person is entitled to carry on an activity which is a reserved legal activity is to be determined solely in accordance with the provisions of this Act.

(2) A person is entitled to carry on an activity ("the relevant activity") which is a reserved legal activity where—

(a) the person is an authorised person in relation to the relevant activity, or

(b) the person is an exempt person in relation to that activity.

(3) Subsection (2) is subject to section 23 (transitional protection for non-commercial bodies).

(4) Nothing in this section or section 23 affects section 84 of the Immigration and Asylum Act 1999 (c. 33) (which prohibits the provision of immigration advice and immigration services except by certain persons).

Offences

14 Offence to carry on a reserved legal activity if not entitled

(1) It is an offence for a person to carry on an activity ("the relevant activity") which is a reserved legal activity unless that person is entitled to carry on the relevant activity.

(2) In proceedings for an offence under subsection (1), it is a defence for the accused to show that the accused did not know, and could not reasonably have been expected to know, that the offence was being committed.

(3) A person who is guilty of an offence under subsection (1) is liable—

(a) on summary conviction, to imprisonment for a term not exceeding **[**F4the general limit in a magistrates' court**]** or a fine not exceeding the statutory maximum (or both), and

(b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine (or both).

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(4) A person who is guilty of an offence under subsection (1) by reason of an act done in the purported exercise of a right of audience, or a right to conduct litigation, in relation to any proceedings or contemplated proceedings is also guilty of contempt of the court concerned and may be punished accordingly.

(5) In relation to an offence under subsection (1) committed before **[**F5 2 May 2022**]**, the reference in subsection (3)(a) to **[**F6 the general limit in a magistrates' court**]** is to be read as a reference to 6 months.

Textual Amendments

F4 Words in s. 14(3)(a) substituted (7.2.2023 at 12.00 p.m.) by The Judicial Review and Courts Act 2022 (Magistrates' Court Sentencing Powers) Regulations 2023 (S.I. 2023/149), regs. 1(2), 2(1), **Sch. Pt. 1** table

F5 Words in s. 14(5) substituted (28.4.2022) by The Criminal Justice Act 2003 (Commencement No. 33) and Sentencing Act 2020 (Commencement No. 2) Regulations 2022 (S.I. 2022/500), regs. 1(2), **5(1)**, **Sch. Pt. 1**

F6 Words in s. 14(5) substituted (7.2.2023 at 12.00 p.m.) by The Judicial Review and Courts Act 2022 (Magistrates' Court Sentencing Powers) Regulations 2023 (S.I. 2023/149), regs. 1(2), 2(1), **Sch. Pt. 1** table

15 Carrying on of a reserved legal activity: employers and employees etc

(1) This section applies for the interpretation of references in this Act to a person carrying on an activity which is a reserved legal activity.

(2) References to a person carrying on an activity which is a reserved legal activity include a person ("E") who—

(a) is an employee of a person ("P"), and

(b) carries on the activity in E's capacity as such an employee.

(3) For the purposes of subsection (2), it is irrelevant whether P is entitled to carry on the activity.

(4) P does not carry on an activity ("the relevant activity") which is a reserved legal activity by virtue of E carrying it on in E's capacity as an employee of P, unless the provision of relevant services to the public or a section of the public (with or without a view to profit) is part of P's business.

(5) Relevant services are services which consist of or include the carrying on of the relevant activity by employees of P in their capacity as employees of P.

(6) Where P is an independent trade union, persons provided with relevant services do not constitute the public or a section of the public where—

(a) the persons are provided with the relevant services by virtue of their membership or former membership of P or of another person's membership or former membership of P, and

(b) the services are excepted membership services.

(7) Subject to subsection (8), "excepted membership services" means relevant services which relate to or have a connection with—

(a) relevant activities of a member, or former member, of the independent trade union;

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(b) any other activities carried on for the purposes of or in connection with, or arising from, such relevant activities;

(c) any event which has occurred (or is alleged to have occurred) in the course of or in connection with such relevant activities or activities within paragraph (b);

(d) activities carried on by a person for the purposes of or in connection with, or arising from, the person's membership of the independent trade union;

and such other relevant services as the Lord Chancellor may by order specify.

(8) The Lord Chancellor may by order make provision about the circumstances in which relevant services do or do not relate to, or have a connection with, the matters mentioned in paragraphs (a) to (d) of subsection (7).

(9) Subject to that, the Lord Chancellor may by order make provision about—

(a) what does or does not constitute a section of the public;

(b) the circumstances in which the provision of relevant services to the public or a section of the public does or does not form part of P's business.

(10) The Lord Chancellor may make an order under subsection (7), (8) or (9) only on the recommendation of the Board.

(11) If P is a body, references to an employee of P include references to a manager of P.

(12) In subsection (7), "relevant activities", in relation to a person who is or was a member of an independent trade union, means any employment (including self-employment), trade, occupation or other activity to which the person's membership of the trade union relates or related.

16 Offence to carry on reserved legal activity through person not entitled

(1) Where subsection (2) applies it is an offence for a person ("P") to carry on an activity ("the relevant activity") which is a reserved legal activity, despite P being entitled to carry on the relevant activity.

(2) This subsection applies if—

(a) P carries on the relevant activity by virtue of an employee of P ("E") carrying it on in E's capacity as such an employee, and

(b) in carrying on the relevant activity, E commits an offence under section 14.

(3) If P is a body, references in subsection (2) to an employee of P include references to a manager of P.

(4) In proceedings for an offence under subsection (1), it is a defence for the accused to show that the accused took all reasonable precautions and exercised all due diligence to avoid committing the offence.

(5) A person who is guilty of an offence under subsection (1) is liable—

(a) on summary conviction, to imprisonment for a term not exceeding **[**[F7]the general limit in a magistrates' court**]** or a fine not exceeding the statutory maximum (or both), and

(b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine (or both).

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(6) A person who is guilty of an offence under subsection (1) by reason of an act done in the purported exercise of a right of audience, or a right to conduct litigation, in relation to any proceedings or contemplated proceedings is also guilty of contempt of the court concerned and may be punished accordingly.

(7) In relation to an offence under subsection (1) committed before **[**F8 2 May 2022**]**, the reference in subsection (5)(a) to **[**F9 the general limit in a magistrates' court**]** is to be read as a reference to 6 months.

Textual Amendments

F7 Words in s. 16(5)(a) substituted (7.2.2023 at 12.00 p.m.) by The Judicial Review and Courts Act 2022 (Magistrates' Court Sentencing Powers) Regulations 2023 (S.I. 2023/149), regs. 1(2), 2(1), **Sch. Pt. 1** table

F8 Words in s. 16(7) substituted (28.4.2022) by The Criminal Justice Act 2003 (Commencement No. 33) and Sentencing Act 2020 (Commencement No. 2) Regulations 2022 (S.I. 2022/500), regs. 1(2), **5(1)**, **Sch. Pt. 1**

F9 Words in s. 16(7) substituted (7.2.2023 at 12.00 p.m.) by The Judicial Review and Courts Act 2022 (Magistrates' Court Sentencing Powers) Regulations 2023 (S.I. 2023/149), regs. 1(2), 2(1), **Sch. Pt. 1** table

17 Offence to pretend to be entitled

(1) It is an offence for a person—

(a) wilfully to pretend to be entitled to carry on any activity which is a reserved legal activity when that person is not so entitled, or

(b) with the intention of implying falsely that that person is so entitled, to take or use any name, title or description.

(2) A person who is guilty of an offence under subsection (1) is liable—

(a) on summary conviction, to imprisonment for a term not exceeding **[**F10 the general limit in a magistrates' court**]** or a fine not exceeding the statutory maximum (or both), and

(b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine (or both).

(3) In relation to an offence under subsection (1) committed before **[**F11 2 May 2022**]**, the reference in subsection (2)(a) to **[**F12 the general limit in a magistrates' court**]** is to be read as a reference to 6 months.

Textual Amendments

F10 Words in s. 17(2)(a) substituted (7.2.2023 at 12.00 p.m.) by The Judicial Review and Courts Act 2022 (Magistrates' Court Sentencing Powers) Regulations 2023 (S.I. 2023/149), regs. 1(2), 2(1), **Sch. Pt. 1** table

F11 Words in s. 17(3) substituted (28.4.2022) by The Criminal Justice Act 2003 (Commencement No. 33) and Sentencing Act 2020 (Commencement No. 2) Regulations 2022 (S.I. 2022/500), regs. 1(2), **5(1)**, **Sch. Pt. 1**

F12 Words in s. 17(3) substituted (7.2.2023 at 12.00 p.m.) by The Judicial Review and Courts Act 2022 (Magistrates' Court Sentencing Powers) Regulations 2023 (S.I. 2023/149), regs. 1(2), 2(1), **Sch. Pt. 1** table

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Interpretation

18 Authorised persons

(1) For the purposes of this Act "authorised person", in relation to an activity ("the relevant activity") which is a reserved legal activity, means —

(a) a person who is authorised to carry on the relevant activity by a relevant approved regulator in relation to the relevant activity (other than by virtue of a licence under Part 5), or

(b) a licensable body which, by virtue of such a licence, is authorised to carry on the relevant activity by a licensing authority in relation to the reserved legal activity.

(2) A licensable body may not be authorised to carry on the relevant activity as mentioned in subsection (1)(a).

(3) But where a body ("A") which is authorised as mentioned in subsection (1)(a) becomes a licensable body, the body is deemed by virtue of this subsection to continue to be so authorised from that time until the earliest of the following events—

(a) the end of the period of 90 days beginning with the day on which that time falls;

(b) the time from which the relevant approved regulator determines this subsection is to cease to apply to A;

(c) the time when A ceases to be a licensable body.

(4) Subsection (2) is subject to Part 2 of Schedule 5 (by virtue of which licensable bodies may be deemed to be authorised as mentioned in subsection (1)(a) in relation to certain activities during a transitional period).

(5) A person other than a licensable body may not be authorised to carry on the relevant activity as mentioned in subsection (1)(b).

(6) But where a body ("L") which is authorised as mentioned in subsection (1)(b) ceases to be a licensable body, the body is deemed by virtue of this subsection to continue to be so authorised from that time until the earliest of the following events—

(a) the end of the period of 90 days beginning with the day on which that time falls;

(b) the time from which the relevant licensing authority determines this subsection is to cease to apply to L;

(c) the time when L becomes a licensable body.

Commencement Information

I3 S. 18 not in force at Royal Assent see s. 211; s. 18(1)(a) in force at 1.1.2010 by S.I. 2009/3250, **art. 2(b)(i)** (subject to art. 3(1) and with art. 9)

I4 S. 18(1)(b)(5)(6) in force at 6.10.2011 by S.I. 2011/2196, **art. 2(2)** (with art. 3)

I5 S. 18(2)-(4) in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(a)**

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19 Exempt persons

In this Act, "exempt person", in relation to an activity ("the relevant activity") which is a reserved legal activity, means a person who, for the purposes of carrying on the relevant activity, is an exempt person by virtue of—

(a) Schedule 3 (exempt persons), or

(b) paragraph 13 or 18 of Schedule 5 (additional categories of exempt persons during transitional period).

20 Approved regulators and relevant approved regulators

(1) In this Act, the following expressions have the meaning given by this section—

"approved regulator";

"relevant approved regulator".

(2) "Approved regulator" means—

(a) a body which is designated as an approved regulator by Part 1 of Schedule 4 or under Part 2 of that Schedule (or both) and whose regulatory arrangements are approved for the purposes of this Act, and

(b) if an order under section 62(1)(a) has effect, the Board.

(3) An approved regulator is a "relevant approved regulator" in relation to an activity which is a reserved legal activity if—

(a) the approved regulator is designated by Part 1, or under Part 2, of Schedule 4 in relation to that reserved legal activity, or

(b) where the approved regulator is the Board, it is designated in relation to that reserved legal activity by an order under section 62(1)(a).

(4) An approved regulator is a "relevant approved regulator" in relation to a person if the person is authorised by the approved regulator to carry on an activity which is a reserved legal activity.

(5) Schedule 4 makes provision with respect to approved regulators other than the Board.

In that Schedule—

(a) Part 1 designates certain bodies as approved regulators in relation to certain reserved legal activities,

(b) Part 2 makes provision for bodies to be designated by order as approved regulators in relation to one or more reserved legal activities, and

(c) Part 3 makes provision relating to the approval of changes to an approved regulator's regulatory arrangements.

(6) An approved regulator may authorise persons to carry on any activity which is a reserved legal activity in respect of which it is a relevant approved regulator.

Commencement Information

I6 S. 20 wholly in force at 1.1.2010; s. 20 not in force at Royal Assent see s. 211; s. 20(2) in force for certain purposes at 7.3.2008 by S.I. 2008/222, **art. 3**; s. 20(5) in force at 1.1.2009 by S.I. 2008/3149, art. 2(b)(i); s. 20 in force otherwise at 1.1.2010 by S.I. 2009/3250, **art. 2(b)(i)** (with art. 9)

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21 Regulatory arrangements

(1) In this Act references to the "regulatory arrangements" of a body are to—

(a) its arrangements for authorising persons to carry on reserved legal activities,

(b) its arrangements (if any) for authorising persons to provide immigration advice or immigration services,

(c) its practice rules,

(d) its conduct rules,

(e) its disciplinary arrangements in relation to regulated persons (including its discipline rules),

(f) its qualification regulations,

(g) its indemnification arrangements,

(h) its compensation arrangements,

(i) any of its other rules or regulations (however they may be described), and any other arrangements, which apply to or in relation to regulated persons, other than those made for the purposes of any function the body has to represent or promote the interests of persons regulated by it, and

(j) its licensing rules (if any), so far as not within paragraphs (a) to (i),

(whether or not those arrangements, rules or regulations are contained in, or made under, an enactment).

(2) In this Act—

"compensation arrangements", in relation to a body, means arrangements to provide for grants or other payments for the purposes of relieving or mitigating losses or hardship suffered by persons in consequence of—

(a) negligence or fraud or other dishonesty on the part of any persons whom the body has authorised to carry on activities which constitute a reserved legal activity, or of employees of theirs, in connection with their activities as such authorised persons, and

(b) failure, on the part of regulated persons, to account for money received by them in connection with their activities as such regulated persons;

"conduct rules", in relation to a body, means any rules or regulations (however they may be described) as to the conduct required of regulated persons;

"discipline rules", in relation to a body, means any rules or regulations (however they may be described) as to the disciplining of regulated persons;

"indemnification arrangements", in relation to a body, means arrangements for the purpose of ensuring the indemnification of those who are or were regulated persons against losses arising from claims in relation to any description of civil liability incurred by them, or by employees or former employees of theirs, in connection with their activities as such regulated persons;

"practice rules", in relation to a body, means any rules or regulations (however they may be described) which govern the practice of regulated persons;

"qualification regulations", in relation to a body, means—

(a) any rules or regulations relating to—

(i) the education and training which persons must receive, or

(ii) any other requirements which must be met by or in respect of them,

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(in order for them to be authorised by the body to carry on an activity which is a reserved legal activity,

(b) any rules or regulations relating to—

(i) the education and training which persons must receive, or

(ii) any other requirements which must be met by or in respect of them,

(in order for them to be authorised by the body to provide immigration advice or immigration services, and

(c) any other rules or regulations relating to the education and training which regulated persons must receive or any other requirements which must be met by or in respect of them,

(however they may be described).

(3) In this section "regulated persons", in relation to a body, means any class of persons which consists of or includes—

(a) persons who are authorised by the body to carry on an activity which is a reserved legal activity;

(b) persons who are not so authorised, but are employees of a person who is so authorised.

(4) In relation to an authorised person other than an individual, references in subsection (2) and (3) to employees of the person include managers of the person.

Commencement Information

I7 S. 21 partly in force: s. 21 not in force at Royal Assent see s. 211; s. 21(1)(a)-(i)(2)-(4) in force at 1.1.2010 by S.I. 2009/3250, **art. 2(b)(i)** (with art. 9)

I8 S. 21 in force at 1.10.2011 so far as not already in force by S.I. 2011/2196, **art. 2(1)(a)**

Continuity of existing rights and transitional protection

22 Continuity of existing rights to carry on reserved legal activities

Schedule 5 makes provision for the continuity of existing rights and for certain persons to be deemed, during a transitional period, to be authorised by approved regulators to carry on certain activities.

23 Transitional protection for non-commercial bodies

(1) During the transitional period, a body within subsection (2) is entitled to carry on any activity which is a reserved legal activity.

(2) The bodies are—

(a) a not for profit body,

(b) a community interest company, or

(c) an independent trade union.

(3) The transitional period is the period which—

(a) begins with the day appointed for the coming into force of section 13, and

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(b) ends with the day appointed by the Lord Chancellor by order for the purposes of this paragraph.

(4) Different days may be appointed under subsection (3)(b) for different purposes.

(5) An order may be made under subsection (3)(b) only on the recommendation of the Board.

Alteration of reserved legal activities

24 Extension of the reserved legal activities

(1) The Lord Chancellor may, by order, amend section 12 or Schedule 2 (reserved legal activities) so as to add any legal activity to the activities which are reserved legal activities for the purposes of this Act.

(2) An order under subsection (1) may be made only on the recommendation of the Board.

(3) Schedule 6 makes provision about the making of recommendations for the purposes of this section.

(4) Where a recommendation is made in relation to an activity, the Lord Chancellor must—

(a) consider the report containing the recommendation given to the Lord Chancellor under paragraph 16(3)(a) of that Schedule,

(b) decide whether or not to make an order under this section in respect of the activity, and

(c) publish a notice of that decision,

within the period of 90 days beginning with the day on which the report was given to the Lord Chancellor.

(5) Where the Lord Chancellor decides not to make an order under this section in respect of an activity, the notice under subsection (4)(c) must state the reasons for that decision.

Commencement Information

I9 S. 24 wholly in force at 1.1.2010; s. 24 not in force at Royal Assent see s. 211; s. 24(3) in force at 1.1.2009 by S.I. 2008/3149, **art. 2(b)(i)**; s. 24 in force otherwise at 1.1.2010 by S.I. 2009/3250, **art. 2(b)(i)** (with art. 9)

25 Provisional designation as approved regulators and licensing authorities

(1) The Lord Chancellor may, by order, make provision—

(a) enabling applications to be made, considered and determined under Part 2 of Schedule 4 or Part 1 of Schedule 10 in relation to a provisional reserved activity, as if the activity were a reserved legal activity;

(b) enabling provisional designation orders to be made by the Lord Chancellor in respect of a provisional reserved activity, as if the activity were a reserved legal activity.

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(2) An order under subsection (1) may, in particular, provide that Part 2 of Schedule 4 or Part 1 of Schedule 10 is to apply, in relation to such cases as may be specified by the order, with such modifications as may be so specified.

(3) The Lord Chancellor may also, by order, make provision—

(a) for the purpose of enabling applications for authorisation to carry on an activity which is a provisional reserved activity to be made to and considered and determined by—

(i) a body in respect of which a provisional designation order is made, or

(ii) the Board in its capacity as a licensing authority;

(b) for the purpose of enabling persons to be deemed to be authorised to carry on an activity which is a new reserved legal activity by a relevant approved regulator in relation to the activity, or by the Board in its capacity as a licensing authority, for a period specified in the order.

(4) For this purpose—

"provisional reserved activity" means an activity in respect of which a provisional report under paragraph 10 of Schedule 6 states that the Board is minded to make a recommendation for the purposes of section 24;

"provisional designation order" means an order made by the Lord Chancellor under Part 2 of Schedule 4 or Part 1 of Schedule 10 which is conditional upon the Lord Chancellor making an order under section 24 in respect of the provisional reserved activity, pursuant to a recommendation made by the Board following the provisional report;

"new reserved legal activity" means a legal activity which has become a reserved legal activity by virtue of an order under section 24.

Commencement Information

I10 S. 25 partly in force: s. 25 not in force at Royal Assent see s. 211; s. 25 in force for certain purposes at 1.1.2010 by S.I. 2009/3250, **art. 2(b)(i)** (subject to art. 3(2) (as amended (30.9.2011) by S.I. 2011/2196, arts. 1(2), 5) and with art. 9)

I11 S. 25 in force at 2.8.2010 subject to the transitional provision previously made in relation to s. 25(3)(a)(b) by S.I. 2010/1118, **art. 2(a)**

26 Recommendations that activities should cease to be reserved legal activities

(1) The Board may recommend that an activity should cease to be a reserved legal activity.

(2) Schedule 6 makes provision about the making of recommendations for the purposes of this section.

(3) The Lord Chancellor must consider any recommendation made by the Board for the purposes of this section (but nothing in section 208 (minor and consequential provision etc) authorises the Lord Chancellor to give effect to such a recommendation).

(4) Where the Lord Chancellor disagrees with a recommendation (or any part of it), the Lord Chancellor must publish a notice to that effect which must include the Lord Chancellor's reasons for disagreeing.

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Commencement Information

I12 S. 26 wholly in force at 1.1.2010; s. 26 not in force at Royal Assent see s. 211; s. 26(2) in force at 1.1.2009 by S.I. 2008/3149, **art. 2(b)(i)**; s. 26 in force otherwise at 1.1.2010 by S.I. 2009/3250, **art. 2(b)(i)** (with art. 9)

PART 4

REGULATION OF APPROVED REGULATORS

Introductory

27 Regulatory and representative functions of approved regulators

(1) In this Act references to the "regulatory functions" of an approved regulator are to any functions the approved regulator has—

(a) under or in relation to its regulatory arrangements, or

(b) in connection with the making or alteration of those arrangements.

(2) In this Act references to the "representative functions" of an approved regulator are to any functions the approved regulator has in connection with the representation, or promotion, of the interests of persons regulated by it.

General duties of approved regulators

28 Approved regulator's duty to promote the regulatory objectives etc

(1) In discharging its regulatory functions (whether in connection with a reserved legal activity or otherwise) an approved regulator must comply with the requirements of this section.

(2) The approved regulator must, so far as is reasonably practicable, act in a way—

(a) which is compatible with the regulatory objectives, and

(b) which the approved regulator considers most appropriate for the purpose of meeting those objectives.

(3) The approved regulator must have regard to—

(a) the principles under which regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed, and

(b) any other principle appearing to it to represent the best regulatory practice.

Separation of regulatory and representative functions

29 Prohibition on the Board interfering with representative functions

(1) Nothing in this Act authorises the Board to exercise its functions in relation to any representative function of an approved regulator.

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(2) But subsection (1) does not prevent the Board exercising its functions for the purpose of ensuring—

(a) that the exercise of an approved regulator's regulatory functions is not prejudiced by its representative functions, or

(b) that decisions relating to the exercise of an approved regulator's regulatory functions are, so far as reasonably practicable, taken independently from decisions relating to the exercise of its representative functions.

30 Rules relating to the exercise of regulatory functions

(1) The Board must make rules ("internal governance rules") setting out requirements to be met by approved regulators for the purpose of ensuring—

(a) that the exercise of an approved regulator's regulatory functions is not prejudiced by its representative functions, and

(b) that decisions relating to the exercise of an approved regulator's regulatory functions are so far as reasonably practicable taken independently from decisions relating to the exercise of its representative functions.

(2) The internal governance rules must require each approved regulator to have in place arrangements which ensure—

(a) that the persons involved in the exercise of its regulatory functions are, in that capacity, able to make representations to, be consulted by and enter into communications with the Board, the Consumer Panel, the OLC and other approved regulators, and

(b) that the exercise by those persons of those powers is not prejudiced by the approved regulator's representative functions and is, so far as reasonably practicable, independent from the exercise of those functions.

(3) The internal governance rules must also require each approved regulator—

(a) to take such steps as are reasonably practicable to ensure that it provides such resources as are reasonably required for or in connection with the exercise of its regulatory functions;

(b) to make such provision as is necessary to enable persons involved in the exercise of its regulatory functions to be able to notify the Board where they consider that their independence or effectiveness is being prejudiced.

(4) The first set of rules under this section must be made before the day appointed by the Lord Chancellor by order for the purposes of this section.

Performance targets

31 Performance targets and monitoring

(1) The Board may—

(a) set one or more performance targets relating to the performance by an approved regulator of any of its regulatory functions, or

(b) direct an approved regulator to set one or more performance targets relating to the performance by the approved regulator of any of its regulatory functions,

if the Board is satisfied that the conditions in subsection (2) are satisfied.

(2) Those conditions are—

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(a) that an act or omission of the approved regulator (or a series of such acts or omissions) has had, or is likely to have, an adverse impact on one or more of the regulatory objectives, and

(b) that it is appropriate to take the action proposed under subsection (1) in all the circumstances of the case (including in particular the impact of taking the action on the other regulatory objectives).

(3) A direction under subsection (1)(b) may impose conditions with which the performance targets must conform.

(4) If the Board proposes to take action under this section in respect of an approved regulator it must give notice to the approved regulator—

(a) describing the action it proposes to take,

(b) specifying the acts or omissions to which the proposed action relates and any other facts which, in the opinion of the Board, justify the taking of that action, and

(c) specifying the time (not being earlier than the end of the period of 28 days beginning with the day on which the notice is given) before which representations with respect to that action may be made.

(5) Before taking action under this section, the Board must consider any representations which are duly made.

(6) In exercising its regulatory functions, an approved regulator must seek to meet any performance target set for or by it under this section.

(7) The Board must publish any target set or direction given by it under this section.

(8) An approved regulator must publish any target set by it pursuant to a direction under subsection (1)(b).

(9) The Board may take such steps as it regards as appropriate to monitor the extent to which any performance target set under this section is being, or has been, met.

Directions

32 Directions

(1) This section applies if the Board is satisfied—

(a) that an act or omission of an approved regulator (or a series of such acts or omissions) has had, or is likely to have, an adverse impact on one or more of the regulatory objectives,

(b) that an approved regulator has failed to comply with any requirement imposed on it by or under this Act (including this section) or any other enactment, or

(c) that an approved regulator—

(i) has failed to ensure that the exercise of its regulatory functions is not prejudiced by any of its representative functions, or

(ii) has failed to ensure that decisions relating to the exercise of its regulatory functions are, so far as reasonably practicable, taken independently from decisions relating to the exercise of its representative functions.

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(2) If, in all the circumstances of the case, the Board is satisfied that it is appropriate to do so, it may direct the approved regulator to take—

(a) in a case within subsection (1)(a), such steps as the Board considers will counter the adverse impact, mitigate its effect or prevent its occurrence or recurrence;

(b) in a case within subsection (1)(b) or (c), such steps as the Board considers will remedy the failure, mitigate its effect or prevent its recurrence.

(3) In a case within subsection (1)(a), before giving a direction under subsection (2) the Board must in particular consider the impact of giving the direction on the other regulatory objectives.

(4) A direction under subsection (2)—

(a) may only require an approved regulator to take steps which it has power to take;

(b) may require an approved regulator to take steps with a view to the modification of any part of its regulatory arrangements.

(5) The Board may not exercise its powers under this section so as to give a direction requiring an approved regulator to take steps in respect of a specific disciplinary case or other specific regulatory proceedings (as opposed to all, or a specified class of, such cases or proceedings).

(6) For the purposes of this section a direction to take steps includes a direction which requires an approved regulator to refrain from taking a particular course of action.

(7) The power to give a direction under this section is subject to any provision made by or under any other enactment.

(8) The Board may take such steps as it regards as appropriate to monitor the extent to which a direction under this section is being, or has been, complied with.

(9) Where the Board revokes a direction under this section, it must—

(a) give the approved regulator to whom the direction was given notice of the revocation, and

(b) publish that notice.

33 Directions: procedure

Schedule 7 makes provision about the procedure which must be complied with before a direction is given under section 32.

34 Enforcement of directions

(1) If at any time it appears to the Board that an approved regulator has failed to comply with a direction given under section 32, the Board may make an application to the High Court under this section.

(2) If, on an application under this section, the High Court decides that the approved regulator has failed to comply with the direction in question, it may order the approved regulator to take such steps as the High Court directs for securing that the direction is complied with.

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(3) This section is without prejudice to any other powers conferred on the Board by this Part.

Censure

35 Public censure

(1) This section applies if the Board is satisfied—

(a) that an act or omission of an approved regulator (or a series of such acts or omissions) has had, or is likely to have, an adverse impact on one or more of the regulatory objectives, and

(b) that it is appropriate to act under this section in all the circumstances of the case (including in particular the impact of so acting on the other regulatory objectives).

(2) The Board may publish a statement censuring the approved regulator for the act or omission (or series of acts or omissions).

36 Public censure: procedure

(1) If the Board proposes to publish a statement under section 35 in respect of an approved regulator, it must give notice to the approved regulator—

(a) stating that the Board proposes to publish such a statement and setting out the terms of the proposed statement,

(b) specifying the acts or omissions to which the proposed statement relates, and

(c) specifying the time (not being earlier than the end of the period of 28 days beginning with the day on which the notice is given to the approved regulator) before which representations with respect to the proposed statement may be made.

(2) Before publishing the statement, the Board must consider any representations which are duly made.

(3) Before varying any proposed statement set out in a notice under subsection (1)(a), the Board must give notice to the approved regulator—

(a) setting out the proposed variation and the reasons for it, and

(b) specifying the time (not being earlier than the end of the period of 28 days beginning with the day on which the notice is given to the approved regulator) before which representations with respect to the proposed variation may be made.

(4) Before varying the proposal, the Board must consider any representations which are duly made.

Financial penalties

37 Financial penalties

(1) This section applies if the Board is satisfied—

(a) that an approved regulator has failed to comply with a requirement to which this section applies, and

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(b) that, in all the circumstances of the case, it is appropriate to impose a financial penalty on the approved regulator.

(2) This section applies to any requirement imposed on the approved regulator—

(a) by rules under section 30 (internal governance rules),

(b) by a direction given under section 32 (Board directions), or

(c) by section 51 (control of practising fees charged by approved regulators) or by rules under that section.

(3) The Board may impose a penalty, in respect of the failure, of such an amount as it considers appropriate, but not exceeding the maximum amount prescribed under subsection (4).

(4) The Board must make rules prescribing the maximum amount of a penalty which may be imposed under this section.

(5) Rules may be made only under subsection (4) with the consent of the Lord Chancellor.

(6) A penalty under this section is payable to the Board.

(7) In sections 38 to 40 references to a "penalty" are to a penalty under this section.

Commencement Information

I13 S. 37 wholly in force at 1.1.2010; s. 37 not in force at Royal Assent see s. 211; s. 37(4)(5) in force at 1.1.2009 by S.I. 2008/3149, **art. 2(c)(i)**; s. 37 in force otherwise at 1.1.2010 by S.I. 2009/3250, **art. 2(c)(i)** (with art. 9)

38 Financial penalties: procedure

(1) If the Board proposes to impose a penalty on an approved regulator, it must give notice to the approved regulator—

(a) stating that the Board proposes to impose a penalty and the amount of the penalty proposed to be imposed,

(b) specifying the failure to which the proposed penalty relates,

(c) specifying the other facts which, in the Board's opinion, justify the imposition of a penalty and the amount of the penalty, and

(d) specifying the time (not being earlier than the end of the period of 21 days beginning with the day on which the notice is published under subsection (8)) before which representations with respect to the proposed penalty may be made.

(2) Before imposing a penalty on an approved regulator, the Board must consider any representations which are duly made.

(3) Where the Board proposes to vary the amount of a proposed penalty stated in a notice under subsection (1)(a), the Board must give notice to the approved regulator—

(a) setting out the proposed variation and the reasons for it, and

(b) specifying the time (not being earlier than the end of the period of 21 days beginning with the day on which the notice is published under subsection (8)) before which representations with respect to the proposed variation may be made.

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(4) Before varying the proposal, the Board must consider any representations which are duly made.

(5) As soon as practicable after imposing a penalty, the Board must give notice to the approved regulator—

(a) stating that it has imposed a penalty on the approved regulator and its amount,

(b) specifying the failure to which the penalty relates,

(c) specifying the other facts which, in the Board's opinion, justify the imposition of the penalty and its amount, and

(d) specifying a time (not being earlier than the end of the period of 3 months beginning with the day on which the notice is given to the approved regulator), before which the penalty is required to be paid.

(6) The approved regulator may, within the period of 21 days beginning with the day on which it is given the notice under subsection (5), make an application to the Board for it to specify different times by which different portions of the penalty are to be paid.

(7) If an application is made under subsection (6) in relation to a penalty, the penalty is not required to be paid until the application has been determined.

(8) The Board must publish any notice given under this section.

39 Appeals against financial penalties

(1) An approved regulator on whom a penalty is imposed may appeal to the court on one or more of the appeal grounds.

(2) The appeal grounds are—

(a) that the imposition of the penalty was not within the power of the Board under section 37;

(b) that any of the requirements of section 38 have not been complied with in relation to the imposition of the penalty and the interests of the approved regulator have been substantially prejudiced by the non-compliance;

(c) that the amount of the penalty is unreasonable;

(d) that it was unreasonable of the Board to require the penalty imposed or any portion of it to be paid by the time or times by which it was required to be paid.

(3) An appeal under subsection (1) must be made—

(a) within the period of 3 months beginning with the day on which the notice under section 38(5) is given to the approved regulator in respect of the penalty, or

(b) where the appeal relates to a decision of the Board on an application by the approved regulator under section 38(6), within the period of 3 months beginning with the day on which the approved regulator is notified of the decision.

(4) On any such appeal, where the court considers it appropriate to do so in all the circumstances of the case and is satisfied of one or more of the appeal grounds, the court may—

(a) quash the penalty,

(b) substitute a penalty of such lesser amount as the court considers appropriate, or

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(c) in the case of the appeal ground in subsection (2)(d), substitute for any time imposed by the Board a different time or times.

(5) Where the court substitutes a penalty of a lesser amount it may require the payment of interest on the substituted penalty at such rate, and from such time, as it considers just and equitable.

(6) Where the court specifies as a time by which the penalty, or a portion of the penalty, is to be paid a time before the determination of the appeal under this section, it may require the payment of interest on the penalty, or portion, from that time at such rate as it considers just and equitable.

(7) Except as provided by this section, the validity of a penalty is not to be questioned by any legal proceedings whatever.

(8) In this section "the court" means the High Court.

40 Recovery of financial penalties

(1) If the whole or any part of a penalty is not paid by the time by which it is required to be paid, the unpaid balance from time to time carries interest at the rate for the time being specified in section 17 of the Judgments Act 1838 (c. 110).

(2) If an appeal is made under section 39 in relation to a penalty, the penalty is not required to be paid until the appeal has been determined or withdrawn.

(3) If the Board grants an application under subsection (6) of section 38 in relation to a penalty but any portion of the penalty is not paid by the time specified in relation to it by the Board under that subsection, the Board may where it considers it appropriate require so much of the penalty as has not already been paid to be paid immediately.

(4) Where a penalty, or any portion of it, has not been paid by the time when it is required to be paid and—

(a) no appeal relating to the penalty has been made under section 39 during the period within which such an appeal can be made, or

(b) an appeal has been made under that section and determined or withdrawn,

the Board may recover from the approved regulator, as a debt due to the Board, any of the penalty and any interest which has not been paid.

Intervention

41 Intervention directions

(1) The Board may give an approved regulator an intervention direction in relation to any of the approved regulator's regulatory functions if the Board is satisfied—

(a) that an act or omission of an approved regulator (or a series of such acts or omissions) has had, or is likely to have, an adverse impact on one or more of the regulatory objectives, and

(b) that it is appropriate to give the intervention direction in all the circumstances of the case (including in particular the impact of giving the direction on the other regulatory objectives).

(2) An intervention direction, in relation to a regulatory function of an approved regulator, is a direction—

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(a) that the regulatory function is to be exercised by the Board or a person nominated by it, and

(b) that the approved regulator must comply with any instructions of the Board or its nominee in relation to the exercise of the function.

(3) The Board may not determine that it is appropriate to give an intervention direction unless it is satisfied that the matter cannot be adequately addressed by the Board exercising the powers available to it under sections 31 to 40.

(4) Part 1 of Schedule 8 makes provision about the procedure which must be complied with before an intervention direction is given and the manner in which such a direction is to be given.

(5) The Board must make rules as to the persons it may nominate for the purposes of subsection (2)(a).

Commencement Information

I14 S. 41 wholly in force at 1.1.2010; s. 41 not in force at Royal Assent see s. 211; s. 41(4)(5) in force at 1.1.2009 by S.I. 2008/3149, **art. 2(c)(i)**; s. 41 in force otherwise at 1.1.2010 by S.I. 2009/3250, **art. 2(c)(i)** (with art. 9)

42 Intervention directions: further provision

(1) This section applies where an intervention direction has effect in respect of a function of an approved regulator ("the relevant function").

(2) The approved regulator must give the specified person all such assistance, in connection with the proposed exercise of the relevant function by the specified person in pursuance of the direction, as the approved regulator is reasonably able to give.

(3) On an application by the specified person (or a person appointed by the specified person to act on its behalf) a judge of the High Court, Circuit judge or justice of the peace may issue a warrant authorising that person to—

(a) enter and search the premises of the approved regulator, and

(b) take possession of any written or electronic records found on the premises.

(4) The person so authorised may, for the purpose of the exercise by the specified person of the relevant function, take copies of written or electronic records found on a search carried out by virtue of the warrant.

(5) The judge or justice of the peace may not issue the warrant unless satisfied that its issue is necessary or desirable for the exercise by the specified person of the relevant function.

(6) The Lord Chancellor must make regulations—

(a) specifying further matters which a judge or justice of the peace must be satisfied of, or matters which a judge or justice of the peace must have regard to, before issuing a warrant, and

(b) regulating the exercise of a power conferred by a warrant issued under subsection (3) or by subsection (4) (whether by restricting the circumstances in which a power may be exercised, by specifying conditions to be complied with in the exercise of a power, or otherwise).

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(7) Regulations under subsection (6)(b) must in particular make provision as to the circumstances in which written or electronic records of which a person has taken possession by virtue of a warrant issued under subsection (3) may be copied or must be returned.

(8) But the Lord Chancellor may not make regulations under subsection (6) unless—

(a) they are made in accordance with a recommendation made by the Board, or

(b) the Lord Chancellor has consulted the Board about the making of the regulations.

(9) In this section "the specified person" means the Board or, where a person is nominated by it as mentioned in section 41(2), that person.

(10) The Board must make rules as to the persons a specified person may appoint for the purposes of subsection (3).

Commencement Information

I15 S. 42 wholly in force at 1.1.2010; s. 42 not in force at Royal Assent see s. 211; s. 42(6)-(10) in force at 1.1.2009 by S.I. 2008/3149, **art. 2(c)(i)**; s. 42 in force otherwise at 1.1.2010 by S.I. 2009/3250, **art. 2(c)(i)** (with art. 9)

43 Intervention directions: enforcement

(1) If at any time it appears to the Board that an approved regulator has failed to comply with an obligation imposed on it by, or by virtue of, an intervention direction or section 42(2), the Board may make an application to the High Court under this section.

(2) If, on an application under subsection (1), the High Court decides that the approved regulator has failed to comply with the obligation in question, it may order the approved regulator to take such steps as the High Court directs for securing that the obligation is complied with.

(3) This section is without prejudice to any other powers conferred on the Board by this Part.

44 Revocation of intervention directions

(1) An intervention direction has effect until such time as it is revoked by the Board (whether on the application of the approved regulator or otherwise).

(2) Part 2 of Schedule 8 makes provision about the procedure which must be complied with before an intervention direction is revoked and the manner in which notice of the revocation is to be given.

Commencement Information

I16 S. 44 wholly in force at 1.1.2010; s. 44 not in force at Royal Assent see s. 211; s. 44(2) in force at 1.1.2009 by S.I. 2008/3149, **art. 2(c)(i)**; s. 44 in force otherwise at 1.1.2010 by S.I. 2009/3250, **art. 2(c)(i)** (with art. 9)

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Cancellation of approval

45 Cancellation of designation as approved regulator

(1) The Lord Chancellor may by order cancel a body's designation as an approved regulator—

(a) in relation to all the reserved legal activities in relation to which it is an approved regulator, or

(b) in relation to one or more, but not all, of those reserved legal activities,

with effect from a date specified in the order.

(2) But the Lord Chancellor may only make an order under subsection (1) in accordance with a recommendation made by the Board under subsection (3) or (5).

(3) The Board must recommend that an order is made cancelling a body's designation as an approved regulator in relation to one or more reserved legal activities, if—

(a) the body applies to the Board for such a recommendation to be made,

(b) the application is made in such form and manner as may be prescribed by rules made by the Board, and is accompanied by the prescribed fee, and

(c) the body publishes a notice giving details of the application in accordance with such requirements as may be specified in rules made by the Board.

(4) In this section "the prescribed fee", in relation to an application, means the fee specified in, or determined in accordance with, rules made by the Board, with the consent of the Lord Chancellor.

(5) The Board may recommend that an order is made cancelling a body's designation as an approved regulator in relation to one or more reserved legal activities if it is satisfied—

(a) that an act or omission of an approved regulator (or a series of such acts or omissions) has had, or is likely to have, an adverse impact on one or more of the regulatory objectives, and

(b) that it is appropriate to cancel the body's designation in relation to the activity or activities in question in all the circumstances of the case (including in particular the impact of cancelling the designation on the other regulatory objectives).

(6) The Board may not determine that it is appropriate to cancel a body's designation in relation to an activity or activities unless it is satisfied that the matter cannot be adequately addressed by the Board exercising the powers available to it under sections 31 to 43.

(7) Schedule 9 makes further provision about the making of recommendations under subsection (5).

(8) If the Lord Chancellor decides not to make an order in response to a recommendation made under subsection (3) or (5), the Lord Chancellor must give the Board notice of the decision and the reasons for it.

(9) The Lord Chancellor must publish a notice given under subsection (8).

(10) The Board may not make a recommendation under subsection (5) in respect of a body's designation as an approved regulator in relation to a reserved legal activity at any time when, by virtue of Part 2 of Schedule 5 (protection of rights during a transitional period), any person is being treated as authorised by the body to carry on that activity.

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Commencement Information

I17 S. 45 wholly in force at 1.1.2010; s. 45 not in force at Royal Assent see s. 211; s. 45(3)(b)(c)(4)(7) in force at 1.1.2009 by S.I. 2008/3149, **art. 2(c)(i)**; s. 45 in force otherwise at 1.1.2010 by S.I. 2009/3250, **art. 2(c)(i)** (with art. 9)

46 Cancellation of designation: further provision

(1) This section applies where a body ("the former regulator") has its designation in relation to one or more reserved legal activities cancelled by an order under section 45.

(2) The Lord Chancellor may by order make—

(a) such modifications of provisions made by or under any enactment (including this Act or any enactment passed after this Act), prerogative instrument or other instrument or document, and

(b) such transitional or consequential provision,

as the Lord Chancellor considers necessary or expedient in consequence of the cancellation.

(3) The Lord Chancellor may, by order, make transfer arrangements.

(4) "Transfer arrangements" are arrangements in accordance with which each person authorised by the former regulator who consents to the arrangements is, from the time the cancellation takes effect, treated as being authorised to carry on each protected activity by either—

(a) a relevant approved regulator, in relation to the protected activity, who consents to the transfer arrangements, or

(b) the Board acting in its capacity as a relevant approved regulator in relation to the protected activity by virtue of an order made under section 62.

(5) The transfer arrangements—

(a) must make such provision as is necessary to ensure that, where a person is treated under those arrangements as being authorised to carry on a protected activity by the new regulator, that person is subject to the regulatory arrangements of the new regulator;

(b) may make provision requiring amounts held by the former regulator which represent amounts paid to it by way of practising fees by the persons to whom the transfer arrangements apply (or a part of the amounts so held) to be paid to the new regulator and treated as if they were amounts paid by those persons by way of practising fees to the new regulator.

(6) Subsection (5)(a) is subject to any transitional provision which may be made by the transfer arrangements, including provision modifying the regulatory arrangements of the new regulator as they apply to persons to whom the transfer arrangements apply.

(7) The Lord Chancellor may make an order under this section only if—

(a) the Board has made a recommendation in accordance with section 47, and

(b) the order is in the same form as, or in a form which is not materially different from, the draft order annexed to that recommendation.

(8) For the purposes of this section—

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(a) a person is "authorised by the former regulator" if immediately before the time the cancellation takes effect the person is authorised by the former regulator (other than by virtue of a licence under Part 5) to carry on an activity which is a reserved legal activity to which the cancellation relates, and

(b) in relation to that person—

(i) the activity which that person is authorised to carry on as mentioned in paragraph (a) is a "protected activity", and

(ii) "the new regulator" means the approved regulator within paragraph (a) or (b) of subsection (4).

(9) In this section "practising fee", in relation to an approved regulator, means a fee payable by a person under the approved regulator's regulatory arrangements in circumstances where the payment of the fee is a condition which must be satisfied for that person to be authorised by the approved regulator to carry on one or more activities which are reserved legal activities.

(10) But for the purposes of this section "practising fee" does not include a fee payable by a licensed body to its licensing authority under licensing rules.

47 The Board's power to recommend orders made under section 46

(1) The Board may recommend to the Lord Chancellor that the Lord Chancellor make an order under section 46 in the form of a draft order prepared by the Board and annexed to the recommendation.

(2) Before making a recommendation under this section, the Board must publish a draft of—

(a) the proposed recommendation, and

(b) the proposed draft order.

(3) The draft must be accompanied by a notice which states that representations about the proposals may be made to the Board within a specified period.

(4) Before making the recommendation, the Board must have regard to any representations duly made.

(5) If the draft order to be annexed to the recommendation differs from the draft published under subsection (2)(b) in a way which in the opinion of the Board is material, the Board must, before making the recommendation, publish the draft order along with a statement detailing the changes made and the reasons for those changes.

48 Cancellation of designation: powers of entry etc

(1) This section applies where a body ("the former regulator") has its designation in relation to one or more reserved legal activities cancelled by an order under section 45.

(2) The Board may request the former regulator to provide assistance to the new regulator and the Board, for the purpose of continuing regulation.

(3) On an application by a person appointed by the Board to act on its behalf, a judge of the High Court, Circuit judge or justice of the peace may issue a warrant authorising that person to—

(a) enter and search the premises of the former regulator, and

(b) take possession of any written or electronic records found on the premises.

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(4) A person so authorised may, for the purpose of continuing regulation, take copies of written or electronic records found on a search carried out by virtue of the warrant.

(5) The judge or justice of the peace may not issue the warrant unless satisfied that its issue is necessary or desirable for the purpose of continuing regulation.

(6) The Lord Chancellor must make regulations—

(a) specifying further matters which a judge or justice of the peace must be satisfied of, or matters which a judge or justice of the peace must have regard to, before issuing a warrant, and

(b) regulating the exercise of a power conferred by a warrant issued under subsection (3) or by subsection (4) (whether by restricting the circumstances in which a power may be exercised, by specifying conditions to be complied with in the exercise of a power, or otherwise).

(7) Regulations under subsection (6)(b) must in particular make provision as to circumstances in which written or electronic records of which a person has taken possession by virtue of a warrant issued under subsection (3) may be copied or must be returned.

(8) But the Lord Chancellor may not make regulations under subsection (6) unless—

(a) they are made in accordance with a recommendation made by the Board, or

(b) the Lord Chancellor has consulted the Board about the making of the regulations.

(9) The Board must make rules as to the persons it may appoint for the purposes of subsection (3).

(10) For the purposes of this section—

"authorised by the former regulator", "protected activity" and "new regulator" have the same meaning as for the purposes of section 46;

"the purpose of continuing regulation" means the purpose of enabling persons authorised by the former regulator to continue to be authorised and regulated in relation to the protected activity.

Commencement Information

I18 S. 48 wholly in force at 1.1.2010; s. 48 not in force at Royal Assent see s. 211; s. 48(6)-(9) in force at 1.1.2009 by S.I. 2008/3149, **art. 2(c)(i)**; s. 48 in force otherwise at 1.1.2010 by S.I. 2009/3250, **art. 2(c)(i)** (with art. 9)

Policy statements

49 The Board's policy statements

(1) The Board must prepare and issue a statement of policy with respect to the exercise of its functions under—

(a) section 31 (performance targets and monitoring);

(b) section 32 (directions);

(c) section 35 (public censure);

(d) section 37 (financial penalties);

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(e) section 41 (intervention directions);
(f) section 45 (cancellation of designation as approved regulator);
(g) section 76 (cancellation of designation as licensing authority by order).

(2) The Board may prepare and issue a statement of policy with respect to any other matter.

(3) In preparing a statement of policy, the Board must have regard to the principle that its principal role is the oversight of approved regulators.

(4) The statement of policy prepared under subsection (1) must—
(a) take account of the desirability of resolving informally matters which arise between the Board and an approved regulator, and
(b) specify how, in exercising the functions mentioned in that subsection, the Board will comply with the requirements of section 3(3) (regulatory activities to be proportionate, consistent and targeted only at cases in which action is needed, etc),

and, in preparing that statement, the Board must have regard to the principle that the Board should not exercise any of those functions by reason of an act or omission of an approved regulator unless the act or omission was unreasonable.

(5) The Board's policy in determining what the amount of a penalty under section 37 should be must include having regard to—
(a) the seriousness of the failure in question, and
(b) the extent to which it was deliberate or reckless.

(6) The Board may at any time alter or replace any statement issued under this section.

(7) If a statement is altered or replaced, the Board must issue the altered or replacement statement.

(8) In exercising or deciding whether to exercise any of its functions, the Board must have regard to any relevant policy statement published under this section.

(9) The Board must publish a statement issued under this section.

(10) The Board may make a reasonable charge for providing a person with a copy of a statement.

50 Policy statements: procedure

(1) Before issuing a statement under section 49, the Board must publish a draft of the proposed statement.

(2) The draft must be accompanied by a notice which states that representations about the proposals may be made to the Board within a specified period.

(3) Before issuing the statement, the Board must have regard to any representations duly made.

(4) If the statement differs from the draft published under subsection (1) in a way which is, in the opinion of the Board, material, the Board must publish details of the differences.

(5) The Board may make a reasonable charge for providing a person with a copy of a draft published under subsection (1).

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Practising fees

51 Control of practising fees charged by approved regulators

(1) In this section "practising fee", in relation to an approved regulator, means a fee payable by a person under the approved regulator's regulatory arrangements in circumstances where the payment of the fee is a condition which must be satisfied for that person to be authorised by the approved regulator to carry on one or more activities which are reserved legal activities.

(2) An approved regulator may only apply amounts raised by practising fees for one or more of the permitted purposes.

(3) The Board must make rules specifying the permitted purposes.

(4) Those rules must, in particular, provide that the following are permitted purposes—

(a) the regulation, accreditation, education and training of relevant authorised persons and those wishing to become such persons, including—

(i) the maintaining and raising of their professional standards, and

(ii) the giving of practical support, and advice about practice management, in relation to practices carried on by such persons;

(b) the payment of a levy imposed on the approved regulator under section 173;

(c) the participation by the approved regulator in law reform and the legislative process;

(d) the provision by relevant authorised persons, and those wishing to become relevant authorised persons, of reserved legal services, immigration advice or immigration services to the public free of charge;

(e) the promotion of the protection by law of human rights and fundamental freedoms;

(f) the promotion of relations between the approved regulator and relevant national or international bodies, governments or the legal professions of other jurisdictions.

(5) A practising fee is payable under the regulatory arrangements of an approved regulator only if the Board has approved the level of the fee.

(6) The Board must make rules containing provision—

(a) about the form and manner in which applications for approval for the purposes of subsection (5) must be made and the material which must accompany such applications;

(b) requiring applicants to have consulted such persons as may be prescribed by the rules in such manner as may be so prescribed before such an application is made;

(c) about the procedures and criteria that will be applied by the Board when determining whether to approve the level of a fee for the purposes of subsection (5).

(7) Rules under subsection (6)(c) must, in particular, contain—

(a) provision requiring the Board, before it determines an application for approval of the level of a fee, to consult such persons as it considers appropriate about the impact of the proposed fee on persons providing non-commercial legal services;

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(b) provision about the time limit for the determining of an application.

(8) In this section "relevant authorised persons", in relation to an approved regulator, means persons who are authorised by the approved regulator to carry on activities which are reserved legal activities.

Commencement Information

I19 S. 51 wholly in force at 1.1.2010; s. 51 not in force at Royal Assent see s. 211; s. 51(1)(3)(4)(6)-(8) in force at 1.1.2009 by S.I. 2008/3149, **art. 2(c)(i)**; s. 51 in force otherwise at 1.1.2010 by S.I. 2009/3250, **art. 2(c)(i)** (with art. 9)

Regulatory conflict

52 Regulatory conflict with approved regulators

(1) The regulatory arrangements of an approved regulator must make such provision as is reasonably practicable to prevent regulatory conflicts.

(2) For the purposes of this section and section 53, a regulatory conflict is a conflict between—

(a) a requirement of the approved regulator's regulatory arrangements, and

(b) a requirement of the regulatory arrangements of another approved regulator.

(3) Subsection (4) applies where a body is authorised by an approved regulator ("the entity regulator") to carry on an activity which is a reserved legal activity.

(4) If a conflict arises between—

(a) a requirement of the regulatory arrangements of the entity regulator, in relation to the body authorised by the entity regulator or an employee or manager of the body ("an entity requirement"), and

(b) a requirement of the regulatory arrangements of another approved regulator in relation to an employee or manager of the body who is authorised by it to carry on a reserved legal activity ("an individual requirement"),

the entity requirement prevails over the individual requirement.

53 Modification of provision made about regulatory conflict

(1) An approved regulator ("the applicant regulator") may make an application under this section if it considers that the regulatory arrangements of another approved regulator ("the conflicting regulator") do not make appropriate provision to prevent a regulatory conflict with the applicant regulator.

(2) An application under this section is an application made to the Board for the Board to exercise its powers under section 32 to direct the conflicting regulator—

(a) to take steps to modify, in such manner as may be specified in the direction, the provision made by its regulatory arrangements to prevent a regulatory conflict with the applicant regulator, or

(b) if its regulatory arrangements do not make any such provision, to make such provision as may be specified in the direction to prevent such a conflict.

(3) An approved regulator must consider any request made by an affected person—

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(a) for the approved regulator to reconsider the provision made by its regulatory arrangements to prevent a regulatory conflict with another approved regulator, or

(b) for the approved regulator to make an application under this section.

(4) An "affected person", in relation to an approved regulator, means—

(a) a person authorised by the approved regulator to carry on a reserved legal activity;

(b) an employee or manager of such a person.

(5) Where an application is made under this section, the Board—

(a) must give the applicant regulator and the conflicting regulator an opportunity to make representations, and

(b) may consult any persons it considers appropriate.

(6) The Board must decide whether or not to give a warning notice in response to the application.

(7) The Board must make that decision before the end of the period of 6 months beginning with the day on which the application is received by it.

(8) The Board must give notice of its decision, and the reasons for it, to the applicant regulator and the conflicting regulator.

(9) For the purposes of this section "warning notice" means a notice given under paragraph 2(1) of Schedule 7 (warning of proposed direction under section 32).

54 Regulatory conflict with other regulatory regimes

(1) The regulatory arrangements of an approved regulator must make such provision as is reasonably practicable and, in all the circumstances, appropriate—

(a) to prevent external regulatory conflicts,

(b) to provide for the resolution of any external regulatory conflicts which arise, and

(c) to prevent unnecessary duplication of regulatory provisions made by an external regulatory body.

(2) For the purposes of this section, an external regulatory conflict is a conflict between—

(a) a requirement of the regulatory arrangements of the approved regulator, and

(b) a requirement of any regulatory provision made by an external regulatory body.

(3) For this purpose "external regulatory body" means a person (other than an approved regulator) who exercises regulatory functions in relation to a particular description of persons with a view to ensuring compliance with rules (whether statutory or non-statutory) by those persons.

(4) Regulatory arrangements made for the purposes of subsection (1)(b) may, with the consent of the Board, provide for the Board to exercise functions in connection with the resolution of conflicts.

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Information

55 Provision of information to the Board

(1) The Board may, by notice, require an approved regulator—

(a) to provide any information, or information of a description, specified in the notice, or

(b) to produce documents, or documents of a description, specified in the notice.

(2) A notice under subsection (1)—

(a) may specify the manner and form in which any information is to be provided;

(b) must specify the period within which any information is to be provided or document is to be produced;

(c) may require any information to be provided, or document to be produced, to the Board or to a person specified in the notice.

(3) The Board may, by notice, require a person representing the approved regulator to attend at a time and place specified in the notice to provide an explanation of any information provided or document produced under this section.

(4) The Board may pay to any person such reasonable costs as may be incurred by that person in connection with—

(a) the provision of any information, or the production of any document, by that person pursuant to a notice under subsection (1), or

(b) that person's compliance with a requirement imposed under subsection (3).

(5) The Board, or a person specified under subsection (2)(c), may take copies of or extracts from a document produced pursuant to a notice under subsection (1).

(6) For the purposes of this section and section 56, references to an approved regulator include a body which was, but is no longer, an approved regulator.

56 Enforcement of notices under section 55

(1) Where an approved regulator is unable to comply with a notice given to it under section 55(1), it must give the Board a notice to that effect stating the reasons why it cannot comply.

(2) If an approved regulator refuses, or otherwise fails, to comply with a notice under section 55(1), the Board may apply to the High Court for an order requiring the approved regulator to comply with the notice or with such directions for the like purpose as may be contained in the order.

(3) This section applies in relation to a person to whom a notice is given under section 55(3) as it applies in relation to an approved regulator to whom a notice is given under section 55(1).

Competition

57 Reports by the [F13CMA]

(1) If the **[**F14CMA**]** is of the opinion that the regulatory arrangements of an approved regulator (or any part of them) prevent, restrict or distort competition within the market

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for reserved legal services to any significant extent, or are likely to do so, the **[**F14CMA**]** may prepare a report to that effect.

(2) A report under subsection (1)—

(a) must state what, in the **[**F15CMA's**]** opinion, is the effect, or likely effect, on competition of the regulatory arrangements or part of them to which the report relates, and

(b) may contain recommendations as to the action which the Board should take for the purpose of ensuring that the regulatory arrangements of the approved regulator do not prevent, restrict or distort competition.

(3) Where the **[**F16CMA**]** makes a report under subsection (1), it must—

(a) give a copy of the report to the Board, the Consumer Panel and the approved regulator, and

(b) publish the report.

(4) Before publishing a report under subsection (3)(b), the **[**F16CMA**]** must, so far as practicable, exclude any matter which relates to the private affairs of a particular individual the publication of which, in the opinion of the **[**F16CMA**]**, would or might seriously and prejudicially affect the interests of that individual.

(5) The **[**F16CMA**]** may exercise any of the powers conferred on it by section 174(3) to (5) **[**F17and (6A)**]** of the Enterprise Act 2002 (c. 40) (investigation powers) for the purpose of assisting it in exercising its functions under this section **[**F18and references in section 174 of the Enterprise Act 2002 to a "permitted purpose" are to be construed accordingly**]**.

[F19(5A) Where the CMA exercises any of its powers under section 174 of the Enterprise Act 2002 for the purpose referred to in subsection (5), "the relevant day" for the purposes of section 174B of the Enterprise Act 2002 is the day on which the CMA publishes its report. **]**

(6) For the purposes of the law of defamation, absolute privilege attaches to any report of the **[**F16CMA**]** under this section.

Textual Amendments

F13 Word in s. 57 heading substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 109(5)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)

F14 Word in s. 57(1) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 109(2)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)

F15 Word in s. 57(2) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 109(3)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)

F16 Words in s. 57(3)-(6) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 109(4)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)

F17 Words in s. 57(5) inserted (1.4.2014) by The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 1(1), **Sch. 1 para. 176(2)(a)** (with art. 3, Sch. 2 para. 4)

F18 Words in s. 57(5) inserted (1.4.2014) by The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 1(1), **Sch. 1 para. 176(2)(b)** (with art. 3, Sch. 2 para. 4)

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F19 S. 57(5A) inserted (1.4.2014) by The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 1(1), **Sch. 1 para. 176(3)** (with art. 3, Sch. 2 para. 4)

58 The Board's response to [F20CMA] report

(1) This section applies where a report is made by the [F21 CMA] under section 57 in respect of an approved regulator.

(2) The Board must allow the approved regulator a period of 28 days beginning with the day on which the copy of the report is given to the approved regulator under section 57, or such longer period as the Board may specify in a particular case, to make representations to the Board about the [F22CMA's] report.

(3) The Consumer Panel may give the Board such advice as the Consumer Panel thinks fit regarding the [F22CMA's] report.

(4) Having considered any representations made under subsection (2) and any advice given under subsection (3), the Board must notify the [F23CMA] of the action (if any) it proposes to take in response to the report.

Textual Amendments

F20 Word in s. 58 heading substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 110(5)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)

F21 Word in s. 58(1) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 110(2)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)

F22 Words in s. 58(2)(3) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 110(3)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)

F23 Word in s. 58(4) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 110(4)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)

59 Referral of report by the Lord Chancellor F24...

(1) This section applies where the [F25CMA] is satisfied that the Board has failed to give full and proper consideration to a report made by the [F25CMA], in respect of an approved regulator, under section 57.

(2) The [F25CMA]may give a copy of its report to the Lord Chancellor.

(3) The [F25CMA]must notify the Board and the approved regulator if it gives a copy of its report to the Lord Chancellor.

(4) On receiving a report under subsection (2), the Lord Chancellor [F26must make a reference to the chair of the CMA for the constitution of a group under Schedule 4 to the Enterprise and Regulatory Reform Act 2013, for the purpose of advising the Lord Chancellor] on what action (if any) should be taken by the Lord Chancellor under section 61.

[F27(5) Where a reference is made to the chair of the CMA under this section for the constitution of a group, the functions of the CMA under section 60, in relation to the matter concerned, are to be carried out on behalf of the CMA by the group so

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constituted (including functions under sections 109 to 115 of the Enterprise Act 2002, as applied by section 60(9)).**]**

Textual Amendments

F24 Words in s. 59 heading omitted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 111(5)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)
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F25 Words in s. 59(1)-(3) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 111(2)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)

F26 Words in s. 59(4) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 111(3)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)

F27 S. 59(5) inserted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 111(4)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)

60 Duties of the [F28CMA]

(1) Where the Lord Chancellor **[**F29makes a reference under section 59, the CMA**]** under section 59, the Commission must investigate the matter.

(2) **[**F30The CMA must then make a report**]** on the matter unless it considers that, as a result of any change of circumstances, no useful purpose would be served by a report.

(3) If the **[**F31CMA **]** decides in accordance with subsection (2) not to make a report, it must make a statement setting out the change of circumstances which resulted in that decision.

(4) The **[**F32CMA **]** must comply with subsection (2) or (3) within the period of 3 months beginning with the day on which **[**F33the reference in question is made to the chair of the CMA under section 59**]**.

(5) A report made under this section must state the **[**F34CMA's**]** conclusion as to whether any of the matters which is the subject of the report has or is likely to have the effect of preventing, restricting or distorting competition within the market for reserved legal services to a significant extent.

(6) A report under this section stating the **[**F35CMA's**]** conclusion that there is, or is likely to be, such an effect must also—

(a) state whether or not the **[**F36CMA**]** considers that that effect is justified, and

(b) if it states that the **[**F36CMA**]** considers that it is not justified, state its conclusion as to what action, if any, ought to be taken by the Board.

(7) When determining under subsection (6)(b) any action to be taken by the Board, the **[**F37CMA**]** must ensure—

(a) that the action stated is action which the Board has power to take, and

(b) so far as reasonably possible, that the action stated is compatible with the functions conferred, and obligations imposed, on the Board by or under this Act.

(8) A report under this section must contain such an account of the **[**F38CMA's**]** reasons for its conclusions as is expedient, in the opinion of the **[**F39CMA **]**, for facilitating proper understanding of them.

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(9) Sections **[**F40109 to 110A and 111 to 115**]** of the Enterprise Act 2002 (c. 40) (investigation powers) apply in relation to an investigation under this section as they apply in relation to an investigation made on a reference made **[**F41to the CMA**]** under Part 3 of that Act (mergers), but as if—

[F42(a) references in section 109 of that Act (attendance of witnesses and production of documents etc) to a permitted purpose were references to the purpose of assisting the CMA in carrying out any of its functions in connection with an investigation under this section, and

(b) the relevant day in any case for the purposes of section 110A of that Act (restriction on powers to impose penalties under section 110) were the day on which the CMA makes a report under subsection (2) or a statement under subsection (3) in connection with that case. **]**

(10) If the **[**F43CMA**]** makes a report or a statement under this section it must—

(a) give a copy to the Lord Chancellor, the Board, the Consumer Panel and the approved regulator to which the **[**F44report made by the CMA under section 57 **]** relates, and

(b) publish the report or statement.

Textual Amendments

F28 Word in s. 60 heading substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 112(12)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)

F29 Words in s. 60(1) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 112(2)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)

F30 Words in s. 60(2) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 112(3)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)

F31 Word in s. 60(3) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 112(4)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)

F32 Word in s. 60(4) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 112(5)(a)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)

F33 Words in s. 60(4) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 112(5)(b)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)

F34 Word in s. 60(5) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 112(6)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)

F35 Word in s. 60(6) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 112(7)(a)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)

F36 Word in s. 60(6) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 112(7)(b)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)

F37 Word in s. 60(7) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 112(8)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)

F38 Word in s. 60(8) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 112(9)(a)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)

F39 Word in s. 60(8) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 112(9)(b)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)

F40 Words in s. 60(9) substituted (1.4.2014) by The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 1(1), **Sch. 1 para. 177(a)** (with art. 3, Sch. 2 para. 2)

F41 Words in s. 60(9) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 112(10)(a)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)

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F42 S. 60(9)(a)(b) substituted (1.4.2014) by The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 1(1), **Sch. 1 para. 177(b)** (with art. 3, Sch. 2 para. 2)

F43 Word in s. 60(10) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 112(11)(a)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)

F44 Words in s. 60(10) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 112(11)(b)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)

61 Lord Chancellor's power to give directions

(1) The Lord Chancellor may direct the Board to take such action as the Lord Chancellor considers appropriate in connection with any matter raised in a report made by the **[**[F45] CMA **]** under section 57.

(2) Before giving a direction under subsection (1), the Lord Chancellor must consider any report from the **[**[F46]CMA **]** under section 60 on that matter.

(3) When exercising the power to give a direction under subsection (1), the Lord Chancellor must ensure—

(a) that the action stated is action which the Board has power to take, and

(b) so far as reasonably possible, that the action stated in any direction is compatible with the functions conferred, and obligations imposed, on the Board by or under this Act.

(4) The Lord Chancellor must publish a direction given under this section.

Textual Amendments

F45 Word in s. 61(1) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 113(2)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)

F46 Word in s. 61(2) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 113(3)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)

The Board as approved regulator

62 The Board as an approved regulator

(1) The Lord Chancellor may by order—

(a) designate the Board as an approved regulator in relation to one or more reserved legal activities;

(b) modify the functions of the Board, and make such other provision relating to those functions as the Lord Chancellor considers necessary or expedient, with a view to enabling the Board to discharge its functions as an approved regulator effectively and efficiently;

(c) cancel the Board's designation as an approved regulator in relation to one or more reserved legal activities.

(2) But the Lord Chancellor may make an order under subsection (1) only if—

(a) the Board has made a recommendation in accordance with section 66, and

(b) the order is in the same form as, or in a form which is not materially different from, the draft order annexed to that recommendation.

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(3) If the Lord Chancellor decides not to make an order pursuant to a recommendation made under section 66, the Lord Chancellor must—

(a) give the Board a notice stating the reasons for that decision, and

(b) publish the notice.

(4) In discharging its functions as an approved regulator the Board must take such steps as are necessary to ensure an appropriate financial and organisational separation between the activities of the Board that relate to the carrying out of those functions and the other activities of the Board.

(5) An order under this section may make such modifications of provision made by or under any enactment (including this Act or any Act passed after this Act) as the Lord Chancellor considers necessary or expedient.

63 The Board's designation under section 62(1)(a)

(1) This section applies in relation to an order under section 62(1)(a) (an order designating the Board as an approved regulator).

(2) Subject to subsection (3), the order may designate the Board as an approved regulator in relation to a reserved legal activity only where—

(a) a body's designation as an approved regulator in relation to the activity is cancelled under section 45, or

(b) the activity becomes a reserved legal activity by virtue of an order under section 24.

(3) Subsection (2) does not prevent the order having effect in advance of an event within paragraph (a) or (b) of that subsection for the purpose of enabling the Board to authorise persons to carry on activities which constitute the reserved legal activity in question with effect from the occurrence of the event.

(4) The order must ensure that the Board, acting as an approved regulator, may make regulatory arrangements or modify its regulatory arrangements only with the approval of the Board (acting otherwise than in its capacity as an approved regulator or as a licensing authority under Part 5).

64 Modification of the Board's functions under section 62(1)(b)

(1) This section applies in relation to an order under section 62(1)(b) (an order modifying the functions of the Board).

(2) The order may include (among other things) provision conferring on the Board powers to do any of the following—

(a) to authorise (otherwise than by the grant of a licence under Part 5) persons or any category of persons (whether corporate or unincorporate) to carry on one or more activities which are reserved legal activities in relation to which the Board is designated as an approved regulator;

(b) to make qualification regulations;

(c) to make provision as to the educational, training and other requirements to be met by regulated persons who are not relevant authorised persons;

(d) to make practice rules and conduct rules;

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(e) to make disciplinary arrangements in relation to regulated persons (including discipline rules);

(f) to make rules requiring the payment of fees specified in or determined in accordance with the rules;

(g) to make indemnification arrangements;

(h) to make compensation arrangements;

(i) to make rules as to the treatment of money (including money held in trust) which is received, held or dealt with for clients, or other persons, by regulated persons, and as to the keeping by such persons of accounts in respect of such money;

(j) to take steps for the purpose of ascertaining whether or not the provisions of rules or regulations made, or any code or guidance issued, by the Board in its capacity as an approved regulator are being complied with, and to make rules requiring relevant authorised persons to produce documents and provide information for that purpose;

(k) to delegate any of the functions exercisable by the Board in its capacity as an approved regulator to such persons as it considers appropriate;

(l) to make regulations or rules providing for appeals to the High Court or another body against decisions made by the Board in its capacity as an approved regulator (including regulations or rules providing for a decision on such an appeal to be final and for orders as to payment of costs).

(3) The order may—

(a) provide for any provision of Schedule 14 (licensing authority's powers of intervention)—

(i) to apply in relation to the Board (in its capacity as an approved regulator) and regulated persons as it applies in relation to a licensing authority and licensed bodies (or managers or employees of such bodies), or

(ii) to so apply with such modifications as are prescribed by the order, or

(b) make provision, in relation to the Board (in that capacity) and regulated persons, corresponding to any of the provisions made, in relation to licensing authorities and licensed bodies (or managers or employees of such bodies), by that Schedule.

(4) For the purposes of giving effect to indemnification arrangements and compensation arrangements, the order may authorise the Board to make rules—

(a) authorising or requiring the Board to establish and maintain a fund or funds;

(b) authorising or requiring the Board to take out and maintain insurance with authorised insurers;

(c) requiring relevant authorised persons or relevant authorised persons of any specific description to take out and maintain insurance with authorised insurers.

(5) In this section—

"authorised insurer" means a person within any of the following paragraphs—

(a) a person who has permission under **[**F47Part 4A**]** of the Financial Services and Markets Act 2000 (c. 8) to effect or carry out contracts of insurance of a relevant class;

(b) F48...

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(c) F48...

"regulated person" has the meaning given by section 21;

"relevant authorised person" means a person authorised by the Board (other than by the grant of a licence under Part 5) to carry on one or more activities which are reserved legal activities.

(6) For the purposes of this section—

(a) a contract of insurance is of a relevant class if it insures against a risk arising from accident, credit, legal expenses, general liability to third parties, sickness, suretyship or miscellaneous financial loss, and

(b) the definition of "authorised insurer" in subsection (5) must be read with section 22 of the Financial Services and Markets Act 2000, and any relevant order under that section, and with Schedule 2 to that Act.

Textual Amendments

F47 Words in s. 64(5) substituted (1.4.2013) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 18 para. 125(2)** (with Sch. 20); S.I. 2013/423, art. 3, Sch.

F48 Words in s. 64(5) omitted (31.12.2020) by virtue of The EEA Passport Rights (Amendment, etc., and Transitional Provisions) (EU Exit) Regulations 2018 (S.I. 2018/1149), reg. 1(3), **Sch. para. 39** (with reg. 4); 2020 c. 1, Sch. 5 para. 1(1)

Modifications etc. (not altering text)

C4 S. 64(1)(2)(4)(5)(6) amendment to earlier commencing S.I. 2009/3250, art. 3(2) (30.9.2011) by The Legal Services Act 2007 (Commencement No. 11, Transitory and Transitional Provisions and Related Amendments) Order 2011 (S.I. 2011/2196), arts. 1(2), **5**

Commencement Information

I20 S. 64 partly in force; s. 64 not in force at Royal Assent see s. 211; s. 64(1)(2)(4)(5)(6) in force at 1.1.2010 by S.I. 2009/3250, **art. 2(c)(i)** (subject to art. 3(2) (as amended (30.9.2011) by S.I. 2011/2196, arts. 1(2), 5) and with art. 9)

I21 S. 64(3) in force at 1.10.2011 so far as not already in force by S.I. 2011/2196, **art. 2(1)(b)**

65 Cancellation of the Board's designation under section 62(1)(c)

(1) This section applies in relation to an order under section 62(1)(c) (cancellation of Board's designation as an approved regulator).

(2) Where such an order is made, section 46 (other than subsection (4)(b)) and section 47 (transfer arrangements etc on cancellation of approved regulator's designation) apply in relation to the Board and relevant authorised persons as they apply to an approved regulator whose designation is cancelled under section 45 and persons authorised by that approved regulator to carry on activities which are reserved legal activities.

(3) In this section "relevant authorised persons" has the same meaning as in section 64.

66 The Board's power to recommend orders made under section 62

(1) The Board may recommend to the Lord Chancellor that the Lord Chancellor make an order under section 62 in the form of a draft order prepared by the Board and annexed to the recommendation.

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(2) Before making a recommendation under this section, the Board must give each of the persons listed in subsection (3) a notice containing—

(a) a copy of the proposed recommendation,

(b) a copy of the proposed draft order, and

(c) a statement specifying a period within which representations may be made about the proposals.

(3) Those persons are—

(a) the Lord Chancellor,

(b) the **[**F49CMA **]**,

(c) the Consumer Panel,

(d) the Lord Chief Justice, and

(e) such other persons as the Board considers it reasonable to consult regarding the proposals.

(4) The Board must publish a notice given under subsection (2).

(5) Before making the recommendation, the Board must have regard to any representations duly made (whether by persons within subsection (3) or otherwise).

(6) If the draft order to be annexed to the recommendation differs from the draft contained in the notice under subsection (2) in a way which is, in the opinion of the Board, material, the Board must, before making the recommendation, publish the draft order along with a statement detailing the changes made and the reasons for those changes.

Textual Amendments

F49 Word in s. 66(3)(b) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 114**; S.I. 2014/416, art. 2(1)(d) (with Sch.)

67 Effect of the Board's designation as an approved regulator

(1) The powers of the Board under sections 31 to 51 and 55 (regulatory powers in respect of approved regulators) are not exercisable by it in relation to the Board in its capacity as an approved regulator.

(2) In section 53 references to an approved regulator do not include the Board in its capacity as an approved regulator.

(3) Sections 57 to 61 (reports by **[**F50CMA**]** etc) do not apply in relation to the Board in its capacity as an approved regulator.

Textual Amendments

F50 Word in s. 67(3) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 115**; S.I. 2014/416, art. 2(1)(d) (with Sch.)

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68 Regulatory conflict and the Board as approved regulator

(1) An approved regulator may make a request under subsection (4) if it considers that the regulatory arrangements of the Board (in its capacity as an approved regulator) do not make appropriate provision to prevent a conflict between—

(a) a requirement of those regulatory arrangements, and

(b) a requirement of the regulatory arrangements of the approved regulator.

(2) An affected person in relation to an approved regulator may request the approved regulator to exercise its powers under subsection (1).

(3) An affected person in relation to the Board may make a request under subsection (4) if the person considers that the regulatory arrangements of the Board (in its capacity as an approved regulator) do not make appropriate provision to prevent a conflict between—

(a) a requirement of those regulatory arrangements, and

(b) a requirement of the regulatory arrangements of an approved regulator.

(4) The request is a request made to the Board (in its capacity as an approved regulator) that it reconsider the provision made by its regulatory arrangements to prevent a regulatory conflict with the conflicting regulator.

(5) An affected person in relation to the Board may make an application under subsection (6) if the person considers that the regulatory arrangements of an approved regulator do not make appropriate provision to prevent a conflict between—

(a) a requirement of those regulatory arrangements, and

(b) a requirement of the regulatory arrangements of the Board (in its capacity as an approved regulator).

(6) The application is an application to the Board for it to exercise its powers under section 32 to direct the approved regulator—

(a) to take steps to modify, in such manner as may be specified in the direction, the provision made by its regulatory arrangements to prevent a regulatory conflict with the Board (in its capacity as an approved regulator), or

(b) if its regulatory arrangements do not make any such provision, to make such provision as may be specified in the direction to prevent such a conflict.

(7) An affected person in relation to an approved regulator (other than the Board) may make a request under subsection (8) if the person considers that the regulatory arrangements of the approved regulator do not make appropriate provision to prevent a conflict between—

(a) a requirement of those regulatory arrangements, and

(b) a requirement of the regulatory arrangements of the Board (in its capacity as an approved regulator).

(8) The request is a request to the approved regulator that it reconsider the provision made by its regulatory arrangements to prevent a regulatory conflict with the Board.

(9) The Board (in its capacity as an approved regulator) and any other approved regulator must consider any request made to it under this section.

(10) Subsections (5) to (8) of section 53 apply in relation to an application under subsection (6) as they apply in relation to an application under that section, except that—

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(a) references to the applicant regulator are to be read as references to the person who made the application, and

(b) references to the conflicting regulator are to be construed in accordance with this section.

(11) In this section—

"affected person" in relation to the Board or any other approved regulator, means—

(a) any person authorised by the body to carry on a reserved legal activity, or

(b) an employee or manager of such a person;

"conflicting regulator" means—

(a) in a case within subsection (1), the approved regulator making the request, and

(b) in a case within subsection (3) or (5), the approved regulator whose regulatory arrangements are considered to conflict with those of the Board.

Functions of approved regulators etc

69 Modification of the functions of approved regulators etc

(1) The Lord Chancellor may by order modify, or make other provision relating to, the functions of an approved regulator or any other body (other than the Board).

(2) The Lord Chancellor may make an order under subsection (1) only if—

(a) the Board has made a recommendation under this section,

(b) a draft order was annexed to the recommendation, and

(c) the order is in the same form as, or a form not materially different from, that draft order.

(3) The Board may make a recommendation under this section only with a view to an order being made which enables the body to which it relates to do one or more of the following—

(a) to become designated by an order under Part 2 of Schedule 4 as an approved regulator, or designated by an order under Part 1 of Schedule 10 as a licensing authority, in relation to one or more reserved legal activities;

(b) to authorise persons or any category of persons (whether corporate or unincorporate) to carry on one or more activities which are reserved legal activities in relation to which the body is (at the time the authorisation has effect) designated as an approved regulator, or to make regulatory arrangements;

(c) to carry out its role as an approved regulator (including its role, if any, as a licensing authority) more effectively or efficiently;

(d) to become a qualifying regulator under Part 1 of Schedule 18;

(e) if it is a designated qualifying regulator under section 86A of the Immigration and Asylum Act 1999 (c. 33), to authorise persons to provide any additional advice or services the provision of which amounts to the provision of immigration advice or immigration services.

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(4) Subsections (2) (other than paragraph (a)), (3) and (4) of section 64 apply in relation to an order under this section as they apply in relation to an order under section 62(1)(b) in relation to the Board.

(5) An order under this section also may make provision in relation to—

(a) the provision of immigration advice or immigration services, and

(b) persons authorised to provide such advice and services by the body to which the order relates,

corresponding to the provision which may be made by virtue of section 64(2) to (4) in relation to reserved legal activities and persons authorised to carry on those activities.

(6) An order under this section may modify provisions made by or under any enactment (including this Act or any Act passed after this Act), prerogative instrument or other instrument or document.

(7) Any provision made by an order under this section may be expressed to be conditional upon—

(a) the body to which the order relates being designated by an order under Part 2 of Schedule 4 as an approved regulator, or by an order under Part 1 of Schedule 10 as a licensing authority, in relation to one or more reserved legal activities specified in the proposed draft order, or

(b) the body to which the order relates becoming a designated qualifying regulator under section 86A of the Immigration and Asylum Act 1999 (c. 33).

(8) The powers to make an order conferred by this section are without prejudice to any powers (statutory or non-statutory) which an approved regulator or other body may have apart from this section.

Modifications etc. (not altering text)

C5 S. 69 modified (temp.) (7.3.2008) by The Legal Services Act 2007 (Commencement No.1 and Transitory Provisions) Order 2008 (S.I. 2008/222), **art. 4**

70 Procedural requirements relating to recommendations under section 69

(1) A recommendation may be made under section 69 only with the consent of the approved regulator or other body to which the recommendation relates.

(2) Before making a recommendation under that section, the Board must publish a draft of—

(a) the proposed recommendation, and

(b) the proposed draft order.

(3) The draft must be accompanied by a notice which states that representations about the proposals may be made to the Board within a specified period.

(4) Before making the recommendation, the Board must have regard to any representations duly made.

(5) If the draft order to be annexed to the recommendation differs from the draft published under subsection (2)(b) in a way which is, in the opinion of the Board, material, the Board must, before making the recommendation, publish the draft order along with a statement detailing the changes made and the reasons for those changes.

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Changes to legislation: *Legal Services Act 2007 is up to date with all changes known to be in force on or before 05 December 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Modifications etc. (not altering text)
C6 S. 70 modified (temp.) (7.3.2008) by The Legal Services Act 2007 (Commencement No.1 and Transitory Provisions) Order 2008 (S.I. 2008/222), **art. 5**

PART 5

ALTERNATIVE BUSINESS STRUCTURES

Introductory

71 Carrying on of activities by licensed bodies

(1) The provisions of this Part have effect for the purpose of regulating the carrying on of reserved legal activities and other activities by licensed bodies.

(2) In this Act "licensed body" means a body which holds a licence in force under this Part.

Commencement Information
I22 S. 71 in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(c)**

72 "Licensable body"

(1) A body ("B") is a licensable body if a non-authorised person—
(a) is a manager of B, or
(b) has an interest in B.

(2) A body ("B") is also a licensable body if—
(a) another body ("A") is a manager of B, or has an interest in B, and
(b) non-authorised persons are entitled to exercise, or control the exercise of, at least 10% of the voting rights in A.

(3) For the purposes of this Act, a person has an interest in a body if—
(a) the person holds shares in the body, or
(b) the person is entitled to exercise, or control the exercise of, voting rights in the body.

(4) A body may be licensable by virtue of both subsection (1) and subsection (2).

(5) For the purposes of this Act, a non-authorised person has an indirect interest in a licensable body if the body is licensable by virtue of subsection (2) and the non-authorised person is entitled to exercise, or control the exercise of, voting rights in A.

(6) In this Act "shares" means—
(a) in relation to a body with a share capital, allotted shares (within the meaning of the Companies Acts);
(b) in relation to a body with capital but no share capital, rights to share in the capital of the body;

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(c) in relation to a body without capital, interests—

(i) conferring any right to share in the profits, or liability to contribute to the losses, of the body, or

(ii) giving rise to an obligation to contribute to the debts or expenses of the body in the event of a winding up;

and references to the holding of shares, or to a shareholding, are to be construed accordingly.

Commencement Information

I23 S. 72 partly in force: s. 72 not in force at Royal Assent see s. 211; s. 72 in force for certain purposes at 31.3.2009 by S.I. 2009/503, **art. 3**

I24 S. 72 in force at 1.10.2011 in so far as not already in force by S.I. 2011/2196, **art. 2(1)(c)**

Licensing authorities

73 Licensing authorities and relevant licensing authorities

(1) In this Act "licensing authority" means—

(a) the Board, or

(b) an approved regulator which is designated as a licensing authority under Part 1 of Schedule 10 and whose licensing rules are approved for the purposes of this Act.

(2) For the purposes of this Act—

(a) the Board is a licensing authority in relation to all reserved legal activities, and

(b) an approved regulator within subsection (1)(b) is a licensing authority in relation to any reserved legal activity in relation to which the designation is made.

(3) The Board—

(a) may delegate any of its functions as a licensing authority to such persons as it considers appropriate;

(b) must take such steps as are necessary to ensure an appropriate financial and organisational separation between the activities of the Board that relate to the carrying out of its functions as a licensing authority and the other activities of the Board.

(4) In this Part "relevant licensing authority"—

(a) in relation to a licensed body, means the licensing authority by which the licensed body is authorised to carry on an activity which is a reserved legal activity;

(b) in relation to an applicant for a licence, means the licensing authority to which the application is made.

Commencement Information

I25 S. 73 partly in force; s. 73 not in force at Royal Assent see s. 211; s. 73(1) in force for certain purposes at 7.3.2008 by S.I. 2008/222, **art. 3**

I26 S. 73(1)(b) in force at 1.10.2011 in so far as not already in force by S.I. 2011/2196, **art. 2(1)(c)**

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I27 S. 73(2)(b)(4) in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(c)**

74 Designation of approved regulator as licensing authority

Part 1 of Schedule 10 makes provision for approved regulators to be designated, by order, as licensing authorities in relation to one or more reserved legal activities.

75 Automatic cancellation of designation as licensing authority

(1) This section applies where a body is designated—

(a) as an approved regulator in relation to a reserved legal activity ("the activity"), and

(b) as a licensing authority in relation to the activity.

(2) If the Lord Chancellor makes an order under section 45 cancelling the body's designation as an approved regulator in relation to the activity, the body's designation as a licensing authority in relation to the activity is also cancelled.

(3) The cancellation takes effect at the same time as cancellation of the body's designation as an approved regulator.

Commencement Information

I28 S. 75 in force at 2.8.2010 by S.I. 2010/1118, **art. 2(a)**

76 Cancellation of designation as licensing authority by order

(1) The Lord Chancellor may by order cancel an approved regulator's designation as a licensing authority—

(a) in relation to all the reserved legal activities in relation to which it is designated, or

(b) in relation to one or more, but not all, of those reserved legal activities,

with effect from a date specified in the order.

(2) But the Lord Chancellor may only make an order under subsection (1) in accordance with a recommendation made by the Board under subsection (3) or (5).

(3) The Board must recommend that an order is made cancelling an approved regulator's designation as a licensing authority in relation to one or more reserved legal activities, if—

(a) the approved regulator applies to the Board for such a recommendation to be made,

(b) the application is made in such form and manner as may be prescribed by rules made by the Board, and is accompanied by the prescribed fee, and

(c) the approved regulator publishes a notice giving details of the application in accordance with such requirements as may be specified in rules made by the Board.

(4) In this section "the prescribed fee", in relation to an application, means the fee specified in or determined in accordance with rules made by the Board, with the consent of the Lord Chancellor.

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(5) The Board may recommend that an order is made cancelling an approved regulator's designation as a licensing authority in relation to one or more reserved legal activities if it is satisfied—

(a) that an act or omission of the licensing authority (or a series of such acts or omissions) has had, or is likely to have, an adverse impact on one or more of the regulatory objectives, and

(b) that it is appropriate to cancel the approved regulator's designation in relation to the activity or activities in question in all the circumstances of the case (including in particular the impact of cancelling the designation on the other regulatory objectives).

(6) The Board may not determine that it is appropriate to cancel an approved regulator's designation as a licensing authority in relation to an activity or activities unless it is satisfied that the matter cannot be adequately addressed by the Board exercising the powers available to it under sections 31 to 43.

(7) Part 2 of Schedule 10 makes further provision about the making of recommendations under subsection (5).

(8) If the Lord Chancellor decides not to make an order in response to a recommendation made under subsection (3) or (5), the Lord Chancellor must give the Board notice of the decision and the reasons for it.

(9) The Lord Chancellor must publish a notice given under subsection (8).

Commencement Information

I29 S. 76 partly in force; s. 76 not in force at Royal Assent see s. 211; s. 76(3)(b)(c)(4)(7) in force at 1.1.2009 by S.I. 2008/3149, **art. 2(d)(i)**

I30 S. 76(1)(2)(3)(a)(5)(6)(8)(9) in force at 2.8.2010 by S.I. 2010/1118, **art. 2(a)**

77 Cancellation of designation: further provision

(1) This section applies where an approved regulator ("the former authority") has its designation as a licensing authority in relation to one or more reserved legal activities cancelled—

(a) by virtue of section 75, or

(b) by an order under section 76.

(2) The Lord Chancellor may by order make—

(a) such modifications of provisions made by or under any enactment (including this Act or any enactment passed after this Act), prerogative instrument or other instrument or document, and

(b) such transitional or consequential provision,

as the Lord Chancellor considers necessary or expedient in consequence of the cancellation.

(3) The Lord Chancellor may, by order, make transfer arrangements.

(4) "Transfer arrangements" are arrangements in accordance with which each consenting licensed body is, from the time the cancellation takes effect, treated as being authorised to carry on each protected activity by virtue of a licence issued under this Part by a

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licensing authority, in relation to the protected activity, which consents to the transfer arrangements.

(5) "Consenting licensed body" means a licensed body authorised by the former authority which consents to the transfer arrangements.

(6) The transfer arrangements—

(a) must make such provision as is necessary to ensure that, where a licensed body is treated under those arrangements as being authorised to carry on a protected activity by the new authority, that licensed body is subject to the licensing rules of the new authority;

(b) may make provision requiring amounts held by the former authority which represent amounts paid to it by way of licensing fees by the consenting licensed bodies (or a part of the amounts so held) to be paid to the new authority and treated as if they were amounts paid by those licensed bodies by way of licensing fees to the new authority.

(7) Subsection (6)(a) is subject to any transitional provision which may be made by the transfer arrangements, including provision modifying the licensing rules of the new authority as they apply to the bodies to whom the transfer arrangements apply.

(8) The Lord Chancellor may make an order under this section only if—

(a) the Board has made a recommendation in accordance with section 78, and

(b) the order is in the same form as, or in a form which is not materially different from, the draft order annexed to that recommendation.

(9) For the purposes of this section—

(a) a licensed body is "authorised by the former authority" if immediately before the time the cancellation takes effect the body is, by virtue of a licence under this Part, authorised by the former authority to carry on an activity which is a reserved legal activity to which the cancellation relates, and

(b) in relation to that body—

(i) the activity which the body is authorised to carry on as mentioned in paragraph (a) is a "protected activity", and

(ii) "the new authority" means the licensing authority by which (in accordance with transfer arrangements under subsection (4)) the body is treated as authorised to carry on a protected activity.

(10) In this section "licensing fee", in relation to a licensing authority, means a fee payable by a licensed body under the authority's licensing rules made in accordance with paragraph 21 of Schedule 11.

Commencement Information

I31 S. 77 in force at 2.8.2010 by S.I. 2010/1118, **art. 2(a)**

78 The Board's power to recommend orders made under section 77

(1) The Board may recommend to the Lord Chancellor that the Lord Chancellor make an order under section 77 in the form of a draft order prepared by the Board and annexed to the recommendation.

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(2) Before making a recommendation under this section, the Board must publish a draft of—

(a) the proposed recommendation, and

(b) the proposed draft order.

(3) The draft must be accompanied by a notice which states that representations about the proposals may be made to the Board within a specified period.

(4) Before making the recommendation, the Board must have regard to any representations duly made.

(5) If the draft order to be annexed to the recommendation differs from the draft published under subsection (2)(b) in a way which is, in the opinion of the Board, material, the Board must, before making the recommendation, publish the draft order along with a statement detailing the changes made and the reasons for those changes.

Commencement Information

I32 S. 78 in force at 2.8.2010 by S.I. 2010/1118, **art. 2(a)**

79 Cancellation of designation: powers of entry etc

(1) This section applies where an approved regulator ("the former authority") has its designation in relation to one or more reserved legal activities cancelled by by virtue of section 75 or an order under section 76.

(2) The Board may request the former authority to provide assistance to the new authority and the Board, for the purpose of continuing regulation.

(3) On an application by a person appointed by the Board to act on its behalf, a judge of the High Court, Circuit judge or justice of the peace may issue a warrant authorising that person to—

(a) enter and search the premises of the former authority, and

(b) take possession of any written or electronic records found on the premises.

(4) A person so authorised may, for the purpose of continuing regulation, take copies of written or electronic records found on a search carried out by virtue of the warrant.

(5) The judge or justice of the peace may not issue the warrant unless satisfied that its issue is necessary or desirable for the purpose of continuing regulation.

(6) The Lord Chancellor must make regulations—

(a) specifying further matters which a judge or justice of the peace must be satisfied of, or matters which a judge or justice of the peace must have regard to, before issuing a warrant, and

(b) regulating the exercise of a power conferred by a warrant issued under subsection (3) or by subsection (4) (whether by restricting the circumstances in which a power may be exercised, by specifying conditions to be complied with in the exercise of a power, or otherwise).

(7) Regulations under subsection (6)(b) must in particular make provision as to circumstances in which written or electronic records of which a person has taken

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possession by virtue of a warrant issued under subsection (3) may be copied or must be returned.

(8) But the Lord Chancellor may not make regulations under subsection (6) unless—

(a) they are made in accordance with a recommendation made by the Board, or

(b) the Lord Chancellor has consulted the Board about the making of the regulations.

(9) The Board must make rules as to the persons it may appoint for the purposes of subsection (3).

(10) For the purposes of this section—

"authorised by the former authority", "protected activity" and "new authority" have the same meaning as for the purposes of section 77;

"the purpose of continuing regulation" means the purpose of enabling bodies authorised by the former authority to continue to be authorised and regulated in relation to the protected activity.

Commencement Information

I33 S. 79 partly in force; s. 79 not in force at Royal Assent see s. 211; s. 79(6)-(10) in force at 1.1.2009 by S.I. 2008/3149, **art. 2(d)(i)**

I34 S. 79(1)-(5) in force at 2.8.2010 by S.I. 2010/1118, **art. 2(a)**

Appeals

80 Functions of appellate bodies

(1) The Lord Chancellor may by order—

(a) establish a body to hear and determine appeals from decisions, made by a person specified in the order in the person's capacity as a licensing authority, which are appealable under this Part or licensing rules made by the person;

(b) modify, or make any other provision relating to, the functions of a body within subsection (2) or any other body, for the purpose of enabling the body to hear and determine appeals from such decisions.

(2) The bodies mentioned in subsection (1)(b) are—

(a) the Solicitors Disciplinary Tribunal;

(b) the Discipline and Appeals Committee established by the Council of Licensed Conveyancers under section 25 of the Administration of Justice Act 1985 (c. 61).

(3) The Lord Chancellor may make an order under subsection (1) only if—

(a) the Board has made a recommendation in accordance with section 81,

(b) a draft order was annexed to the recommendation, and

(c) the order is in the same form as, or not materially different from, that draft order.

(4) An order under this section may—

(a) make provision as to the payment of fees, and award of costs, in relation to such appeals;

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(b) modify provisions made by or under any enactment (including this Act or any Act passed after this Act), prerogative instrument or other instrument or document.

(5) Any provision made by an order under this section may be expressed to be conditional upon the person specified in the order being designated by an order under Part 1 of Schedule 10 as a licensing authority in relation to one or more reserved legal activities.

(6) The powers to make an order conferred by this section are without prejudice to any powers (statutory or non-statutory) which a body may have apart from this section.

Commencement Information
I35 S. 80 in force at 30.11.2010 by S.I. 2010/2842, **art. 2**

81 Procedural requirements relating to recommendations under section 80

(1) A recommendation may be made under section 80 only with the consent of—
(a) the person from whose decisions the appeals are to be made, and
(b) where the recommendation is for an order under section 80(1)(b), the body to which appeals are to be made.

(2) Before making a recommendation under that section, the Board must publish a draft of—
(a) the proposed recommendation, and
(b) the proposed draft order.

(3) The draft must be accompanied by a notice which states that representations about the proposals may be made to the Board within a specified period.

(4) Before making any recommendation, the Board must have regard to any representations duly made.

(5) If the draft order to be annexed to the recommendation differs from the draft published under subsection (2)(b) in a way which is, in the opinion of the Board, material, the Board must, before making the recommendation, publish the draft order along with a statement detailing the changes made and the reasons for those changes.

Commencement Information
I36 S. 81 in force at 30.11.2010 by S.I. 2010/2842, **art. 2**

Policy statement

82 Licensing authority policy statement

(1) Each licensing authority must prepare and issue a statement of policy as to how, in exercising its functions under this Part, it will comply with the requirements of section 28 (or, in the case of the Board, section 3) (duties to promote regulatory objectives etc).

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(2) A licensing authority may issue a statement under subsection (1) only with the approval of the Board (acting otherwise than in its capacity as a licensing authority or as an approved regulator).

(3) A licensing authority may, with the approval of the Board (acting otherwise than in its capacity as a licensing authority or as an approved regulator), alter or replace a statement issued under this section.

(4) If it does so, it must issue the altered or replacement statement.

(5) In exercising its functions under this Part, a licensing authority must have regard to the statement issued by it under this section.

(6) A licensing authority must publish a statement issued by it under this section.

Commencement Information
I37 S. 82 in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(c)** (with art. 4)

Licensing rules

83 Licensing rules

(1) The Board (acting in its capacity as a licensing authority)—

(a) must make suitable licensing rules before the end of the period of 12 months beginning with the day on which a licensable body first becomes entitled to make an application to it for a licence by virtue of a decision of the Board (acting otherwise than in its capacity as a licensing authority or as an approved regulator) under Schedule 12;

(b) may make or modify its licensing rules only with the approval of the Board (acting otherwise than in its capacity as a licensing authority or as an approved regulator).

(2) In subsection (1)(a), "suitable licensing rules" means licensing rules which constitute suitable regulatory arrangements (within the meaning of Schedule 12) in respect of licensable bodies entitled by virtue of a decision under that Schedule to make an application to the Board for a licence.

(3) Licensing rules made by an approved regulator have effect only at a time when the approved regulator is a licensing authority (subject to any provision made by an order under section 25).

(4) Licensing rules of a licensing authority are rules as to—

(a) the licensing by the authority of licensable bodies, and

(b) the regulation by the licensing authority of licensable bodies licensed by it, and their managers and employees.

(5) Licensing rules of a licensing authority must contain—

(a) appropriate qualification regulations in respect of licensable bodies to which the licensing authority proposes to issue licences under this Part,

(b) provision as to how the licensing authority, when considering the regulatory objectives (in compliance with its duties under section 3(2) or 28(2)) in

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connection with an application for a licence, should take account of the objective of improving access to justice,

(c) appropriate arrangements (including conduct rules, discipline rules and practice rules) under which the licensing authority will be able to regulate the conduct of bodies licensed by it, and their managers and employees,

(d) appropriate indemnification arrangements,

(e) appropriate compensation arrangements,

(f) the provision required by sections 52 and 54 (resolution of regulatory conflict) (including those provisions as applied by section 103),

(g) the provision required by sections 112 and 145 (requirements imposed in relation to the handling of complaints), and

(h) any other provision required to be contained in licensing rules by this Act.

(6) Without prejudice to the generality of subsection (4), licensing rules of a licensing authority may contain any provision authorised by this Act.

(7) Schedule 11 makes further provision as to the contents of licensing rules.

(8) Subsections (5) to (7) are subject to—

(a) section 105 (which exempts trade unions from certain provisions), and

(b) section 106 (which provides for the modification of licensing rules in their application to bodies to which that section applies).

(9) Licensing rules may not apply to bodies to which section 106 applies in a way which is different from the way they apply to other bodies, except by virtue of an order under that section.

Commencement Information

I38 S. 83(3)-(7) in force at 2.8.2010 by S.I. 2010/1118, **art. 2(a)**

Licensing

84 Application for licence

(1) A licensing authority other than the Board must determine any application for a licence which is made to it.

(2) The Board (acting in its capacity as a licensing authority) may determine an application for a licence which is made to it only if the applicant is entitled to make the application by virtue of a decision of the Board (acting otherwise than in its capacity as a licensing authority) under Schedule 12.

(3) A licensing authority may not grant an application for a licence unless it is satisfied that if the licence is granted the applicant will comply with its licensing rules.

(4) If the licensing authority grants an application for a licence, it must issue the licence as soon as reasonably practicable.

(5) The licence has effect from the date on which it is issued.

(6) References in this section to an application for a licence are to an application for a licence which is—

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(a) made to a licensing authority by a licensable body, in accordance with the authority's licensing rules, and

(b) accompanied by the required application fee (if any).

Commencement Information

I39 S. 84 partly in force; s. 84 not in force at Royal Assent see s. 211; s. 84(2) in force at 1.1.2009 by S.I. 2008/3149, **art. 2(d)(i)**

I40 S. 84(1)(3)-(6) in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(c)** (with arts. 3, 4)

85 Terms of licence

(1) A licence issued under section 84 must specify—

(a) the activities which are reserved legal activities and which the licensed body is authorised to carry on by virtue of the licence, and

(b) any conditions subject to which the licence is granted.

(2) If an order under section 106 has been made in relation to the licensed body, the licence must also specify the terms of the order.

(3) In the case of a licensing authority other than the Board, the licence may authorise the licensed body to carry on activities which are reserved legal activities only if the licensing authority is designated in relation to the reserved legal activities in question.

(4) A licence must be granted subject to the condition that—

(a) any obligation which may from time to time be imposed on the licensed body or a person within subsection (5) by or under the licensing authority's licensing rules is complied with, and

(b) any other obligations imposed on the licensed body or a person within that subsection by or under this or any other enactment (whether passed before or after this Act) are complied with.

(5) The persons mentioned in subsection (4) are the managers and employees of a licensed body, and non-authorised persons having an interest or an indirect interest, or holding a material interest, in the licensed body (in their capacity as such).

(6) A licence may be granted subject to such other conditions as the licensing authority considers appropriate.

(7) Those conditions may include conditions as to the non-reserved activities which the licensed body may or may not carry on.

(8) In this Part references to the terms of the licence are to the matters listed in subsections (1) and (2).

Commencement Information

I41 S. 85 in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(c)** (with art. 4)

86 Modification of licence

(1) A licensing authority may modify the terms of a licence granted by it—

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(a) if the licensed body applies to the licensing authority, in accordance with its licensing rules, for it to do so;

(b) in such other circumstances as may be specified in its licensing rules.

(2) If a licensed body is a body to which section 106 applies, the licensing authority may modify the terms of its licence in accordance with sections 106 and 107.

(3) A licensing authority modifies the terms of a licensed body's licence by giving the licensed body notice in writing of the modifications; and the modifications have effect from the time the licensing authority gives the licensed body the notice or such later time as may be specified in the notice.

(4) The licensing authority's power under this section is subject to—

(a) section 85(3) and (4), and

(b) licensing rules made under paragraph 6 of Schedule 11.

Commencement Information

I42 S. 86(1)(3)(4) in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(c)**

87 Registers of licensed bodies

(1) Each licensing authority must keep a register containing the names and places of business of all bodies which hold or have held licences granted by the licensing authority.

(2) Where any licence held by a body is for the time being suspended, the licensing authority shall cause that fact to be noted in the register in the entry for that body.

(3) A licensing authority must provide facilities for making the information contained in the entries in its register available for inspection by any person during office hours and without payment.

(4) The Board may make rules about—

(a) the register to be kept by the Board under this section, and

(b) the register to be kept under this section by each licensing authority designated under Part 1 of Schedule 10.

(5) Rules under subsection (4) may in particular prescribe any further information which must be contained in an entry in the register in relation to a licensed body or former licensed body.

Commencement Information

I43 S. 87 in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(c)**

88 Evidence of status

(1) A certificate signed by an officer of a licensing authority appointed for the purpose and stating one of the matters within subsection (2) is, unless the contrary is proved, evidence of the facts stated in the certificate.

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(2) The matters are that any person does or does not, or did or did not at any time, hold a licence granted by the licensing authority under this Part.

(3) A certificate purporting to be so signed is to be taken to have been so signed unless the contrary is proved.

Commencement Information
I44 S. 88 in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(c)**

Ownership of licensed bodies

89 Ownership of licensed bodies

Schedule 13 makes provision about the holding of certain interests in licensed bodies by non-authorised persons.

Regulation of licensed bodies

90 Duties of non-authorised persons

A non-authorised person who is an employee or manager of a licensed body, or has an interest or an indirect interest, or holds a material interest, in a licensed body, must not do anything which causes or substantially contributes to a breach by—

(a) the licensed body, or

(b) an employee or manager of the licensed body who is an authorised person in relation to an activity which is a reserved legal activity,

of the duties imposed on them by section 176.

Commencement Information
I45 S. 90 in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(c)**

91 Duties of Head of Legal Practice

(1) The Head of Legal Practice of a licensed body must—

(a) take all reasonable steps to ensure compliance with the terms of the licensed body's licence, and

(b) as soon as reasonably practicable, report to the licensing authority any failure to comply with the terms of the licence.

(2) Subsection (1) does not apply to the terms of the licence so far as they require compliance with licensing rules made under paragraph 20 of Schedule 11 (accounts) (as to which see section 92).

(3) The Head of Legal Practice of a licensed body must—

(a) take all reasonable steps to ensure that the licensed body, and any of its employees or managers who are authorised persons in relation to an activity

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which is a reserved legal activity, comply with the duties imposed by section 176, and

(b) as soon as reasonably practicable, report to the licensing authority such failures by those persons to comply with those duties as may be specified in licensing rules.

(4) The Head of Legal Practice of a licensed body must—

(a) take all reasonable steps to ensure that non-authorised persons subject to the duty imposed by section 90 in relation to the licensed body comply with that duty, and

(b) as soon as reasonably practicable, report to the licensing authority any failure by a non-authorised person to comply with that duty.

Commencement Information
I46 S. 91 in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(c)**

92 Duties of Head of Finance and Administration

(1) The Head of Finance and Administration of a licensed body must take all reasonable steps to ensure compliance with licensing rules made under paragraph 20 of Schedule 11 (accounts).

(2) The Head of Finance and Administration must report any breach of those rules to the licensing authority as soon as reasonably practicable.

Commencement Information
I47 S. 92 in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(c)**

93 Information

(1) The relevant licensing authority in relation to a licensed body may by notice require a person within subsection (2)—

(a) to provide information, or information of a description, specified in the notice, or

(b) produce documents, or documents of a description, specified in the notice,

for the purpose of enabling the licensing authority to ascertain whether the terms of the licensed body's licence are being, or have been, complied with.

(2) The persons are—

(a) the licensed body;

(b) any manager or employee (or former manager or employee) of the licensed body;

(c) any non-authorised person who has an interest or an indirect interest, or holds a material interest, in the licensed body.

(3) A notice under subsection (1)—

(a) may specify the manner and form in which any information is to be provided;

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(b) must specify the period within which the information is to be provided or the document produced;

(c) may require the information to be provided, or the document to be produced, to the licensing authority or to a person specified in the notice.

(4) The licensing authority may, by notice, require a person within subsection (2) (or a representative of such a person) to attend at a time and place specified in the notice to provide an explanation of any information provided or document produced under this section.

(5) The licensing authority may pay to any person such reasonable costs as may be incurred by that person in connection with—

(a) the provision of any information, or production of any document, by that person pursuant to a notice under subsection (1), or

(b) that person's compliance with a requirement imposed under subsection (4).

(6) The licensing authority, or a person specified under subsection (3)(c) in a notice, may take copies of or extracts from a document produced pursuant to a notice under subsection (1).

(7) For the purposes of this section and section 94, references to a licensed body include a body which was, but is no longer, a licensed body.

Commencement Information

I48 S. 93 in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(c)**

94 Enforcement of notices under section 93

(1) Where a person is unable to comply with a notice given to the person under section 93, the person must give the licensing authority a notice to that effect stating the reasons why the person cannot comply.

(2) If a person refuses or otherwise fails to comply with a notice under section 93, the licensing authority may apply to the High Court for an order requiring the person to comply with the notice or with such directions for the like purpose as may be contained in the order.

Commencement Information

I49 S. 94 in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(c)**

95 Financial penalties

(1) A licensing authority may, in accordance with its licensing rules, impose on a licensed body, or a manager or employee of a licensed body, a penalty of such amount as it considers appropriate.

(2) The amount must not exceed the maximum amount prescribed under subsection (3).

(3) The Board must make rules prescribing the maximum amount of a penalty which may be imposed under this section.

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(4) Rules may be made under subsection (3) only with the consent of the Lord Chancellor.

(5) A penalty under this section is payable to the licensing authority.

(6) For the purposes of this section—

(a) references to a licensed body are to a body which was a licensed body at the time the act or omission in respect of which the penalty is imposed occurred, and

(b) references to a manager or employee of a licensed body are to a person who was a manager or employee of a licensed body at that time,

(whether or not the body subsequently ceased to be a licensed body or the person subsequently ceased to be a manager or employee).

(7) In sections 96 and 97 references to a "penalty" are to a penalty under this section.

Commencement Information

I50 S. 95 partly in force; s. 95 not in force at Royal Assent see s. 211; s. 95(3)(4) in force at 1.1.2009 by S.I. 2008/3149, **art. 2(d)(i)**

I51 S. 95(1)(2)(5)-(7) in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(c)**

96 Appeals against financial penalties

(1) A person on whom a penalty is imposed under section 95 may, before the end of such period as may be prescribed by rules made by the Board, appeal to the relevant appellate body on one or more of the appeal grounds.

(2) The appeal grounds are—

(a) that the imposition of the penalty is unreasonable in all the circumstances of the case;

(b) that the amount of the penalty is unreasonable;

(c) that it is unreasonable of the licensing authority to require the penalty imposed or any portion of it to be paid by the time or times by which it was required to be paid.

(3) On any such appeal, where the relevant appellate body considers it appropriate to do so in all the circumstances of the case and is satisfied of one or more of the appeal grounds, that body may—

(a) quash the penalty,

(b) substitute a penalty of such lesser amount as it considers appropriate, or

(c) in the case of the appeal ground in subsection (2)(c), substitute for any time imposed by the licensing authority a different time or times.

(4) Where the relevant appellate body substitutes a penalty of a lesser amount it may require the payment of interest on the substituted penalty at such rate, and from such time, as it considers just and equitable.

(5) Where the relevant appellate body specifies as a time by which the penalty, or a portion of the penalty, is to be paid a time before the determination of the appeal under this section it may require the payment of interest on the penalty, or portion, from that time at such rate as it considers just and equitable.

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(6) A party to the appeal may appeal to the High Court on a point of law arising from the decision of the relevant appellate body, but only with the permission of the High Court.

(7) The High Court may make such order as it thinks fit.

(8) Except as provided by this section, the validity of a penalty is not to be questioned by any legal proceedings whatever.

Modifications etc. (not altering text)

C7 S. 96 modified (with effect in accordance with art. 2 of the amending S.I.) by Legal Services Act 2007 (Appeals from Licensing Authority Decisions) Order 2011 (S.I. 2011/1712), arts. 2(1), 5, **Sch. para. 1**

C8 S. 96 modified (18.7.2014) by The Legal Services Act 2007 (Appeals from Licensing Authority Decisions) (Chartered Institute of Patent Attorneys and Institute of Trade Mark Attorneys) Order 2014 (S.I. 2014/1897), art. 2(1), **Sch. para. 1** (with art. 2(2))

C9 S. 96 modified (18.7.2014) by The Legal Services Act 2007 (Appeals from Licensing Authority Decisions) (Institute of Chartered Accountants in England and Wales) Order 2014 (S.I. 2014/1898), art. 2, **Sch. para. 1**

C10 S. 96 modified (1.10.2018) by The Legal Services Act 2007 (Appeals from Licensing Authority Decisions) (General Council of the Bar) Order 2018 (S.I. 2018/457), art. 1, **Sch. para. 1**

C11 S. 96 modified (6.4.2020) by The Legal Services Act 2007 (Chartered Institute of Legal Executives) (Appeals from Licensing Authority Decisions) Order 2020 (S.I. 2020/301), art. 1, **Sch. para. 1**

Commencement Information

I52 S. 96 partly in force; s. 96 not in force at Royal Assent see s. 211; s. 96(1) in force at 1.1.2009 by S.I. 2008/3149, **art. 2(d)(i)**

I53 S. 96(2)-(8) in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(c)**

97 Recovery of financial penalties

(1) If the whole or any part of a penalty is not paid by the time by which, in accordance with licensing rules, it is required to be paid, the unpaid balance from time to time carries interest at the rate for the time being specified in section 17 of the Judgments Act 1838 (c. 110).

(2) Where a penalty, or any portion of it, has not been paid by the time by which, in accordance with licensing rules, it is required to be paid and—

(a) no appeal relating to the penalty has been made under section 96 during the period within which such an appeal can be made, or

(b) an appeal has been made under that section and determined or withdrawn,

the licensing authority may recover from the person on whom the penalty was imposed, as a debt due to the licensing authority, any of the penalty and any interest which has not been paid.

(3) A licensing authority must pay into the Consolidated Fund any sum received by it as a penalty (or as interest on a penalty).

Commencement Information

I54 S. 97 in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(c)**

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98 Referral of employees etc to appropriate regulator

(1) The relevant licensing authority may refer to an appropriate regulator any matter relating to the conduct of—

(a) an employee or manager of a licensed body;

(b) a person designated as a licensed body's Head of Legal Practice or Head of Finance and Administration.

(2) The licensing authority may also refer any matter relating to the conduct of such a person to the Board.

(3) Appropriate regulators are—

(a) if the person is an authorised person in relation to a reserved legal activity, any relevant approved regulator in relation to that person, and

(b) if the person carries on non-reserved activities, any person who exercises regulatory functions in relation to the carrying on of such activities by the person.

Commencement Information

I55 S. 98 in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(c)**

99 Disqualification

(1) A licensing authority may in accordance with its licensing rules disqualify a person from one or more of the activities mentioned in subsection (2) if—

(a) the disqualification condition is satisfied in relation to the person, and

(b) the licensing authority is satisfied that it is undesirable for the person to engage in that activity or those activities.

(2) The activities are—

(a) acting as Head of Legal Practice of any licensed body,

(b) acting as Head of Finance and Administration of any licensed body,

(c) being a manager of any licensed body, or

(d) being employed by any licensed body.

(3) The disqualification condition is satisfied in relation to a person if, in relation to a licensed body licensed by the licensing authority, the person (intentionally or through neglect)—

(a) breaches a relevant duty to which the person is subject, or

(b) causes, or substantially contributes to, a significant breach of the terms of the licensed body's licence.

(4) The relevant duties are—

(a) the duties imposed on a Head of Legal Practice by section 91,

(b) the duties imposed on a Head of Finance and Administration by section 92,

(c) the duties imposed by section 176 on regulated persons (within the meaning of that section), and

(d) the duty imposed on non-authorised persons by section 90.

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Commencement Information
I56 S. 99 in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(c)**

100 Lists of disqualified persons

(1) The Board must keep lists of persons who are disqualified from—

(a) acting as Head of Legal Practice of any licensed body,

(b) acting as Head of Finance and Administration of any licensed body,

(c) being a manager of any licensed body, or

(d) being employed by any licensed body.

(2) A person is disqualified from acting in a way mentioned in subsection (1) if—

(a) the person has been disqualified from so acting by a licensing authority under section 99, and

(b) the disqualification continues in force.

(3) The disqualification ceases to be in force if the appropriate licensing authority so determines, on a review or otherwise, in accordance with licensing rules made under paragraph 23 of Schedule 11.

(4) The appropriate licensing authority is—

(a) the licensing authority which disqualified the person, or

(b) if the person was disqualified by an approved regulator which is no longer designated as a licensing authority, the successor licensing authority.

(5) The successor licensing authority is—

(a) the licensing authority which licenses the body in relation to which the disqualification condition (within the meaning of section 99) was satisfied in respect of the person, or

(b) if there is no such licensing authority, the licensing authority designated by the Board on an application by the disqualified person.

(6) The Board must publish the lists kept by it under subsection (1).

Commencement Information
I57 S. 100 in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(c)**

101 Suspension and revocation of licence

(1) A licensing authority may, in accordance with its licensing rules, suspend or revoke any licence granted by it under this Part.

(2) A licence is to be treated as not being in force at any time while it is suspended under this section.

Commencement Information
I58 S. 101 in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(c)**

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102 Intervention

Schedule 14 confers powers of intervention on licensing authorities.

Commencement Information
I59 S. 102 in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(c)**

PROSPECTIVE

103 Regulatory conflict and the Board as licensing authority

(1) Sections 52 and 54 (regulatory conflict between approved regulators and between approved regulators and other regulators) apply in relation to the Board in its capacity as a licensing authority and its licensing rules as they apply in relation to an approved regulator (including the Board in its capacity as approved regulator) and its regulatory arrangements.

(2) Section 68 (regulatory conflict and the Board as approved regulator) applies in relation to the Board in its capacity as a licensing authority and its licensing rules as it applies in relation to the Board in its capacity as an approved regulator and its regulatory arrangements.

104 Prevention of regulatory conflict: accounts rules

(1) Where a licensed body carries on an activity through a solicitor, the rules made under paragraph 20 of Schedule 11 apply instead of those made under sections 32 to 34 of the Solicitors Act 1974 (c. 47).

(2) Where a licensed body carries on an activity through a licensed conveyancer **[**[F51]or licensed CLC practitioner**]**, the rules made under paragraph 20 of Schedule 11 apply instead of those made under sections 22 and 23 of the Administration of Justice Act 1985 (c. 61).

[[F52](3) In this section " licensed CLC practitioner " means a person, other than a licensed conveyancer, who holds a licence under section 53 of the Courts and Legal Services Act 1990. **]**

Textual Amendments
F51 Words in s. 104(2) inserted (29.6.2015) by Deregulation Act 2015 (c. 20), s. 115(6)(b), **Sch. 19 para. 15(2)**; S.I. 2015/1402, art. 2(b)
F52 S. 104(3) inserted (29.6.2015) by Deregulation Act 2015 (c. 20), s. 115(6)(b), **Sch. 19 para. 15(3)**; S.I. 2015/1402, art. 2(b)

Commencement Information
I60 S. 104 in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(c)**

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Special kinds of body

PROSPECTIVE

105 Trade union exemptions

(1) Paragraphs 11 to 14 of Schedule 11 (Head of Legal Practice and Head of Finance and Administration) do not apply in relation to a licensed body which is an independent trade union.

(2) Schedule 13 (ownership) does not apply in relation to an applicant for a licence, or a licensed body, which is an independent trade union.

PROSPECTIVE

106 Power to modify application of licensing rules etc to special bodies

(1) This section applies to a licensed body (or an applicant for a licence) which is—

(a) an independent trade union,

(b) a not for profit body,

(c) a community interest company,

(d) a low-risk body (see section 108), or

(e) a body of such other description as may be prescribed by order made by the Lord Chancellor on the recommendation of the Board.

(2) A body to which this section applies may apply to the relevant licensing authority, in accordance with its licensing rules, for the authority to make an order under this section.

(3) The licensing authority may make one or both of the following orders—

(a) that the authority's licensing rules apply in relation to the body with such modifications as may be specified in the order;

(b) that Schedule 13 does not apply in relation to the body, or applies in relation to the body with such modifications as may be specified in the order.

(4) On an application under subsection (2), the licensing authority may make any order which the authority—

(a) has power to make under subsection (3), and

(b) considers appropriate in all the circumstances of the case,

whether or not it is the order for which the applicant applied.

(5) In deciding what order (if any) is appropriate in all the circumstances of the case, the licensing authority must in particular have regard to—

(a) the reserved legal activities and non-reserved activities which the body carries on (or proposes to carry on),

(b) the nature of the persons to whom the body provides (or proposes to provide) services,

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(c) any non-authorised persons who have an interest or an indirect interest in the licensed body or hold a material interest in the licensed body, or are managers of the body, and

(d) any other matter specified in the authority's licensing rules.

(6) If the licensing authority makes an order under subsection (3), the authority's licensing rules or Schedule 13 or both (as the case may be) have effect in relation to that body in accordance with that order.

(7) The licensing authority may not make an order under subsection (3)(a) in relation to provisions of its licensing rules made in accordance with the following paragraphs of Schedule 11—

(a) paragraphs 2 and 3 (determination and review of applications for a licence);

(b) paragraphs 7 and 8 (applications under this section);

(c) paragraphs 9(3), 18 and 23 (disqualifications);

(d) paragraph 10(2) (management);

(e) paragraph 16 (carrying on of licensed activities);

(f) paragraph 24(1), (2), (3) and (8) (grounds for suspending and revoking licences);

(g) paragraph 24(10) and (11) (procedure for suspending or revoking licence);

(h) paragraph 26(2) (review of decision to suspend or revoke licence).

(8) The licensing authority may not make an order under subsection (3)(a) which results in its licensing rules, as they apply in relation to the body to which the order relates, not making the provision required by—

(a) section 83(5)(a) to (g);

(b) paragraph 1 of Schedule 11 (applications for licences);

(c) paragraph 4(3) of that Schedule (renewal of licences);

(d) paragraph 6 of that Schedule (modification of licence);

(e) paragraph 20 of that Schedule (accounts).

(9) If the licensing authority's licensing rules, as they apply in relation to a body to which an order under subsection (3)(a) relates, make provision requiring the body to have—

(a) a Head of Legal Practice approved by the licensing authority, or

(b) a Head of Finance and Administration approved by the licensing authority,

they must also provide for a review by the licensing authority of any decision by it to refuse or withdraw that approval.

PROSPECTIVE

107 Modifications under section 106: supplementary

(1) This section applies where a licensing authority has made an order under section 106 in relation to a body to which that section applies.

(2) The licensing authority must revoke the order under section 106 if it becomes aware that the body in respect of which the order was made is no longer a body to which that section applies.

(3) The licensing authority may revoke or otherwise modify an order under section 106—

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(a) on the application of the body in relation to which the order was made, or

(b) of its own motion.

(4) It may do so only if it considers it appropriate to do so in all the circumstances of the case, having regard to the matters mentioned in section 106(5).

PROSPECTIVE

108 "Low risk body"

(1) A body ("B") is a low risk body if the management condition and the ownership condition are satisfied in relation to it.

(2) The management condition is that the number of managers of the body who are within subsection (4) is less than 10% of the total number of managers.

(3) The ownership condition is that—

(a) the proportion of shares in B held by persons within subsection (4) is less than 10%, and

(b) the proportion of the voting rights in B which such persons are entitled to exercise, or control the exercise of, is less than 10%, and

(c) if B has a parent undertaking ("P")—

(i) the proportion of shares in P held by such persons is less than 10%, and

(ii) the proportion of the voting rights in P which such persons are entitled to exercise, or control the exercise of, is less than 10%.

(4) The persons within this subsection are—

(a) non-authorised persons;

(b) licensed bodies.

(5) For the purposes of this section "parent undertaking" has the same meaning as in the Financial Services and Markets Act 2000 (c. 8) (see section 420 of that Act).

109 Foreign bodies

The Lord Chancellor may by order make provision for the modification of any provision of this Part in its application to a body of persons formed under, or in so far as the body is recognised by, law having effect outside England and Wales.

Commencement Information

I61 S. 109 partly in force: s. 109 not in force at Royal Assent see s. 211; s. 109 in force for certain purposes at 31.3.2009 by S.I. 2009/503, **art. 3**

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Supplementary provision

110 Reporting requirements relating to Part 5

(1) The Board's annual report must deal with how, in the Board's opinion, the activities of licensing authorities and licensed bodies have affected the regulatory objectives.

(2) This section does not apply to an annual report for a financial year before the first financial year in which a licence is issued under this Part.

(3) In this section "annual report" and "financial year" have the same meaning as in section 6.

Commencement Information

I62 S. 110 in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(c)**

111 Interpretation of Part 5

(1) In this Part—

"licensed activity", in relation to a licensed body, means an activity—

(a) which is a reserved legal activity, and

(b) which the licensed body is authorised to carry on by virtue of its licence;

"non-authorised person" means a person who is not within subsection (2);

"non-reserved activity" means an activity which is not a reserved legal activity;

"relevant appellate body", in relation to decisions made by a licensing authority under this Part, means the body having power to hear appeals from those decisions (whether by virtue of an order under section 80 or otherwise).

(2) The following persons are within this subsection—

(a) an authorised person in relation to an activity which constitutes a reserved legal activity,

(b) a registered foreign lawyer (within the meaning of section 89 of the Courts and Legal Services Act 1990 (c. 41)),

[F53(c) an advocate or solicitor in Scotland,

(ca) a member of the Bar of Northern Ireland or a solicitor of the Court of Judicature of Northern Ireland,**]**

(d) a body which provides professional services such as are provided by persons within paragraph (a) or lawyers of other jurisdictions, and all the managers of which and all the persons with an interest in which—

(i) are within **[**F54paragraphs (a) to (ca)**]**, or

(ii) are bodies in which persons within **[**F54paragraphs (a) to (ca)**]** are entitled to exercise, or control the exercise of, more than 90% of the voting rights.

F55(3) . . . . . .

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Textual Amendments

F53 S. 111(2)(c)(ca) substituted for s. 111(2)(c) (31.12.2020) by The Services of Lawyers and Lawyer's Practice (Revocation etc.) (EU Exit) Regulations 2020 (S.I. 2020/1342), reg. 1(1), **Sch. para. 12(2)(a)** (with Sch. para. 13)

F54 Words in s. 111(2)(d) substituted (31.12.2020) by The Services of Lawyers and Lawyer's Practice (Revocation etc.) (EU Exit) Regulations 2020 (S.I. 2020/1342), reg. 1(1), **Sch. para. 12(2)(b)** (with Sch. para. 13)

F55 S. 111(3) omitted (31.12.2020) by virtue of The Services of Lawyers and Lawyer's Practice (Revocation etc.) (EU Exit) Regulations 2020 (S.I. 2020/1342), reg. 1(1), **Sch. para. 12(2)(c)** (with Sch. para. 13)

Commencement Information

I63 S. 111 in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(c)**

[F56PART 5A

APPROVED REGULATORS: INFORMATION POWERS

Textual Amendments

F56 Pt. 5A inserted (26.10.2023 for specified purposes, 4.3.2024 in so far as not already in force) by Economic Crime and Corporate Transparency Act 2023 (c. 56), **ss. 210(2)**, 219(1)(2)(b); S.I. 2024/269, reg. 2(z64)

The Law Society's information powers relating to economic crime

111A The Law Society's information powers relating to economic crime

(1) The Law Society may, by notice, require a person falling within subsection (3) to—

(a) provide information, or information of a description, specified in the notice;

(b) produce documents, or documents of a description, specified in the notice.

(2) The Law Society may only exercise the power in subsection (1) in relation to information or documents which the Law Society considers it necessary or expedient to have for the purposes of, or in connection with, the performance of its regulatory functions for purposes relating to the prevention or detection of economic crime.

(3) The persons are—

(a) a solicitor;

(b) an employee of a solicitor;

(c) a body recognised under section 9 of the Administration of Justice Act 1985;

(d) an employee or manager of, or person with an interest in, such a body;

(e) a licensed body;

(f) a manager or employee of a licensed body;

(g) a non-authorised person who has an interest or an indirect interest, or holds a material interest (within the meaning of Part 5 of this Act), in a licensed body;

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(h) a person who was, but is no longer, of a description mentioned within any of paragraphs (a) to (g).

(4) A notice under subsection (1)—

(a) may specify the manner and form in which the information is to be provided or document produced;

(b) must specify the period within which the information is to be provided or document produced;

(c) may require the information to be provided, or document to be produced, to the Law Society or to a person specified in the notice.

(5) The Law Society may pay to any person such reasonable costs as may be incurred by that person in connection with the provision of any information, or production of any document, by that person pursuant to a notice under subsection (1).

(6) The Law Society, or a person specified under subsection (4)(c) in a notice, may take copies of or extracts from a document produced pursuant to a notice under subsection (1).

(7) In this section "economic crime" has the meaning given by section 193(1) of the Economic Crime and Corporate Transparency Act 2023.

111B Enforcement of information powers relating to economic crime

(1) If a person refuses or otherwise fails to comply with a notice under section 111A(1), the Law Society may apply to the High Court for an order requiring the person to comply with the notice or with such directions for the like purpose as may be contained in the order.

(2) On an application under subsection (1), the High Court may order a person other than the person to whom the notice was given to provide information or produce documents specified in the notice, if the High Court is satisfied that there is reason to suspect that the information or documents have come into the possession or custody or under the control of that other person.

(3) Section 111A(4) applies in relation to an order under subsection (2) as it applies in relation to a notice under section 111A(1).

(4) An order under this section may direct the Law Society to pay such reasonable costs as may be incurred by a person in connection with the provision of any information, or production of any document, by that person pursuant to the order.

(5) A person may take copies of or extracts from a document produced to them pursuant to an order under this section.

111C Provision of information relating to economic crime by other persons

(1) The Law Society may apply to the High Court for an order requiring a person who does not fall within section 111A(3) to—

(a) provide information, or information of a description, specified in the order, or

(b) produce documents, or documents of a description, specified in the order.

(2) The High Court may make an order under this section only if it is satisfied—

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(a) that it is likely that the information or document is in the possession or custody of, or under the control of, the person, and

(b) that it is necessary or expedient for the Law Society to have the information or document for the purposes of, or in connection with, the performance of its regulatory functions for purposes relating to the prevention or detection of economic crime.

(3) Section 111A(4) applies in relation to an order under this section as it applies in relation to a notice under section 111A(1).

(4) An order under this section may direct the Law Society to pay such reasonable costs as may be incurred by a person in connection with the provision of any information, or production of any document, by that person pursuant to the order.

(5) A person may take copies of or extracts from a document produced to them pursuant to an order under this section.

(6) In this section "economic crime" has the meaning given by section 193(1) of the Economic Crime and Corporate Transparency Act 2023.

Other approved regulators: information powers relating to economic crime

111D Order to confer information powers on other approved regulators

(1) The Lord Chancellor may by order amend this Part so as to—

(a) provide for sections 111A to 111C to apply in relation to an approved regulator other than the Law Society as they apply in relation to the Law Society, and

(b) specify the persons to whom notices under section 111A(1) may be given by that approved regulator.

(2) The Lord Chancellor may make an order under this section in relation to an approved regulator only if—

(a) the Board has made a recommendation in accordance with section 111E in relation to that approved regulator, and

(b) the persons specified in the order to whom notices under section 111A(1) may be given by that approved regulator are the same as those persons specified in the recommendation.

111E The Board's power to recommend orders under section 111D

(1) The Board may recommend to the Lord Chancellor that the Lord Chancellor make an order under section 111D in relation to an approved regulator.

(2) A recommendation must specify the persons to whom the approved regulator should be able to give notices under section 111A(1).

(3) A recommendation may only be made with the consent of the approved regulator.

(4) Before making a recommendation under this section, the Board must publish a draft of the proposed recommendation.

(5) The draft must be accompanied by a notice which states that representations about the proposed recommendation may be made to the Board within a specified period.

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(6) Before making the recommendation, the Board must have regard to any representations duly made.**]**

PART 6

LEGAL COMPLAINTS

Complaints procedures of authorised persons

112 Complaints procedures of authorised persons

(1) The regulatory arrangements of an approved regulator must make provision requiring each relevant authorised person—

(a) to establish and maintain procedures for the resolution of relevant complaints, or

(b) to participate in, or make arrangements to be subject to, such procedures established and maintained by another person,

and provision for the enforcement of that requirement.

(2) The provision made for the purposes of subsection (1) must satisfy such requirements as the Board may, from time to time, specify for the purposes of that subsection.

(3) In this section—

"relevant authorised person", in relation to an approved regulator, means a person in relation to whom the approved regulator is a relevant approved regulator;

"relevant complaint", in relation to a relevant authorised person, means a complaint which—

(a) relates to an act or omission of that person, and

(b) may be made under the scheme provided for by this Part.

(4) The Board must publish any requirements specified by it for the purposes of subsection (2).

(5) This section applies in relation to the licensing rules of the Board as it applies in relation to the regulatory arrangements of an approved regulator except that subsection (3) has effect as if for the definition of "relevant authorised person" there were substituted—

""relevant authorised person", in relation to the Board, means a person licensed by the Board under Part 5;".

Commencement Information

I64 S. 112 partly in force; s. 112 not in force at Royal Assent see s. 211; s. 112(2)(4) in force at 1.1.2009 by S.I. 2008/3149, **art. 2(e)(i)**

I65 S. 112(1)(3) in force at 6.10.2010 by S.I. 2010/2089, **art. 2(a)**

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Overview of the scheme

113 Overview of the scheme

(1) This Part provides for a scheme under which complaints which—

(a) relate to an act or omission of a person ("the respondent") in carrying on an activity, and

(b) are within the jurisdiction of the scheme (see section 125),

may be resolved quickly and with minimum formality by an independent person.

(2) Under the scheme—

(a) redress may be provided to the complainant, but

(b) no disciplinary action may be taken against the respondent.

(3) Section 157 prevents provision relating to redress being included in the regulatory arrangements of an approved regulator, or licensing rules made by the Board in its capacity as a licensing authority.

(4) But neither the scheme nor any provision made by this Part affects any power of an approved regulator, or the Board in its capacity as a licensing authority, to take disciplinary action.

(5) "Disciplinary action" means the imposition of sanctions, in respect of a breach of conduct rules or discipline rules, on a person who is an authorised person in relation to an activity which is a reserved legal activity.

Commencement Information

I66 S. 113 in force at 6.10.2010 by S.I. 2010/2089, **art. 2(a)** (with art. 5) (as amended (30.9.2011) by S.I. 2011/2196, art. 6)

The Office for Legal Complaints

114 The Office for Legal Complaints

(1) There is to be a body corporate called the Office for Legal Complaints (in this Act referred to as "the OLC").

(2) Schedule 15 is about the OLC.

115 The ombudsman scheme

(1) The scheme provided for by this Part is to be administered by the OLC in accordance with this Part and with scheme rules made under this Part.

(2) In this Part "scheme rules" means rules made by the OLC.

(3) The scheme is to be operated under a name (which must include the word "ombudsman") chosen by the OLC, and is referred to in this Act as "the ombudsman scheme".

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116 General obligations

(1) In discharging its functions the OLC must comply with the requirements of this section.

(2) The OLC must, so far as is reasonably practicable, act in a way—

(a) which is compatible with the regulatory objectives, and

(b) which it considers most appropriate for the purpose of meeting those objectives.

(3) The OLC must have regard to any principles appearing to it to represent the best practice of those who administer ombudsman schemes.

117 Corporate governance

In managing its affairs, the OLC must have regard to such generally accepted principles of good corporate governance as it is reasonable to regard as applicable to it.

118 Annual report

(1) The OLC must prepare a report ("the annual report") for each financial year.

(2) The annual report must deal with—

(a) the discharge of the functions of the OLC,

(b) the extent to which, in the OLC's opinion, the OLC has met the regulatory objectives, and

(c) such other matters as the Board may from time to time direct.

(3) The OLC must include in the annual report a copy of the report prepared by the Chief Ombudsman under section 123 for the financial year in question.

(4) As soon as reasonably practicable after the end of each financial year, the OLC must give the Board a copy of the annual report prepared for that year.

(5) The Board must give a copy of the annual report to the Lord Chancellor.

(6) The Lord Chancellor must lay a copy of the annual report before Parliament.

(7) In this section "financial year" means—

(a) the period beginning with the day on which the OLC is established and ending with the next following 31 March, and

(b) each successive period of 12 months.

119 Supplementary powers

The OLC may do anything calculated to facilitate, or incidental or conducive to, the carrying out of any of its functions.

120 Reporting to the Board

(1) The Board may require the OLC to prepare and give the Board, within a specified period, a report in respect of any specified matter relating to the functions of the OLC.

(2) In subsection (1) "specified" means specified in the requirement.

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(3) The Board must publish any report given to it under this section.

121 Performance targets and monitoring

(1) The Board may—

(a) set one or more performance targets relating to the performance by the OLC of any of its functions, or

(b) direct the OLC to set one or more performance targets relating to the performance by the OLC of any of its functions.

(2) A direction under subsection (1)(b) may impose conditions with which the performance targets must conform.

(3) The Board must publish any target set or direction given by it under this section.

(4) The OLC must publish any target set by it pursuant to a direction under subsection (1)(b).

(5) The Board may take such steps as it regards as appropriate to monitor the extent to which any performance target set under this section is being, or has been, met.

The ombudsmen

122 Appointment of the Chief Ombudsman and assistant ombudsmen

(1) The OLC—

(a) must appoint a person to act as Chief Ombudsman for the purposes of the ombudsman scheme, and

(b) may, with the consent of the Chief Ombudsman, appoint one or more other persons to act as assistant ombudsmen for those purposes.

(2) The person appointed under subsection (1)(a) must be a lay person.

[[F57](3) It is a condition of appointment under subsection (1)(b) that the person appointed must not during the appointment carry on for or in expectation of any fee, gain or reward—

(a) any activity which is a reserved legal activity, or

(b) a regulated claims management activity (within the meaning given by section 417(1) of the Financial Services and Markets Act 2000 (definitions))**]**

(4) Each person appointed under subsection (1)(a) or (b) must be a person appearing to the OLC to have appropriate qualifications and experience to act as an ombudsman for the purposes of the ombudsman scheme.

(5) In this Act a reference to an "ombudsman" (except in the expressions "ombudsman scheme", "Chief Ombudsman" and "assistant ombudsman") is a reference to the Chief Ombudsman or an assistant ombudsman.

(6) A person's appointment as Chief Ombudsman ceases if that person ceases to be a lay person.

(7) The terms and conditions on which a person is appointed as an assistant ombudsman must specify the consequences of a breach of the condition imposed by subsection (3).

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(8) Subject to that, a person's appointment as an ombudsman is to be on such terms and conditions (including terms as to the duration and termination of a person's appointment and as to remuneration) as the OLC considers—

(a) consistent with ensuring the independence of the person appointed, and

(b) otherwise appropriate.

(9) Appointment as an ombudsman does not confer the status of Crown servant.

(10) In this section "lay person" has the same meaning as in Schedule 15.

Textual Amendments

F57 S. 122(3) substituted (29.11.2018 for specified purposes, 1.4.2019 in so far as not already in force) by The Financial Services and Markets Act 2000 (Claims Management Activity) Order 2018 (S.I. 2018/1253), arts. 1(2)(3), **95(3)**

123 Annual report of Chief Ombudsman

(1) The Chief Ombudsman must prepare a report for each financial year on the discharge of the functions of the ombudsmen.

(2) A report under this section must comply with any requirements specified by the OLC.

(3) The OLC must publish any requirements specified for the purposes of subsection (2).

(4) As soon as reasonably practicable after the end of each financial year, the Chief Ombudsman must give the OLC a copy of the report prepared under this section for the year.

(5) In this section "financial year" has the meaning given by section 118(7).

124 Additional reports of Chief Ombudsman

(1) The OLC may require the Chief Ombudsman to prepare and give the OLC, within a specified period, a report in respect of any specified matter relating to the functions of the ombudsmen.

(2) In subsection (1) "specified" means specified in the requirement.

Jurisdiction and operation of the ombudsman scheme

125 Jurisdiction of the ombudsman scheme

(1) A complaint which relates to an act or omission of a person ("the respondent") in carrying on an activity is within the jurisdiction of the ombudsman scheme if—

(a) the complaint is not excluded from the jurisdiction of the scheme by section 126, or by scheme rules made under section 127,

(b) the respondent is within section 128, and

(c) the complainant is within section 128 and wishes to have the complaint dealt with under the scheme.

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(2) In subsection (1) references to an act or omission include an act or omission which occurs before the coming into force of this section.

(3) The right of a person to make a complaint under the ombudsman scheme, and the jurisdiction of an ombudsman to investigate, consider and determine a complaint, may not be limited or excluded by any contract term or by notice.

Modifications etc. (not altering text)

C12 S. 125 modified (20.1.2015) by The Legal Services Act 2007 (Commencement No. 12, Supplementary and Transitory Provision) Order 2014 (S.I. 2014/3307), arts. 1(1), **3**

Commencement Information

I67 S. 125 in force at 6.10.2010 by S.I. 2010/2089, **art. 2(a)**

126 Complaints excluded because respondent's complaints procedures not used

(1) A complaint is excluded from the jurisdiction of the ombudsman scheme if the complainant has not first used the respondent's complaints procedures in relation to the complaint.

(2) The respondent's complaints procedures are the procedures established by the respondent, or which the respondent participates in or is subject to, in accordance with regulatory arrangements (or licensing rules of the Board) made in accordance with section 112.

(3) Scheme rules may provide that subsection (1) does not apply in specified circumstances.

Commencement Information

I68 S. 126 partly in force; s. 126 not in force at Royal Assent see s. 211; s. 126(3) in force at 1.1.2009 by S.I. 2008/3149, **art. 2(e)(i)**

I69 S. 126(1)(2) in force at 6.10.2010 by S.I. 2010/2089, **art. 2(a)** (with art. 5) (as amended (30.9.2011) by S.I. 2011/2196, art. 6)

127 Complaints excluded by scheme rules

(1) Scheme rules may make provision excluding complaints of a description specified in the rules from the jurisdiction of the ombudsman scheme.

(2) But they may not make provision excluding a complaint from the jurisdiction of the ombudsman scheme on the ground that it relates to a matter which has been or could be dealt with under the disciplinary arrangements of the respondent's relevant authorising body.

128 Parties

(1) The respondent is within this section if, at the relevant time, the respondent was an authorised person in relation to an activity which was a reserved legal activity (whether or not the act or omission relates to a reserved legal activity).

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(2) The complainant ("C") is within this section if C—

(a) meets the first and second conditions, and

(b) is not excluded by subsection (5).

(3) The first condition is that C is—

(a) an individual, or

(b) a person (other than an individual) of a description prescribed by order made by the Lord Chancellor in accordance with a recommendation made under section 130.

(4) The second condition is that—

(a) the services to which the complaint relates were provided by the respondent to C;

(b) the services to which the complaint relates were provided by the respondent to an authorised person who procured them on C's behalf;

(c) the services to which the complaint relates were provided by the respondent—

(i) in the respondent's capacity as a personal representative or trustee, or

(ii) to a person acting as a personal representative or trustee,

and C is a beneficiary of the estate or trust in question; or

(d) C satisfies such other conditions, in relation to the services to which the complaint relates, as may be prescribed by order made by the Lord Chancellor in accordance with a recommendation made under section 130.

(5) C is excluded if, at the relevant time—

(a) C was an authorised person in relation to an activity which was a reserved legal activity and the services to which the complaint relates were procured by C on behalf of another person,

(b) C was a public body or was acting on behalf of such a body in relation to the services to which the complaint relates, or

(c) C was a person prescribed, or of a description prescribed, as excluded by order made by the Lord Chancellor in accordance with a recommendation made under section 130.

(6) In subsection (4)(b) "authorised person" means an authorised person in relation to any activity which is a reserved legal activity.

(7) In this section—

"public body" means any government department, local authority or other body constituted for purposes of the public services, local government or the administration of justice;

"relevant time", in relation to a complaint, means the time when the act or omission to which the complaint relates took place.

Commencement Information

I70 S. 128 partly in force; s. 128 not in force at Royal Assent see s. 211; s. 128(3)(b)(4)(d)(5)(c) in force at 1.1.2009 by S.I. 2008/3149, **art. 2(e)(i)**

I71 S. 128(1) (2) (3)(a) (4)(a)-(c) (5)(a) (b) (6) (7) in force at 6.10.2010 by S.I. 2010/2089, **art. 2(a)**

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129 Pre-commencement acts and omissions

(1) For the purposes of section 128 a person is to be regarded as an authorised person in relation to an activity which is a reserved legal activity, at a time before section 125 comes into force, if the person was at that time—

(a) a person of the kind mentioned in paragraph 2(4) of Schedule 15,

(b) a body recognised under section 9 or 32 of the Administration of Justice Act 1985 (c. 61) (recognised bodies), or

(c) a legal partnership, a conveyancing partnership, a patent attorney body or a trade mark attorney body.

(2) In this section—

"conveyancing partnership" has the meaning given by paragraph 11(5) of Schedule 5;

"legal partnership" has the meaning given by paragraph 7(4) of that Schedule;

"patent attorney body" has the meaning given by paragraph 14(7) of that Schedule;

"trade mark attorney body" has the meaning given by paragraph 16(7) of that Schedule.

Commencement Information

I72 S. 129 in force at 6.10.2010 by S.I. 2010/2089, **art. 2(a)**

130 Orders under section 128

(1) An interested body may, at any time, recommend to the Lord Chancellor that the Lord Chancellor make an order under section 128(3)(b), (4)(d) or (5)(c).

(2) An interested body must, if requested to do so by the Lord Chancellor, consider whether or not it is appropriate to make a recommendation under subsection (1).

(3) An interested body must, before making a recommendation under subsection (1)—

(a) publish a draft of the proposed recommendation,

(b) invite representations regarding the proposed recommendation, and

(c) consider any such representations which are made.

(4) Where the Lord Chancellor receives a recommendation under subsection (1), the Lord Chancellor must consider whether to follow the recommendation.

(5) If the Lord Chancellor decides not to follow the recommendation, the Lord Chancellor must publish a notice to that effect which includes the Lord Chancellor's reasons for the decision.

(6) In this section "interested body" means—

(a) the OLC,

(b) the Board, or

(c) the Consumer Panel.

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131 Acts and omissions by employees etc

(1) For the purposes of this Part and the ombudsman scheme, any act or omission by a person in the course of the person's employment is to be treated as also an act or omission by the person's employer, whether or not it was done with the employer's knowledge or approval.

(2) For the purposes of this Part and the ombudsman scheme, any act or omission by a partner in a partnership in the course of carrying on, in the usual way, business of the kind carried on by the partnership is to be treated as also an act or omission by the partnership.

(3) But subsection (2) does not apply if the partner had no authority to act for the partnership and the person purporting to rely on that subsection knew, at the time of the act or omission, that the partner had no such authority.

Commencement Information
I73 S. 131 in force at 6.10.2010 by S.I. 2010/2089, **art. 2(a)**

132 Continuity of complaints

(1) The ability of a person to make a complaint about an act or omission of a partnership or other unincorporated body is not affected by any change in the membership of the partnership or body.

(2) Scheme rules must make provision determining the circumstances in which, for the purposes of the ombudsman scheme, an act or omission of a person ("A") is, where A ceases to exist and another person ("B") succeeds to the whole or substantially the whole of the business of A, to be treated as an act or omission of B.

(3) Rules under subsection (2) must, in relation to cases where an act or omission of A is treated as an act or omission of B, make provision about the treatment of complaints under the ombudsman scheme which are outstanding against A at the time A ceases to exist.

(4) Scheme rules must make provision permitting such persons as may be specified in the rules to continue a complaint made by a person who has died or is otherwise unable to act; and for that purpose may modify references to the complainant in this Part and in scheme rules.

133 Operation of the ombudsman scheme

(1) Scheme rules must set out the procedure for—

(a) the making of complaints under the ombudsman scheme, and

(b) the investigation, consideration and determination of complaints by an ombudsman.

(2) Scheme rules—

(a) must provide that a complaint is to be entertained under the ombudsman scheme only if the complainant has made the complaint under that scheme before the applicable time limit (determined in accordance with the scheme rules) has expired, and

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(b) may provide that an ombudsman may extend that time limit in specified circumstances.

(3) Scheme rules made under subsection (1) may (among other things) make provision—

(a) for the whole or part of a complaint to be dismissed, in specified circumstances, without consideration of its merits;

(b) for the reference of a complaint, in specified circumstances and with the consent of the complainant, to another body with a view to it being determined by that body instead of by an ombudsman;

(c) for a person who, at the relevant time (within the meaning of section 128(7)) was an authorised person in relation to an activity to be treated in specified circumstances, for the purposes of the scheme and this Part, as if that person were a co-respondent in relation to a complaint;

(d) about the evidence which may be required or admitted and the extent to which it should be oral or written;

(e) for requiring parties to the complaint to attend to give evidence and produce documents, and for authorising the administration of oaths by ombudsmen;

(f) about the matters which are to be taken into account in determining whether an act or omission was fair and reasonable;

(g) for an ombudsman, in such circumstances as may be specified, to award expenses to persons in connection with attendance at a hearing before an ombudsman;

(h) for an ombudsman to award costs against the respondent in favour of the complainant;

(i) for an ombudsman to award costs against the complainant or the respondent in favour of the OLC for the purpose of providing a contribution to resources deployed in dealing with the complaint, if in the ombudsman's opinion that person acted so unreasonably in relation to the complaint that it is appropriate in all the circumstances of the case to make such an award;

(j) for the purpose of facilitating the settlement of a complaint with the agreement of the parties to it;

(k) for specified persons to be notified of complaints, determinations and directions under the ombudsman scheme.

(4) The circumstances specified under subsection (3)(a) may include the following—

(a) the ombudsman considers the complaint or part to be frivolous or vexatious or totally without merit;

(b) the ombudsman considers that the complaint or part would be better dealt with under another ombudsman scheme, by arbitration or by other legal proceedings;

(c) the ombudsman considers that there has been undue delay in the making of the complaint or part, or the provision of evidence to support it;

(d) the ombudsman is satisfied that the matter which is the subject of the complaint or part has previously been dealt with under another ombudsman scheme, by arbitration or by other legal proceedings;

(e) the ombudsman considers that there are other compelling reasons why it is inappropriate for the complaint or part to be dealt with under the ombudsman scheme.

(5) No person may be required by scheme rules—

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(a) to provide any information or give any evidence which that person could not be compelled to provide or give in evidence in civil proceedings before the High Court, or

(b) to produce any document which that person could not be compelled to produce in such proceedings.

(6) Scheme rules may authorise an ombudsman making an award of costs in accordance with rules within subsection (3)(h) or (i) to order that the amount payable under the award bears interest, from a time specified in or determined in accordance with the order, at a rate specified in or determined in accordance with the rules.

(7) An amount due under an award made in favour of a person by virtue of provision made under subsection (3)(g), (h) or (i) is recoverable as a debt due to that person.

(8) In this section—

"party", in relation to a complaint, means—

(a) the complainant,

(b) the respondent, and

(c) any other person who in accordance with scheme rules is to be regarded as a party to the complaint;

"specified" means specified in scheme rules.

134 Delegation of an ombudsman's functions

(1) An ombudsman may delegate to a member of the OLC's staff appointed under paragraph 13 of Schedule 15—

(a) any function of the ombudsman in relation to the making, investigation or consideration of a complaint;

(b) any other function conferred on the ombudsman by or by virtue of this Part.

(2) Nothing in subsection (1) applies to the following functions—

(a) the function of determining a complaint;

(b) the function of deciding that a complaint should be dismissed by virtue of rules under section 133(3)(a);

(c) the Chief Ombudsman's power to consent to the appointment of an assistant ombudsman under section 122;

(d) the duties imposed on the Chief Ombudsman by section 123 (Chief Ombudsman's report).

Commencement Information

I74 S. 134 in force at 6.10.2010 by S.I. 2010/2089, **art. 2(a)**

135 Notification requirements

(1) This section applies where a complaint—

(a) is excluded from the jurisdiction of the ombudsman scheme under section 126, or by virtue of scheme rules made under section 127;

(b) is dismissed, or referred to another body, by virtue of scheme rules;

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(c) is settled, withdrawn or abandoned (or treated as withdrawn or abandoned by virtue of scheme rules).

(2) The ombudsman must notify—

(a) the complainant;

(b) the respondent;

(c) any relevant authorising body, in relation to the respondent, notified of the complaint in accordance with rules within section 133(3)(k),

and, in a case within subsection (1)(a) or (b), must give reasons for the exclusion, dismissal or referral.

Commencement Information

I75 S. 135 in force at 6.10.2010 by S.I. 2010/2089, **art. 2(a)**

136 Charges payable by respondents

(1) Scheme rules must require respondents, in relation to complaints under the ombudsman scheme, to pay to the OLC such charges as may be specified in the rules.

(2) The rules must provide for charges payable in relation to a complaint to be waived (or wholly refunded) where—

(a) the complaint is determined or otherwise resolved in favour of the respondent, and

(b) the ombudsman is satisfied that the respondent took all reasonable steps to try to resolve the complaint under the respondent's complaints procedures.

(3) The rules may make provision as to—

(a) the circumstances in which a complaint is to be treated as determined or otherwise resolved in favour of the respondent (which may include circumstances where a complaint is settled, withdrawn or abandoned (or treated as withdrawn or abandoned by virtue of scheme rules));

(b) matters to be taken into account by the ombudsman for the purposes of subsection (2)(b).

(4) The respondent's complaints procedures are the procedures established by the respondent, or which the respondent participates in or is subject to, in accordance with regulatory arrangements (or licensing rules of the Board) made in accordance with section 112.

(5) The rules may, among other things—

(a) provide for the OLC to reduce or waive a charge in such other circumstances as may be specified;

(b) set different charges for different stages of the proceedings on a complaint;

(c) provide for charges to be wholly or partly refunded in such other circumstances as may be specified;

(d) provide that if the whole or any part of a charge is not paid by the time by which it is required to be paid under the rules, the unpaid balance from time to time carries interest at the rate specified in, or determined in accordance with, the rules.

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(6) Any charge which is owed to the OLC by virtue of rules made under this section may be recovered as a debt due to the OLC.

Determinations under the scheme

137 Determination of complaints

(1) A complaint is to be determined under the ombudsman scheme by reference to what is, in the opinion of the ombudsman making the determination, fair and reasonable in all the circumstances of the case.

(2) The determination may contain one or more of the following—

(a) a direction that the respondent make an apology to the complainant;

(b) a direction that—

(i) the fees to which the respondent is entitled in respect of the services to which the complaint relates ("the fees") are limited to such amount as may be specified in the direction, and

(ii) the respondent comply, or secure compliance, with such one or more of the permitted requirements as appear to the ombudsman to be necessary in order for effect to be given to the direction under sub-paragraph (i);

(c) a direction that the respondent pay compensation to the complainant of such an amount as is specified in the direction in respect of any loss which has been suffered by, or any inconvenience or distress which has been caused to, the complainant as a result of any matter connected with the complaint;

(d) a direction that the respondent secure the rectification, at the expense of the respondent, of any such error, omission or other deficiency arising in connection with the matter in question as the direction may specify;

(e) a direction that the respondent take, at the expense of the respondent, such other action in the interests of the complainant as the direction may specify.

(3) For the purposes of subsection (2)(b) "the permitted requirements" are—

(a) that the whole or part of any amount already paid by or on behalf of the complainant in respect of the fees be refunded;

(b) that the whole or part of the fees be remitted;

(c) that the right to recover the fees be waived, whether wholly or to any specified extent.

(4) Where—

(a) a direction is made under subsection (2)(b) which requires that the whole or part of any amount already paid by or on behalf of the complainant in respect of the fees be refunded, or

(b) a direction is made under subsection (2)(c),

the direction may also provide for the amount payable under the direction to carry interest from a time specified in or determined in accordance with the direction, at the rate specified in or determined in accordance with scheme rules.

(5) The power of the ombudsman to make a direction under subsection (2) is not confined to cases where the complainant may have a cause of action against the respondent for negligence.

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I76 S. 137 partly in force; s. 137 not in force at Royal Assent see s. 211; s. 137(4) in force at 1.1.2009 by S.I. 2008/3149, **art. 2(e)(i)**

I77 S. 137(1)-(3) (5) in force at 6.10.2010 by S.I. 2010/2089, **art. 2(a)**

138 Limitation on value of directions under the ombudsman scheme

(1) Where a determination is made under the ombudsman scheme in respect of a complaint, the total value of directions under section 137(2)(c) to (e) contained in the determination must not exceed **[**[F58]£50,000.**]**

(2) For this purpose the total value of such directions is the aggregate of—

(a) the amount of any compensation specified in a direction under subsection (2)(c) of section 137, and

(b) the amount of any expenses reasonably incurred by the respondent when complying with a direction under subsection (2)(d) or (e) of that section.

(3) For the purposes of determining that total value, any interest payable on an amount within subsection (2)(a) of this section, by virtue of section 137(4), is to be ignored.

Textual Amendments

F58 S. 138(1) substituted (1.2.2013) by The Legal Services Act 2007 (Alteration of Limit) Order 2012 (S.I. 2012/3091), arts. 1, **2**

Commencement Information

I78 S. 138 in force at 6.10.2010 by S.I. 2010/2089, **art. 2(a)**

139 Alteration of limit

(1) The Lord Chancellor may by order amend section 138(1) in accordance with a recommendation made by an interested body under subsection (2).

(2) An interested body may, at any time, recommend to the Lord Chancellor that section 138(1) should be amended so as to substitute the amount specified in the recommendation for the amount for the time being specified in that provision.

(3) An interested body must, if requested to do so by the Lord Chancellor, consider whether or not it is appropriate to make a recommendation under subsection (2).

(4) An interested body must, before making a recommendation under subsection (2)—

(a) publish a draft of the proposed recommendation,

(b) invite representations regarding the proposed recommendation, and

(c) consider any such representations which are made.

(5) Where the Lord Chancellor receives a recommendation under subsection (2), the Lord Chancellor must consider whether to follow the recommendation.

(6) If the Lord Chancellor decides not to follow the recommendation, the Lord Chancellor must publish a notice to that effect which includes the Lord Chancellor's reasons for the decision.

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(7) In this section "interested body" means—

(a) the OLC,

(b) the Board, or

(c) the Consumer Panel.

Commencement Information

I79 S. 139 in force at 6.10.2010 by S.I. 2010/2089, **art. 2(a)**

140 Acceptance or rejection of determination

(1) When an ombudsman has determined a complaint the ombudsman must prepare a written statement of the determination.

(2) The statement must—

(a) give the ombudsman's reasons for the determination,

(b) be signed by the ombudsman, and

(c) require the complainant to notify the ombudsman, before a time specified in the statement ("the specified time"), whether the complainant accepts or rejects the determination.

(3) The ombudsman must give a copy of the statement to—

(a) the complainant,

(b) the respondent, and

(c) any relevant authorising body in relation to the respondent.

(4) If the complainant notifies the ombudsman that the determination is accepted by the complainant, it is binding on the respondent and the complainant and is final.

(5) If, by the specified time, the complainant has not notified the ombudsman of the complainant's acceptance or rejection of the determination, the complainant is to be treated as having rejected it.

(6) But if—

(a) the complainant notifies the ombudsman after the specified time that the determination is accepted by the complainant,

(b) the complainant has not previously notified the ombudsman of the complainant's rejection of the determination, and

(c) the ombudsman is satisfied that such conditions as may be prescribed by the scheme rules for the purposes of this subsection are satisfied,

the determination is treated as if it had never been rejected by virtue of subsection (5).

(7) The ombudsman must give notice of the outcome to—

(a) the complainant,

(b) the respondent, and

(c) any relevant authorising body in relation to the respondent.

(8) Where a determination is rejected by virtue of subsection (5), that notice must contain a general description of the effect of subsection (6).

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(9) A copy of the determination on which appears a certificate signed by an ombudsman is evidence that the determination was made under the scheme.

(10) Such a certificate purporting to be signed by an ombudsman is to be taken to have been duly signed unless the contrary is shown.

(11) Neither the complainant nor the respondent, in relation to a complaint, may institute or continue legal proceedings in respect of a matter which was the subject of a complaint, after the time when a determination by an ombudsman of the complaint becomes binding and final in accordance with this section.

Commencement Information

I80 S. 140 partly in force; s. 140 not in force at Royal Assent see s. 211; s. 140(6)(c) in force at 1.1.2009 by S.I. 2008/3149, **art. 2(e)(i)**

I81 S. 140(1)-(5) (6)(a) (b) (7)-(11) in force at 6.10.2010 by S.I. 2010/2089, **art. 2(a)**

141 Enforcement by complainant of directions under section 137

(1) This section applies where—

(a) a determination is made in respect of a complaint under the ombudsman scheme,

(b) one or more directions are made under section 137(2), and

(c) the determination is final by virtue of section 140(4).

(2) An amount payable in accordance with—

(a) a direction under subsection (2)(b) of section 137 which requires that the whole or part of any amount already paid by or on behalf of the complainant in respect of the fees be refunded, or

(b) a direction under subsection (2)(c) of that section,

including any interest payable by virtue of subsection (4) of that section, is recoverable, if a court so orders on the application of the complainant or an ombudsman, as if it were payable under an order of that court.

(3) If the respondent fails to comply with any other direction under section 137(2), the complainant or an ombudsman may make an application to the court under this subsection.

(4) If, on an application under subsection (3), the court decides that the respondent has failed to comply with the direction in question, it may order the respondent to take such steps as the court directs for securing that the direction is complied with.

(5) An ombudsman may make an application under subsection (2) or (3) only in such circumstances as may be specified in scheme rules, and with the complainant's consent.

(6) If the court makes an order under subsection (2) on the application of an ombudsman, the ombudsman may in such circumstances as may be specified in scheme rules and with the complainant's consent recover the amount mentioned in that subsection on behalf of the complainant.

(7) In this section "court" means the High Court or **[**[F59]the county court**]**.

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Textual Amendments

F59 Words in s. 141(7) substituted (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 9 para. 52**; S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

Commencement Information

I82 S. 141 partly in force; s. 141 not in force at Royal Assent see s. 211; s. 141(5)-(7) in force at 1.1.2009 by S.I. 2008/3149, **art. 2(e)(i)**

I83 S. 141(1)-(4) in force at 6.10.2010 by S.I. 2010/2089, **art. 2(a)**

142 Reporting court orders made against authorised persons

(1) Where a court makes an order under section 141, it must give the OLC notice to that effect.

(2) Where the order is made against a person who is an authorised person in relation to any activity which is a reserved legal activity, the OLC must make arrangements to ensure that an ombudsman gives to each relevant authorising body, in relation to that person, a report which states that the order has been made.

(3) A report under subsection (2) may require the relevant authorising body to report to the ombudsman the action which has been or is to be taken by it in response to the report under subsection (2) and the reasons for that action being taken.

(4) If an ombudsman, having regard to any report produced by the relevant authorising body in compliance with a requirement imposed under subsection (3), or any failure to comply with such a requirement, considers—

(a) that there has been a serious failure by the relevant authorising body to discharge its regulatory functions, or

(b) if such a requirement has been imposed on the body on more than one occasion, that the relevant authorising body has persistently failed adequately to discharge its regulatory functions,

the ombudsman may make a report to that effect to the Board.

Commencement Information

I84 S. 142 in force at 6.10.2010 by S.I. 2010/2089, **art. 2(a)**

Reporting misconduct

143 Reporting possible misconduct to approved regulators

(1) This section applies where—

(a) an ombudsman is dealing, or has dealt, with a complaint under the ombudsman scheme, and

(b) the ombudsman is of the opinion that the conduct of the respondent or any other person in relation to any matter connected with the complaint is such that a relevant authorising body in relation to that person should consider whether to take action against that person.

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(2) The ombudsman must give the relevant authorising body a report which—

(a) states that the ombudsman is of that opinion, and

(b) gives details of that conduct.

(3) The ombudsman must give the complainant a notice stating that a report under subsection (2) has been given to the relevant authorising body.

(4) A report under subsection (2) may require the relevant authorising body to report to the ombudsman the action which has been or is to be taken by it in response to the report and the reasons for that action being taken.

(5) The duty imposed by subsection (2) is not affected by the withdrawal or abandonment of the complaint.

(6) If an ombudsman, having regard to any report produced by the relevant authorising body in compliance with a requirement imposed under subsection (4), or any failure to comply with such a requirement, considers—

(a) that there has been a serious failure by the relevant authorising body to discharge its regulatory functions, or

(b) if such a requirement has been imposed on the body on more than one occasion, that the relevant authorising body has persistently failed adequately to discharge its regulatory functions,

the ombudsman may make a report to that effect to the Board.

Commencement Information

I85 S. 143 in force at 6.10.2010 by S.I. 2010/2089, **art. 2(a)**

Co-operation with investigations

144 Duties to share information

(1) Scheme rules must make provision requiring persons within subsection (3) to disclose to an approved regulator information of such description as may be specified in the rules, in such circumstances as may be so specified.

(2) The regulatory arrangements of an approved regulator must make provision requiring the approved regulator to disclose to persons within subsection (3) information of such description as may be specified in the arrangements, in such circumstances as may be so specified.

(3) The persons are—

(a) the OLC;

(b) an ombudsman;

(c) a member of the OLC's staff appointed under paragraph 13 of Schedule 15.

(4) Provision made under subsection (1) or (2) must satisfy such requirements as the Board may, from time to time, specify.

(5) In specifying requirements under subsection (4) the Board must have regard to the need to ensure that, so far as reasonably practicable—

(a) duplication of investigations is avoided;

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(b) the OLC assists approved regulators to carry out their regulatory functions, and approved regulators assist with the investigation, consideration and determination of complaints under the ombudsman scheme.

(6) The Board must publish any requirements specified by it under subsection (4).

(7) The OLC must—

(a) before publishing under section 205(2) a draft of rules it proposes to make under subsection (1), consult each approved regulator to which the proposed rules apply, and

(b) when seeking the Board's consent to such rules under section 155, identify any objections made by an approved regulator to the rules and not withdrawn.

(8) An approved regulator must—

(a) consult the OLC before making provisions in its regulatory arrangements of the kind mentioned in subsection (2), and

(b) where an application is made for the Board's approval of such provisions, identify any objections made by the OLC to the provisions and not withdrawn.

(9) This section applies to the Board in its capacity as a licensing authority and licensing rules made by the Board as it applies to an approved regulator and its regulatory arrangements; and for this purpose the reference in subsection (5)(b) to "regulatory functions" is to be read as a reference to the Board's functions under its licensing rules.

Commencement Information

I86 S. 144 partly in force; s. 144 not in force at Royal Assent see s. 211; s. 144(1)(3) in force at 1.1.2009 by S.I. 2008/3149, **art. 2(e)(i)**

I87 S. 144(2)(8)(9) in force at 6.10.2010 by S.I. 2010/2089, **art. 2(a)** (with art. 5) (as amended (30.9.2011) by S.I. 2011/2196, art. 6)

145 Duties of authorised persons to co-operate with investigations

(1) The regulatory arrangements of an approved regulator, and licensing rules made by the Board in its capacity as a licensing authority, must make—

(a) provision requiring each relevant authorised person to give ombudsmen all such assistance requested by them, in connection with the investigation, consideration or determination of complaints under the ombudsman scheme, as that person is reasonably able to give, and

(b) provision for the enforcement of that requirement.

(2) The provision made for the purposes of subsection (1) must satisfy such requirements as the Board may, from time to time, specify for the purposes of that subsection.

(3) The Board must publish any requirements specified by it under subsection (2).

(4) In this section "relevant authorised person"—

(a) in relation to an approved regulator, has the same meaning as in section 112, and

(b) in relation to the Board in its capacity as a licensing authority, means a person licensed by the Board under Part 5.

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Commencement Information

I88 S. 145 partly in force; s. 145 not in force at Royal Assent see s. 211; s. 145(2)(3) in force at 1.1.2009 by S.I. 2008/3149, **art. 2(e)(i)**

I89 S. 145(1)(4) in force at 6.10.2010 by S.I. 2010/2089, **art. 2(a)** (with art. 5) (as amended (30.9.2011) by S.I. 2011/2196, art. 6)

146 Reporting failures to co-operate with an investigation to approved regulators

(1) This section applies where an ombudsman is of the opinion that an authorised person has failed to give an ombudsman all such assistance requested by the ombudsman, in connection with the investigation, consideration or determination of a complaint under the ombudsman scheme, as that person is reasonably able to give.

(2) The ombudsman must give each relevant authorising body, in relation to that person, a report which—

(a) states that the ombudsman is of that opinion, and

(b) gives details of the failure.

(3) A report under subsection (2) may require the relevant authorising body to report to the ombudsman the action which has been or is to be taken by it in response to the report under that subsection and the reasons for that action being taken.

(4) The duty imposed by subsection (2) is not affected by the withdrawal or abandonment of the complaint.

(5) If an ombudsman, having regard to any report produced by the relevant authorising body in compliance with a requirement imposed under subsection (3), or any failure to comply with such a requirement, considers—

(a) that there has been a serious failure by the relevant authorising body to discharge its regulatory functions, or

(b) if such a requirement has been imposed on the body on more than one occasion, that the relevant authorising body has persistently failed adequately to discharge its regulatory functions,

the ombudsman may make a report to that effect to the Board.

(6) In this section "authorised person" means an authorised person in relation to any activity which is a reserved legal activity.

Commencement Information

I90 S. 146 in force at 6.10.2010 by S.I. 2010/2089, **art. 2(a)**

Information

147 Information and documents

(1) An ombudsman may, by notice, require a party to a complaint under the ombudsman scheme—

(a) to produce documents, or documents of a description, specified in the notice, or

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(b) to provide information, or information of a description, specified in the notice.

(2) A notice under subsection (1) may require the information or documents to be provided or produced—

(a) before the end of such reasonable period as may be specified in the notice, and

(b) in the case of information, in such manner or form as may be so specified.

(3) This section applies only to information and documents the provision or production of which the ombudsman considers necessary for the determination of the complaint.

(4) An ombudsman may—

(a) take copies of or extracts from a document produced under this section, and

(b) require the person producing the document to provide an explanation of it.

(5) If a person who is required under this section to produce a document fails to do so, an ombudsman may require that person to state, to the best of that person's knowledge and belief, where the document is.

(6) No person may be required under this section—

(a) to provide any information which that person could not be compelled to provide or give in evidence in civil proceedings before the High Court, or

(b) to produce any document which that person could not be compelled to produce in such proceedings.

(7) In this section "party", in relation to a complaint, means—

(a) the complainant;

(b) the respondent;

(c) any other person who in accordance with the scheme rules is to be regarded as a party to the complaint.

Commencement Information

I91 S. 147 in force at 6.10.2010 by S.I. 2010/2089, **art. 2(a)**

148 Reporting failures to provide information or produce documents

(1) This section applies where an ombudsman is of the opinion that an authorised person has failed to comply with a requirement imposed under section 147(1).

(2) The ombudsman must give each relevant authorising body, in relation to that person, a report which—

(a) states that the ombudsman is of that opinion, and

(b) gives details of the failure.

(3) A report under subsection (2) may require the relevant authorising body to report to the ombudsman the action which has been or is to be taken by it in response to the report under that subsection and the reasons for that action being taken.

(4) The duty imposed by subsection (2) is not affected by the withdrawal or abandonment of the complaint in relation to which the requirement was imposed under section 147(1).

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(5) If an ombudsman, having regard to any report produced by the relevant authorising body in compliance with a requirement imposed under subsection (3), or any failure to comply with such a requirement, considers—

(a) that there has been a serious failure by the relevant authorising body to discharge its regulatory functions, or

(b) if such a requirement has been imposed on the body on more than one occasion, that the relevant authorising body has persistently failed adequately to discharge its regulatory functions,

the ombudsman may make a report to that effect to the Board.

(6) In this section "authorised person" means an authorised person in relation to any activity which is a reserved legal activity.

Commencement Information

I92 S. 148 in force at 6.10.2010 by S.I. 2010/2089, **art. 2(a)**

149 Enforcement of requirements to provide information or produce documents

(1) This section applies where an ombudsman is of the opinion that a person ("the defaulter") has failed to comply with a requirement imposed under section 147(1).

(2) The ombudsman may certify the defaulter's failure to comply with the requirement to the court.

(3) Where an ombudsman certifies a failure to the court under subsection (2), the court may enquire into the case.

(4) If the court is satisfied that the defaulter has failed without reasonable excuse to comply with the requirement, it may deal with—

(a) the defaulter, and

(b) in the case of a body, any manager of the body,

as if that person were in contempt.

(5) Subsection (6) applies in a case where the defaulter is an authorised person in relation to any activity which is a reserved legal activity.

(6) The ombudsman ("the enforcing ombudsman") may not certify the defaulter's failure to the court until a report by that or another ombudsman has been made as required by section 148(2) and the enforcing ombudsman is satisfied—

(a) that each relevant authorising body to whom such a report was made has been given a reasonable opportunity to take action in respect of the defaulter's failure, and

(b) that the defaulter has continued to fail to provide the information or produce the documents to which the requirement under section 147 related.

(7) In this section "court" means the High Court.

Commencement Information

I93 S. 149 in force at 6.10.2010 by S.I. 2010/2089, **art. 2(a)**

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150 Reports of investigations

(1) The OLC may, if it considers it appropriate to do so in any particular case, publish a report of the investigation, consideration and determination of a complaint made under the ombudsman scheme.

(2) A report under subsection (1) must not (unless the complainant consents)—

(a) mention the name of the complainant, or

(b) include any particulars which, in the opinion of the OLC, are likely to identify the complainant.

Commencement Information

I94 S. 150 in force at 6.10.2010 by S.I. 2010/2089, **art. 2(a)**

151 Restricted information

(1) Except as provided by section 152, restricted information must not be disclosed—

(a) by a restricted person, or

(b) by any person who receives the information directly or indirectly from a restricted person.

(2) In this section and section 152—

"restricted information" means information (other than excluded information) which is obtained by a restricted person in the course of, or for the purposes of, an investigation into a complaint made under the ombudsman scheme (including information obtained for the purposes of deciding whether to begin such an investigation or in connection with the settlement of a complaint);

"restricted person" means—

(a) the OLC,

(b) an ombudsman, or

(c) a person who exercises functions delegated under paragraph 22 of Schedule 15.

(3) For the purposes of subsection (2) "excluded information" means—

(a) information which is in the form of a summary or collection of information so framed as not to enable information relating to any particular person to be ascertained from it;

(b) information which at the time of the disclosure is or has already been made available to the public from other sources;

(c) information which was obtained more than 70 years before the date of the disclosure.

Commencement Information

I95 S. 151 partly in force: s. 151 not in force at Royal Assent see s. 211; s. 151 in force for certain purposes at 1.1.2010 by S.I. 2009/3250, **art. 2(d)** (with art. 9)

I96 S. 151 in force at 6.10.2010 in so far as not already in force by S.I. 2010/2089, **art. 2(a)**

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152 Disclosure of restricted information

(1) A restricted person may disclose restricted information to another restricted person.

(2) Restricted information may be disclosed for the purposes of the investigation in the course of which, or for the purposes of which, it was obtained.

(3) Section 151 also does not preclude the disclosure of restricted information—

(a) in a report made under—

(i) section 143(2) (report of possible misconduct to approved regulators),

(ii) section 146(2) (report of failure to co-operate with investigation),

(iii) section 148 (reporting failures to provide information or produce documents), or

(iv) section 150 (reports of investigations),

(b) for the purposes of enabling or assisting the Board to exercise any of its functions,

(c) to an approved regulator for the purposes of enabling or assisting the approved regulator to exercise any of its regulatory functions,

(d) with the consent of the person to whom it relates and (if different) the person from whom the restricted person obtained it,

(e) for the purposes of an inquiry with a view to the taking of any criminal proceedings or for the purposes of any such proceedings,

(f) where the disclosure is required by or by virtue of any provision made by or under this Act or any other enactment or other rule of law,

(g) to such persons (other than approved regulators) who exercise regulatory functions as may be prescribed by order made by the Lord Chancellor, for such purposes as may be so prescribed.

(4) Subsections (2) and (3) are subject to subsection (5).

(5) The Lord Chancellor may by order prevent the disclosure of restricted information by virtue of subsection (2) or (3) in such circumstances, or for such purposes, as may be prescribed in the order.

Commencement Information

I97 S. 152 partly in force: s. 152 not in force at Royal Assent see s. 211; s. 152 in force for certain purposes at 1.1.2010 by S.I. 2009/3250, **art. 2(d)** (with art. 9)

I98 S. 152 in force at 6.10.2010 in so far as not already in force by S.I. 2010/2089, **art. 2(a)**

153 Data protection

In section 31 of the Data Protection Act 1998 (c. 29) (regulatory activity), after subsection (4B) (inserted by section 170) insert—

"(4C) Personal data processed for the purposes of the function of considering a complaint under the scheme established under Part 6 of the Legal Services Act 2007 (legal complaints) are exempt from the subject information provisions in any case to the extent to which the application of those provisions to the data would be likely to prejudice the proper discharge of the function."

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Commencement Information
I99 S. 153 in force at 6.10.2010 by S.I. 2010/2089, **art. 2(a)**

Defamation

154 Protection from defamation claims

For the purposes of the law of defamation—

(a) proceedings in relation to a complaint under the ombudsman scheme are to be treated as if they were proceedings before a court, and

(b) the publication of any matter by the OLC under this Part is absolutely privileged.

Commencement Information
I100 S. 154 in force at 6.10.2010 by S.I. 2010/2089, **art. 2(a)**

Scheme rules

155 Consent requirements for rules

(1) Before making scheme rules under any provision of this Part, the OLC must obtain—

(a) the consent of the Board, and

(b) in the case of rules under section 136 (charges payable by respondents), the consent of the Lord Chancellor.

(2) In subsection (1) the reference to making rules includes a reference to modifying rules.

156 The Board's powers in respect of rules

(1) The Board may direct the OLC to take such steps as are necessary—

(a) to modify its scheme rules in accordance with such general requirements as are specified in the direction, or

(b) to make a specified modification to its scheme rules.

(2) Before giving a direction under subsection (1)(b), the Board must—

(a) give the OLC a notice giving details of the proposed modification and containing a statement that representations about the proposal may be made to the Board within a period specified in the notice,

(b) publish a copy of that notice, and

(c) have regard to any representations duly made.

(3) The following provisions do not apply in relation to any modification made by the OLC to its rules in compliance with a direction under subsection (1)(b)—

(a) section 155(1)(a) (requirement to obtain the Board's consent to rules);

(b) section 205 (requirement to consult before making rules).

(4) Where the Board revokes a direction, it must—

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(a) give the OLC notice of the revocation, and
(b) publish that notice.

Effect on existing arrangements for redress etc

157 Approved regulators not to make provision for redress

(1) The regulatory arrangements of an approved regulator must not include any provision relating to redress.

(2) If at the time this subsection comes into force the regulatory arrangements of an approved regulator contravene subsection (1), any provision relating to redress included in those regulatory arrangements ceases to have effect at that time, subject to subsection (3).

(3) An order under section 211 which appoints a day for the coming into force of subsection (2) may include transitional provision in respect of any proceedings which, immediately before that day are awaiting determination under any provision relating to redress made by an approved regulator.

This subsection is without prejudice to any other transitional provision which may be made by or under this Act.

(4) For the purposes of this section "provision relating to redress" means any provision made in regulatory arrangements (whether it is statutory or non-statutory) for redress in respect of acts or omissions of authorised persons and any provision connected with such provision.

(5) Nothing in this section prevents an approved regulator making—
(a) provision in its regulatory arrangements of the kind required by section 112 (requirement for authorised persons to have complaints procedures etc),
(b) indemnification arrangements or compensation arrangements, or
(c) provision which by virtue of section 158 is not prohibited by this section.

(6) In subsection (4) "authorised person" means an authorised person in relation to any activity which is a reserved legal activity.

(7) This section applies to licensing rules made by the Board in its capacity as a licensing authority as it applies in relation to the regulatory arrangements of an approved regulator.

Modifications etc. (not altering text)

C13 S. 157 restricted (7.3.2008) by 1985 c. 61 s. 43(3A) (as inserted by Legal Services Act 2007 (c. 29), ss. 177, 211 {Sch. 16 para. 84(3)} (with ss. 29, 192, 193)); S.I. 2008/222, **art. 2(f)**

C14 S. 157 restricted by 1985 c. 61, s. 43(3A) (as inserted (1.10.2011) by Legal Services Act 2007 (c. 29), s. 211(2), **Sch. 16 para. 84(3)** (with ss. 29, 192, 193); S.I. 2011/2196, art. 2(1)(f))

Commencement Information

I101 S. 157(1) (2) (4)-(7) in force at 6.10.2010 by S.I. 2010/2089, **art. 2(a)** (with arts. 5-8) (as amended (30.9.2011) by S.I. 2011/2196, art. 6)

I102 S. 157(3) in force at 2.8.2010 by S.I. 2010/1118, **art. 2(a)**

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158 Regulatory arrangements not prohibited by section 157

(1) Section 157 does not prohibit the regulatory arrangements of an approved regulator from making provision requiring, or authorising the approved regulator to require, a relevant authorised person—

(a) to investigate whether there are any persons who may have a claim against the relevant authorised person in relation to a matter specified by the approved regulator;

(b) to provide the approved regulator with a report on the outcome of the investigation;

(c) to identify persons ("affected persons") who may have such a claim;

(d) to notify affected persons that they may have such a claim;

(e) to provide affected persons with information about the relevant authorised person's complaints procedures and the ombudsman scheme;

(f) to ensure that the relevant authorised person's complaints procedures operate as if an affected person had made a complaint against the relevant authorised person in respect of the act or omission to which the claim relates.

(2) For the purposes of subsection (1) "claim", in relation to a relevant authorised person, means a claim for redress resulting from an act or omission of that person.

(3) For the purposes of this section—

(a) "relevant authorised person", in relation to an approved regulator, means a person authorised by that approved regulator to carry on an activity which is a reserved legal activity, and

(b) a relevant authorised person's complaints procedures are the procedures established by that person, or which that person participates in or is subject to, in accordance with regulatory arrangements made in accordance with section 112.

(4) This section applies in relation to the Board in its capacity as a licensing authority as it applies in relation to an approved regulator, and in relation to the Board references to regulatory arrangements are to be read as references to the Board's licensing rules.

Commencement Information

I103 S. 158 in force at 6.10.2010 by S.I. 2010/2089, **art. 2(a)** (with art. 5) (as amended (30.9.2011) by S.I. 2011/2196, art. 6)

159 Legal Services Complaints Commissioner and Legal Services Ombudsman

(1) The offices of Legal Services Complaints Commissioner and Legal Services Ombudsman are abolished.

(2) Accordingly—

(a) sections 51 and 52 of, and Schedule 8 to, the Access to Justice Act 1999 (c. 22), and

(b) sections 21 to 26 of, and Schedule 3 to, the Courts and Legal Services Act 1990 (c. 41),

are repealed.

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Commencement Information

I104 S. 159(1)(2)(b) in force at 6.10.2010 for specified purposes by S.I. 2010/2089, **art. 2(a)**
I105 S. 159(1)(2)(b) in force at 31.12.2011 for specified purposes by S.I. 2010/2089, **art. 4(a)**
I106 S. 159(2)(a) in force at 6.10.2010 by S.I. 2010/2089, **art. 2(a)**
I107 S. 159(2)(b) in force at 1.1.2011 for specified purposes by S.I. 2010/2089, **art. 3(a)**

Interpretation

160 Interpretation of Part 6

In this Part—

"complainant", in relation to a complaint, means the person who makes the complaint;

"relevant authorising body", in relation to a person, means—

(a) an approved regulator by which the person is authorised to carry on an activity which is a reserved legal activity, or

(b) where the person is authorised to carry on such an activity by the Board in its capacity as a licensing authority, the Board;

"respondent", in relation to a complaint, is to be construed in accordance with section 125 (except that, where scheme rules of the kind mentioned in section 133(3)(c) have effect, references to the "respondent" include a person treated as a co-respondent under those rules).

Claims management services

[F60]161 Extension of Part 6 to claims management services

. . . . . .

Textual Amendments

F60 S. 161 omitted (29.11.2018 for specified purposes, 1.4.2019 in so far as not already in force) by virtue of The Financial Services and Markets Act 2000 (Claims Management Activity) Order 2018 (S.I. 2018/1253), arts. 1(2)(3), **95(4)** (with arts. 106, 109)

PART 7

FURTHER PROVISIONS RELATING TO THE BOARD AND THE OLC

Guidance

162 Guidance

(1) The Board may give guidance—

(a) about the operation of this Act and of any order made under it;

(b) about the operation of any rules made by the Board under this Act;

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(c) about any matter relating to the Board's functions;
(d) for the purpose of meeting the regulatory objectives;
(e) about the content of licensing rules;
(f) about any other matters about which it appears to the Board to be desirable to give guidance.

(2) Guidance under this section may consist of such information and advice as the Board considers appropriate.

(3) The Board may give financial or other assistance to persons giving information or advice of a kind which the Board could give under this section.

(4) The Board may—
(a) publish its guidance,
(b) offer copies of its published guidance for sale at a reasonable price, and
(c) if it gives guidance in response to a request made by any person, make a reasonable charge for that guidance.

(5) When exercising its functions, the Board may have regard to the extent to which an approved regulator has complied with any guidance issued under this section which is applicable to the approved regulator.

(6) When exercising its functions—
(a) in its capacity as an approved regulator by virtue of an order under section 62(1)(a), or
(b) in its capacity as a licensing authority under Part 5,
the Board must have regard to any guidance it has issued under this section.

Voluntary arrangements

163 Voluntary arrangements

(1) The Board may enter into arrangements with any person under which the Board is to provide assistance for the purpose of improving standards of service and promoting best practice in connection with the carrying on of any legal activity.

(2) These arrangements may (among other things) provide for the Board to give advice on—
(a) the best regulatory practice, or
(b) the contents of codes of practice or other voluntary arrangements.

(3) Arrangements under this section may include provision as to the terms on which assistance is to be provided by the Board (including provision as to payment).

(4) Where the Board enters into arrangements under this section, it must publish a statement giving details of the arrangements and explaining what they are intended to achieve.

164 Power to establish voluntary scheme for resolving complaints

(1) This section and section 166 provide for a scheme under which legal services complaints may be resolved quickly and with minimum formality by an independent person.

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(2) The OLC may make rules ("voluntary scheme rules") establishing such a scheme ("the voluntary scheme"), but only in relation to such kinds of legal services complaints as may be specified by order made by the Lord Chancellor for the purposes of this section.

(3) An order under subsection (2) may in particular specify a kind of legal services complaint by reference to the description of the complainant, of the respondent, or of the legal services to which the complaint relates.

(4) "Legal services complaint" means a complaint which relates to an act or omission of an eligible person ("the respondent") in the course of that person providing legal services.

(5) For that purpose a person is eligible if at the time the act or omission took place there was no activity in relation to which the person—

(a) was an authorised person, or

(b) is to be regarded as having been such a person by virtue of section 129.

(6) Under the voluntary scheme—

(a) redress may be provided to the complainant, but

(b) no disciplinary action may be taken against the respondent.

(7) Voluntary scheme rules may confer functions on ombudsmen for the purposes of the voluntary scheme.

(8) Section 131 applies for the purposes of the voluntary scheme as it applies for the purposes of the ombudsman scheme.

(9) Sections 155 and 156 apply in relation to voluntary scheme rules as they apply in relation to scheme rules.

(10) In this section—

"legal services" means services provided by a person which consist of or include legal activities carried on by, or on behalf of, that person;

"the voluntary scheme" and "voluntary scheme rules" have the meaning given by subsection (2).

Commencement Information
I108 S. 164 in force at 6.10.2010 by S.I. 2010/2089, **art. 2(a)**

165 Procedure for making orders under section 164

(1) The Lord Chancellor may make an order under section 164(2) only on the recommendation of an interested body.

(2) An interested body must, if requested to do so by the Lord Chancellor, consider whether or not it is appropriate to make a recommendation for such an order.

(3) An interested body must, before making a recommendation for such an order—

(a) publish a draft of the proposed recommendation,

(b) invite representations regarding the proposed recommendation, and

(c) consider any such representations which are made.

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(4) Where the Lord Chancellor receives a recommendation from an interested body for an order under section 164(2), the Lord Chancellor must consider whether to follow the recommendation.

(5) If the Lord Chancellor decides not to follow the recommendation, the Lord Chancellor must publish a notice to that effect which includes the Lord Chancellor's reasons for the decision.

(6) In this section "interested body" means—

(a) the OLC,

(b) the Board, or

(c) the Consumer Panel.

Commencement Information

I109 S. 165 in force at 6.10.2010 by S.I. 2010/2089, **art. 2(a)**

166 Operation of voluntary scheme

(1) A complaint may be determined under the voluntary scheme only if—

(a) the complainant falls within a class of persons specified in voluntary scheme rules as qualified to make a complaint,

(b) the complainant wishes to have the complaint dealt with under the scheme,

(c) at the time of the act or omission to which the complaint relates, the respondent was participating in the scheme and voluntary scheme rules were in force in relation to the legal services in question, and

(d) at the time the complaint is made under the scheme the respondent has not withdrawn from the scheme in accordance with its provisions.

(2) A person qualifies for participation in the voluntary scheme if the person falls within a class of persons specified as qualified in voluntary scheme rules.

(3) In such circumstances as may be specified in voluntary scheme rules, a complaint may be dealt with under the voluntary scheme even though subsection (1)(c) would otherwise prevent that.

(4) Subsection (3) applies only if the respondent participates in the voluntary scheme on the basis that complaints of that kind are to be dealt with under the scheme.

(5) Complaints are to be dealt with and determined under the voluntary scheme on standard terms fixed by the OLC with the consent of the Board.

(6) The OLC may modify standard terms only with the consent of the Board.

(7) Section 204(3) applies to standard terms as it applies to rules made by the OLC.

(8) The standard terms may in particular make provision—

(a) requiring the making of payments to the OLC by persons participating in the scheme of such amounts, at such times and in such circumstances, as may be determined by the OLC;

(b) as to the award of costs on the determination of a complaint (including provision for an award of costs in favour of the OLC for the purpose of providing a contribution to resources deployed in dealing with the complaint).

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(9) In this section "legal services", "the voluntary scheme" and "voluntary scheme rules" have the same meaning as in section 164.

Commencement Information

I110 S. 166 in force at 6.10.2010 by S.I. 2010/2089, **art. 2(a)**

Disclosure and use of information

167 Restricted information

(1) Except as provided by section 168, restricted information must not be disclosed—

(a) by a restricted person, or

(b) by any person who receives the information directly or indirectly from a restricted person.

(2) In this section and section 168—

"restricted information" means information (other than excluded information) which is obtained by the Board in the exercise of its functions;

"restricted person" means—

(a) the Board (including the Board in its capacity as an approved regulator or a licensing authority),

(b) a person who exercises functions delegated under paragraph 23 of Schedule 1 or section 73 or by virtue of section 64(2)(k).

(3) For the purposes of subsection (2) "excluded information" means—

(a) information which is in the form of a summary or collection of information so framed as not to enable information relating to any particular person to be ascertained from it;

(b) information which at the time of the disclosure is or has already been made available to the public from other sources;

(c) information which was obtained more than 70 years before the date of the disclosure.

Commencement Information

I111 S. 167 wholly in force at 1.1.2010 see s. 211 and S.I. 2009/3250, **art. 2(e)** (subject to art. 3(2) (as amended (30.9.2011) by S.I. 2011/2196, arts. 1(2), 5) and with art. 9)

168 Disclosure of restricted information

(1) A restricted person may disclose restricted information to another restricted person.

(2) Restricted information may be disclosed for the purposes of enabling or assisting the Board to exercise its functions (whether as an approved regulator, a licensing authority or otherwise).

(3) Section 167 also does not preclude the disclosure of restricted information—

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(a) where the disclosure is a result of the Board exercising any power to publish information under this Act;

(b) for the purposes of enabling or assisting the OLC, ombudsmen or persons who exercise functions delegated under paragraph 22 of Schedule 15, to exercise any of its or their functions,

(c) to an approved regulator for the purposes of enabling or assisting the approved regulator to exercise any of its functions,

(d) with the consent of the person to whom it relates and (if different) the person from whom the restricted person obtained it,

(e) for the purposes of an inquiry with a view to the taking of any criminal proceedings or for the purposes of any such proceedings,

(f) where the disclosure is required by or by virtue of any provision made by or under this Act or any other enactment or other rule of law, or

(g) to such persons (other than approved regulators) who exercise regulatory functions as may be prescribed by order made by the Lord Chancellor, for such purposes as may be so prescribed.

(4) Subsections (2) and (3) are subject to subsection (5).

(5) The Lord Chancellor may by order prevent the disclosure of restricted information by virtue of subsection (2) or (3) in such circumstances, or for such purposes, as may be prescribed in the order.

Commencement Information

I112 S. 168 wholly in force at 1.1.2010 see s. 211 and S.I. 2009/3250, **art. 2(e)** (subject to art. 3(2) (as amended (30.9.2011) by S.I. 2011/2196, arts. 1(2), 5) and with art. 9)

169 Disclosure of information to the Board

(1) Information which is held by or on behalf of a permitted person (whether obtained before or after this section comes into force) may be disclosed to the Board for the purposes of enabling or assisting the Board to exercise its functions (whether as an approved regulator, a licensing authority or otherwise).

(2) A disclosure under this section is not to be taken to breach any restriction on the disclosure of information (however imposed).

(3) But nothing in this section authorises the making of a disclosure—

(a) which contravenes **[**F61the data protection legislation**]**, or

(b) which is prohibited by **[**F62any of Parts 1 to 7 or Chapter 1 of Part 9 of the Investigatory Powers Act 2016**]**.

(4) This section does not affect a power to disclose which exists apart from this section.

(5) The following are permitted persons—

(a) a chief officer of police of a police force in England and Wales;

[F63(b) the chief constable of the Police Service of Scotland;**]**

(c) the Chief Constable of the Police Service of Northern Ireland;

(d) the **[**F64Director General of the National Crime Agency**]**;

(e) the Commissioners for Her Majesty's Revenue and Customs;

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[F65(f) the Financial Conduct Authority;

(g) the Prudential Regulation Authority;

(h) the Bank of England.**]**

(6) The Lord Chancellor may by order designate as permitted persons other persons who exercise functions which the Lord Chancellor considers are of a public nature (including a person discharging regulatory functions in relation to any description of activities).

(7) Information must not be disclosed under this section on behalf of the Commissioners for Her Majesty's Revenue and Customs unless the Commissioners authorise the disclosure.

(8) The power to authorise a disclosure under subsection (7) may be delegated (either generally or for a specific purpose) to an officer of Revenue and Customs.

[F66(9) In this section, "the data protection legislation" has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act).**]**

Textual Amendments

F61 Words in s. 169(3)(a) substituted (25.5.2018) by Data Protection Act 2018 (c. 12), s. 212(1), **Sch. 19 para. 147(2)** (with ss. 117, 209, 210); S.I. 2018/625, reg. 2(1)(g)

F62 Words in s. 169(3)(b) substituted (27.6.2018) by Investigatory Powers Act 2016 (c. 25), s. 272(1), **Sch. 10 para. 20** (with Sch. 9 paras. 7, 8, 10); S.I. 2018/652, reg. 12(g)(iii)

F63 S. 169(5)(b) substituted (1.4.2013) by The Police and Fire Reform (Scotland) Act 2012 (Consequential Provisions and Modifications) Order 2013 (S.I. 2013/602), art. 1(2), **Sch. 2 para. 58**

F64 Words in s. 169(5)(d) substituted (7.10.2013) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 8 para. 187**; S.I. 2013/1682, art. 3(v)

F65 S. 169(5)(f)-(h) substituted for s. 169(5)(f) (1.4.2013) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 18 para. 125(3)** (with Sch. 20); S.I. 2013/423, art. 3, Sch.

F66 S. 169(9) inserted (25.5.2018) by Data Protection Act 2018 (c. 12), s. 212(1), **Sch. 19 para. 147(3)** (with ss. 117, 209, 210); S.I. 2018/625, reg. 2(1)(g)

Commencement Information

I113 S. 169 wholly in force at 1.1.2010 see s. 211 and S.I. 2009/3250, **art. 2(e)** (subject to art. 3(2) (as amended (30.9.2011) by S.I. 2011/2196, arts. 1(2), 5) and with art. 9)

170 Data protection

In section 31 of the Data Protection Act 1998 (c. 29) (regulatory activity), after subsection (4A) insert—

"(4B) Personal data processed for the purposes of discharging any function of the Legal Services Board are exempt from the subject information provisions in any case to the extent to which the application of those provisions to the data would be likely to prejudice the proper discharge of the function."

171 Use of information

Information obtained by the Board (whether in its capacity as an approved regulator or licensing authority or otherwise) may be used by the Board for the purposes of, or for any purpose connected with or incidental to, the exercise of its functions.

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Commencement Information

I114 S. 171 wholly in force at 1.1.2010 see s. 211 and S.I. 2009/3250, **art. 2(e)** (subject to art. 3(2) (as amended (30.9.2011) by S.I. 2011/2196, arts. 1(2), 5) and with art. 9)

Payments by Lord Chancellor

172 Funding

(1) The Lord Chancellor may—

(a) pay to the Board such sums as the Lord Chancellor may determine as appropriate for the purpose of meeting the expenditure of the Board incurred under or for the purposes of this Act or any other enactment (including any expenditure incurred by it in its capacity as an approved regulator or its capacity as a licensing authority), and

(b) pay to the OLC such sums as the Lord Chancellor may determine as appropriate for the purposes of meeting the expenditure of the OLC incurred under or for the purposes of this Act.

(2) The Lord Chancellor may—

(a) determine the manner in which and times at which the sums mentioned in subsection (1) are to be paid, and

(b) impose conditions on the payment of those sums.

The levy

173 The levy

(1) The Board must make rules providing for the imposition of a levy on leviable bodies for the purpose of raising an amount corresponding to the aggregate of—

(a) the leviable Board expenditure,

(b) the leviable OLC expenditure, and

(c) the leviable Lord Chancellor expenditure.

(2) A levy imposed under this section is payable to the Board.

(3) Before making rules under this section, the Board must satisfy itself that the apportionment of the levy as between different leviable bodies will be in accordance with fair principles.

(4) The Board may not make rules under this section except with the consent of the Lord Chancellor.

(5) "Leviable body" means—

(a) an approved regulator,

F67(b) . . . . . .

(c) any other person prescribed by the Lord Chancellor by order.

(6) The "leviable Board expenditure" means the difference between—

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(a) the expenditure of the Board incurred under or for the purposes of this Act or any other enactment (including any expenditure incurred in connection with its establishment and any expenditure incurred by it in its capacity as an approved regulator or its capacity as a licensing authority), and

(b) the aggregate of the amounts which the Board pays into the Consolidated Fund under section 175(1)(a), (c) to (e) and (k) to (m) [F68]....

(7) The "leviable OLC expenditure" means the difference between—

(a) the expenditure of the OLC incurred under or for the purposes of this Act (including any expenditure incurred in connection with its establishment), and

(b) the aggregate of the amounts which the OLC pays into the Consolidated Fund under section 175(1)(g), (h) or (n).

(8) But subsection (7)(a) does not include such proportion of the expenditure of the OLC incurred under or for the purposes of this Act as may reasonably be attributed to the exercise of its functions under sections 164 to 166.

(9) The "leviable Lord Chancellor expenditure" means any expenditure incurred by the Lord Chancellor in connection with the establishment of the Board or the OLC (including expenditure incurred under or for the purposes of paragraph 10 of Schedule 22 (Interim Chief Executive of the OLC)).

(10) But the leviable Lord Chancellor expenditure does not include any expenditure under section 172 (funding of Board and OLC).

(11) In subsection (5) the reference to "an approved regulator" does not include the Board where it is designated as an approved regulator under section 62.

Textual Amendments

F67 S. 173(5)(b) omitted (29.11.2018 for specified purposes, 1.4.2019 in so far as not already in force) by virtue of The Financial Services and Markets Act 2000 (Claims Management Activity) Order 2018 (S.I. 2018/1253), arts. 1(2)(3), **95(5)(a)**

F68 Words in s. 173(6)(b) omitted (29.11.2018 for specified purposes, 1.4.2019 in so far as not already in force) by virtue of The Financial Services and Markets Act 2000 (Claims Management Activity) Order 2018 (S.I. 2018/1253), arts. 1(2)(3), **95(5)(b)**

Commencement Information

I115 S. 173 wholly in force at 1.1.2010; s. 173 not in force at Royal Assent see s. 211; s. 173(1)(3)-(11) in force at 1.1.2009 by S.I. 2008/3149, **art. 2(f)** (subject to art. 3); s. 173 in force otherwise at 1.1.2010 by S.I. 2009/3250, **art. 2(e)** (with art. 9)

174 The levy: supplementary provisions

(1) In this section—

"leviable body" has the meaning given by section 173;

"the levy" means the levy payable by virtue of that section;

"the levy rules" means the rules made in accordance with that section.

(2) The levy is to be payable at such rate and at such times as may be specified in the levy rules.

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Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Legal Services Act 2007 is up to date with all changes known to be in force on or before 05 December 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(3) The provision made in the levy rules for determining the amount of the levy payable in respect of a particular period—

(a) may require account to be taken of estimated as well as actual expenditure and receipts, and

(b) must require the Board to obtain the Lord Chancellor's agreement to the amount payable in respect of a particular period.

(4) The levy rules may provide for different parts of the levy to be payable at different rates.

(5) Any amount which is owed to the Board in accordance with the levy rules may be recovered as a debt due to the Board.

(6) The levy rules must require the Board—

(a) to calculate the amount of the levy payable by each leviable body,

(b) to notify each leviable body of its liability to pay an amount of levy and the time or times at which it becomes payable.

(7) Without prejudice to subsections (2) to (6), the levy rules may—

(a) make provision about the collection and recovery of the levy;

(b) make provision about the circumstances in which any amount of the levy payable may be waived;

(c) provide that if the whole or any part of an amount of the levy payable under the levy rules is not paid by the time when it is required to be paid under the rules, the unpaid balance from time to time carries interest at the rate determined by or in accordance with the levy rules.

Commencement Information

I116 S. 174 wholly in force at 1.1.2010; s. 174 not in force at Royal Assent see s. 211; s. 174(1)(3)(4)(6)(7) in force at 1.1.2009 by S.I. 2008/3149, **art. 2(f)** (subject to art. 3); s. 174 in force otherwise at 1.1.2010 by S.I. 2009/3250, **art. 2(e)** (with art. 9)

[F69OLC expenditure relating to claims management services]

Textual Amendments

F69 S.174A and cross-heading inserted (21.3.2014) by Financial Services (Banking Reform) Act 2013 (c. 33), **ss. 140(5)**, 148(4); S.I. 2014/785, art. 2

F70174A OLC expenditure relating to claims management services

. . . . . .

Textual Amendments

F70 S. 174A omitted (29.11.2018 for specified purposes, 1.4.2019 in so far as not already in force) by virtue of The Financial Services and Markets Act 2000 (Claims Management Activity) Order 2018 (S.I. 2018/1253), arts. 1(2)(3), **95(6)**

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Payments into the Consolidated Fund

175 Amounts payable into the Consolidated Fund

(1) The following must be paid into the Consolidated Fund—

(a) any application fee received by the Board;

(b) any sum received by the Board under sections 37 to 40 (financial penalties and interest);

(c) amounts paid to the Board under section 49(10) or 50(5) (charges for providing draft and final policy statements);

(d) any sums received by the Board in its capacity as an approved regulator by virtue of rules within section 64(2)(f) (practising fees etc);

(e) any sums received by the Board in its capacity as a licensing authority by virtue of its licensing rules within paragraph 1, 4, 6, 7 or 21 of Schedule 11 or by virtue of paragraph 17 or 18 of Schedule 14;

(f) any sums received by the Board in its capacity as a licensing authority under sections 95 to 97 (financial penalties and interest);

(g) any charges received by the OLC by virtue of rules under section 136 (charges payable by respondents), together with any interest payable in accordance with those rules;

(h) any amount payable to the OLC in accordance with scheme rules within subsection (3)(i) of section 133 (costs of OLC payable by the complainant or the respondent in relation to a complaint), together with any interest payable on such an amount under subsection (6) of that section;

(i) any amount payable to the OLC by virtue of standard terms within section 166(8);

(j) any sum received by the Board in accordance with rules under section 173 (the levy);

(k) amounts paid to the Board under section 162(4)(c) (charges for providing copies of guidance);

(l) any amount payable to the Board under arrangements entered into under section 163 (voluntary arrangements);

(m) amounts paid to the Board under subsection (8) of section 205 (charges for providing copies of rules and draft rules);

(n) amounts paid to the OLC under that subsection.

(2) In this section "application fee" means a fee within—

(a) paragraph 3(3)(d) of Schedule 4 (application fees in respect of designation as approved regulator);

(b) section 45(3)(b) (application fees in respect of cancellation of designation as approved regulator);

(c) paragraph 1(4)(d) of Schedule 10 (application fees in respect of designation as licensing authority);

(d) section 76(3)(b) (application fees in respect of cancellation of designation as licensing authority);

(e) paragraph 3(4)(c) of Schedule 18 (application fees in respect of designation as qualifying regulator for the purposes of Part 5 of the Immigration and Asylum Act 1999 (c. 33)).

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Commencement Information

I117 S. 175 partly in force; s. 175 not in force at Royal Assent see s. 211; s. 175(1)(c)(k)(m)(n) in force at 1.1.2009 by S.I. 2008/3149, **art. 2(f)**; s. 175(1)(a)(b)(d)(j)(l)(2)(a)(b) in force at 1.1.2010 by S.I. 2009/3250, **art. 2(e)** (with art. 9)

I118 S. 175(1)(g)(h)(i) in force at 6.10.2010 by S.I. 2010/2089, **art. 2(a)**

I119 S. 175(2)(c)(d) in force at 2.8.2010 by S.I. 2010/1118, **art. 2(a)**

I120 S. 175(2)(e) in force at 1.4.2011 by S.I. 2011/720, **art. 2(a)**

PART 8

MISCELLANEOUS PROVISIONS ABOUT LAWYERS ETC

Duties of regulated persons

176 Duties of regulated persons

(1) A person who is a regulated person in relation to an approved regulator has a duty to comply with the regulatory arrangements of the approved regulator as they apply to that person.

(2) A person is a regulated person in relation to an approved regulator if the person—

(a) is authorised by the approved regulator to carry on an activity which is a reserved legal activity, or

(b) is not so authorised, but is a manager or employee of a person who is so authorised.

(3) This section applies in relation to the Board in its capacity as a licensing authority and its licensing rules, as it applies in relation to an approved regulator and its regulatory arrangements.

Commencement Information

I121 S. 176 partly in force: s. 176 not in force at Royal Assent see s. 211; s 176(1)(2) in force at 1.1.2010 by S.I. 2009/3250, **art. 2(f)(i)** (with art. 9)

Solicitors, the Law Society and the Disciplinary Tribunal

177 The Law Society, solicitors, recognised bodies and foreign lawyers

Schedule 16 contains amendments of—

(a) the Solicitors Act 1974 (c. 47),

(b) Part 1 of the Administration of Justice Act 1985 (c. 61) (recognised bodies), and

(c) section 89 of, and Schedule 14 to, the Courts and Legal Services Act 1990 (c. 41) (foreign lawyers: partnerships and recognised bodies).

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178 The Solicitors Disciplinary Tribunal: approval of rules

(1) If the Solicitors Disciplinary Tribunal ("the Tribunal") makes an alteration of its rules under section 46(9)(b) of the Solicitors Act 1974 ("the tribunal rules"), the alteration does not have effect unless it is approved for the purposes of this Act.

(2) An alteration is approved for the purposes of this Act if—

(a) it is approved by the Board under Part 3 of Schedule 4 (alteration of approved regulator's regulatory arrangements),

(b) it is an exempt alteration, or

(c) it is an alteration made in compliance with a direction under section 32 (given by virtue of section 179).

(3) For the purposes of subsection (2)(a), paragraphs 20 to 27 of Schedule 4 (procedure for approval of alterations of regulatory arrangements) apply in relation to an application by the Tribunal for approval of an alteration or alterations of the tribunal rules as they apply in relation to an application by an approved regulator for approval of an alteration or alterations of its regulatory arrangements, but as if—

(a) paragraph 23 of that Schedule applied in relation to the Law Society as well as the Tribunal,

(b) in paragraph 25(3) (grounds for refusal of application), paragraphs (d) and (e) were omitted, and

(c) in paragraph 27(3) the reference to section 32 were a reference to that section as applied (with modifications) by section 179.

(4) For the purposes of subsection (2)(b), an exempt alteration is an alteration which the Board has directed is to be treated as exempt for the purposes of this section.

(5) A direction under subsection (4) may be specific or general, and must be published by the Board.

(6) In this section references to an "alteration" of the tribunal rules include the making of such rules and the modification of such rules.

179 Board's power to give directions to the Tribunal

Sections 32 to 34 and Schedule 7 (Board's powers to give directions) apply in relation to the Tribunal as they apply in relation to an approved regulator, but as if—

(a) in section 32(1)—

(i) paragraphs (a) and (c) were omitted, and

(ii) in paragraph (b) after "failed" there were inserted " to perform any of its functions to an adequate standard (or at all) or ",

(b) in subsection (4)(b) of that section for "regulatory arrangements" there were substituted " rules under section 46(9)(b) of the Solicitors Act 1974 ",

(c) section 34(3) were omitted, and

(d) paragraphs 2 and 10 of Schedule 7 applied in relation to the Law Society, as well as the Tribunal, where it is proposed to give the Tribunal a direction under section 32.

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180 Functions of the Tribunal

Sections 69 and 70 (modification of functions of approved regulators) apply in relation to the Tribunal as they apply in relation to an approved regulator, but as if—

(a) for section 69(3) (purpose for which modifying order may be made) there were substituted—

"(3) The Board may make a recommendation under this section only with a view to an order being made which enables the Tribunal to carry out its role more effectively or efficiently.", and

(b) subsections (4), (5) and (7) of that section were omitted.

Modifications etc. (not altering text)

C15 S. 180 modified (temp.) (7.3.2008) by The Legal Services Act 2007 (Commencement No.1 and Transitory Provisions) Order 2008 (S.I. 2008/222), **art. 6**

Other lawyers

181 Unqualified person not to pretend to be a barrister

(1) It is an offence for a person who is not a barrister—

(a) wilfully to pretend to be a barrister, or

(b) with the intention of implying falsely that that person is a barrister to take or use any name, title or description.

(2) A person who is guilty of an offence under subsection (1) is liable—

(a) on summary conviction, to imprisonment for a term not exceeding **[**F71the general limit in a magistrates' court**]** or a fine not exceeding the statutory maximum (or both), and

(b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine (or both).

(3) In relation to an offence under subsection (1) committed before **[**F722 May 2022**]**, the reference in subsection (2)(a) to **[**F73the general limit in a magistrates' court**]** is to be read as a reference to 6 months.

Textual Amendments

F71 Words in s. 181(2)(a) substituted (7.2.2023 at 12.00 p.m.) by The Judicial Review and Courts Act 2022 (Magistrates' Court Sentencing Powers) Regulations 2023 (S.I. 2023/149), regs. 1(2), 2(1), **Sch. Pt. 1** table

F72 Words in s. 181(3) substituted (28.4.2022) by The Criminal Justice Act 2003 (Commencement No. 33) and Sentencing Act 2020 (Commencement No. 2) Regulations 2022 (S.I. 2022/500), regs. 1(2), **5(1)**, **Sch. Pt. 1**

F73 Words in s. 181(3) substituted (7.2.2023 at 12.00 p.m.) by The Judicial Review and Courts Act 2022 (Magistrates' Court Sentencing Powers) Regulations 2023 (S.I. 2023/149), regs. 1(2), 2(1), **Sch. Pt. 1** table

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182 Licensed conveyancers

Schedule 17 contains amendments relating to the Council for Licensed Conveyancers, licensed conveyancers and bodies recognised under section 32 of the Administration of Justice Act 1985 (c. 61).

183 Commissioners for oaths

(1) For the purposes of any enactment or instrument (including an enactment passed or instrument made after the passing of this Act) "commissioner for oaths" includes an authorised person in relation to the administration of oaths ("a relevant authorised person").

(2) A relevant authorised person has the right to use the title "Commissioner for Oaths".

(3) A relevant authorised person may not carry on the administration of oaths in any proceedings in which that person represents any of the parties or is interested.

(4) A relevant authorised person before whom an oath or affidavit is taken or made must state in the jurat or attestation at which place and on what date the oath or affidavit is taken or made.

(5) A document containing such a statement and purporting to be sealed or signed by a relevant authorised person must be admitted in evidence without proof of the seal or signature, and without proof that that person is a relevant authorised person.

(6) The Lord Chancellor may by order prescribe the fees to be charged by relevant authorised persons in respect of the administration of an oath or the taking of an affidavit.

(7) The Lord Chancellor may make an order under subsection (6) only—

(a) after consultation with the Board, and

(b) with the consent of the Lord Chief Justice and the Master of the Rolls.

(8) In this section "affidavit" has the same meaning as in the Commissioners for Oaths Act 1889 (c. 10).

184 Trade mark attorneys

(1) The Trade Marks Act 1994 (c. 26) is amended as follows.

(2) In section 82 (recognition of agents) after "rules" insert " and subject to the Legal Services Act 2007 ".

(3) For section 83 (the register of trade mark agents) substitute—

"**83 The register of trade mark attorneys**

(1) There is to continue to be a register of persons who act as agent for others for the purpose of applying for or obtaining the registration of trade marks.

(2) In this Act a registered trade mark attorney means an individual whose name is entered on the register kept under this section.

(3) The register is to be kept by the Institute of Trade Mark Attorneys.

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(4) The Secretary of State may, by order, amend subsection (3) so as to require the register to be kept by the person specified in the order.

(5) Before making an order under subsection (4), the Secretary of State must consult the Legal Services Board.

(6) An order under this section must be made by statutory instrument.

(7) An order under this section may not be made unless a draft of it has been laid before, and approved by a resolution of, each House of Parliament.

83A Regulation of trade mark attorneys

(1) The person who keeps the register under section 83 may make regulations which regulate—

(a) the keeping of the register and the registration of persons;

(b) the carrying on of trade mark agency work by registered persons.

(2) Those regulations may, amongst other things, make—

(a) provision as to the educational and training qualifications, and other requirements, which must be satisfied before an individual may be registered or for an individual to remain registered;

(b) provision as to the requirements which must be met by a body (corporate or unincorporate) before it may be registered or for it to remain registered, including provision as to the management and control of the body;

(c) provision as to the educational, training or other requirements to be met by regulated persons;

(d) provision regulating the practice, conduct and discipline of registered persons or regulated persons;

(e) provision authorising in such cases as may be specified in the regulations the erasure from the register of the name of any person registered in it, or the suspension of a person's registration;

(f) provision requiring the payment of such fees as may be specified in or determined in accordance with the regulations;

(g) provision about the provision to be made by registered persons in respect of complaints made against them;

(h) provision about the keeping of records and accounts by registered persons or regulated persons;

(i) provision for reviews of or appeals against decisions made under the regulations;

(j) provision as to the indemnification of registered persons or regulated persons against losses arising from claims in respect of civil liability incurred by them.

(3) Regulations under this section may make different provision for different purposes.

(4) Regulations under this section which are not regulatory arrangements within the meaning of the Legal Services Act 2007 are to be treated as such arrangements for the purposes of that Act.

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(5) Before the appointed day, regulations under this section may be made only with the approval of the Secretary of State.

(6) The powers conferred to make regulations under this section are not to be taken to prejudice—

(a) any other power which the person who keeps the register may have to make rules or regulations (however they may be described and whether they are made under an enactment or otherwise);

(b) any rules or regulations made by that person under any such power.

(7) In this section—

"appointed day" means the day appointed for the coming into force of paragraph 1 of Schedule 4 to the Legal Services Act 2007;

"manager", in relation to a body, has the same meaning as in the Legal Services Act 2007 (see section 207);

"registered person" means—

(a) a registered trade mark attorney, or

(b) a body (corporate or unincorporate) registered in the register kept under section 83;

"regulated person" means a person who is not a registered person but is a manager or employee of a body which is a registered person;

"trade mark agency work" means work done in the course of carrying on the business of acting as agent for others for the purpose of—

(a) applying for or obtaining the registration of trade marks in the United Kingdom **[**[F74]or elsewhere**]** , or

(b) conducting proceedings before the Comptroller relating to applications for or otherwise in connection with the registration of trade marks."

(4) In section 84 (unregistered persons not to be described as registered trade mark agents) —

(a) in subsection (2)—

(i) after "partnership" (in the first place) insert " or other unincorporated body ", and

(ii) for "all the partners" to the end substitute " the partnership or other body is registered in the register kept under section 83. ", and

(b) in subsection (3) for "all the directors" to the end substitute " the body corporate is registered in the register kept under section 83. "

(5) Omit section 85 (power to prescribe conditions etc for mixed partnerships and bodies corporate).

(6) In section 87 (privilege for communications with registered trade mark attorneys), in subsection (3)(c) at the beginning insert " any other unincorporated body or ".

Textual Amendments

F74 Words in s. 184(3) inserted (16.12.2009) by The Legal Services Act 2007 (Functions of an Approved Regulator) Order 2009 (S.I. 2009/3339), arts. 1, **2**

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185 Patent attorneys

(1) The Copyright, Designs and Patents Act 1988 (c. 48) is amended as follows.

(2) In section 274 (persons permitted to carry on business of a patent agent) in subsection (1) after "this Part" insert " and to the Legal Services Act 2007 ".

(3) For section 275 (the register of patent agents) substitute—

"**275 The register of patent attorneys**

(1) There is to continue to be a register of persons who act as agent for others for the purpose of applying for or obtaining patents.

(2) In this Part a registered patent attorney means an individual whose name is entered on the register kept under this section.

(3) The register is to be kept by the Chartered Institute of Patent Attorneys.

(4) The Secretary of State may, by order, amend subsection (3) so as to require the register to be kept by the person specified in the order.

(5) Before making an order under subsection (4), the Secretary of State must consult the Legal Services Board.

(6) An order under this section must be made by statutory instrument.

(7) An order under this section may not be made unless a draft of it has been laid before, and approved by a resolution of, each House of Parliament.

275A Regulation of patent attorneys

(1) The person who keeps the register under section 275 may make regulations which regulate—

(a) the keeping of the register and the registration of persons;

(b) the carrying on of patent attorney work by registered persons.

(2) Those regulations may, amongst other things, make—

(a) provision as to the educational and training qualifications, and other requirements, which must be satisfied before an individual may be registered or for an individual to remain registered;

(b) provision as to the requirements which must be met by a body (corporate or unincorporate) before it may be registered, or for it to remain registered, including provision as to the management and control of the body;

(c) provision as to the educational, training and other requirements to be met by regulated persons;

(d) provision regulating the practice, conduct and discipline of registered persons or regulated persons;

(e) provision authorising in such cases as may be specified in the regulations the erasure from the register of the name of any person registered in it, or the suspension of a person's registration;

(f) provision requiring the payment of such fees as may be specified in or determined in accordance with the regulations;

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(g) provision about the provision to be made by registered persons in respect of complaints made against them;

(h) provision about the keeping by registered persons or regulated persons of records and accounts;

(i) provision for reviews of or appeals against decisions made under the regulations;

(j) provision as to the indemnification of registered persons or regulated persons against losses arising from claims in respect of civil liability incurred by them.

(3) Regulations under this section may make different provision for different purposes.

(4) Regulations under this section which are not regulatory arrangements within the meaning of the Legal Services Act 2007 are to be treated as such arrangements for the purposes of that Act.

(5) Before the appointed day, regulations under this section may be made only with the approval of the Secretary of State.

(6) The powers conferred to make regulations under this section are not to be taken to prejudice—

(a) any other power which the person who keeps the register may have to make rules or regulations (however they may be described and whether they are made under an enactment or otherwise);

(b) any rules or regulations made by that person under any such power.

(7) In this section—

"appointed day" means the day appointed for the coming into force of paragraph 1 of Schedule 4 to the Legal Services Act 2007;

"manager", in relation to a body, has the same meaning as in the Legal Services Act 2007 (see section 207);

"patent attorney work" means work done in the course of carrying on the business of acting as agent for others for the purpose of—

(a) applying for or obtaining patents, in the United Kingdom or elsewhere, or

(b) conducting proceedings before the comptroller relating to applications for, or otherwise in connection with, patents;

"registered person" means—

(a) a registered patent attorney, or

(b) a body (corporate or unincorporate) registered in the register kept under section 275;

"regulated person" means a person who is not a registered person but is a manager or employee of a body which is a registered person."

(4) In section 276 (persons entitled to describe themselves as patent attorneys)—

(a) in subsection (2)—

(i) after "partnership" (in the first place) insert " or other unincorporated body ", and

(ii) for "all the partners" to the end substitute " the partnership or other body is registered in the register kept under section 275 ", and

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(b) in subsection (3) for "all the directors" to the end substitute " the body corporate is registered in the register kept under section 275. "

(5) Omit section 279 (power to prescribe conditions etc for mixed partnerships and bodies corporate).

(6) In section 280 (privilege for communications with patent agents), in subsection (3), at the end of paragraph (b) insert—

"(ba) an unincorporated body (other than a partnership) entitled to describe itself as a patent attorney, or".

186 Immigration advisers and immigration service providers

(1) Schedule 18 makes provision relating to Part 5 of the Immigration and Asylum Act 1999 (c. 33) (immigration advisers and immigration service providers).

(2) In that Schedule—

(a) Part 1 makes provision for approved regulators to become qualifying regulators for the purposes of Part 5 of the Immigration and Asylum Act 1999,

(b) Part 2 contains amendments of that Act (which amongst other things enable persons authorised by qualifying regulators to provide immigration advice and immigration services in England and Wales), and

(c) Part 3 makes provision for certain persons to be treated, during a transitional period, as authorised by qualifying regulators to provide such advice and services.

Commencement Information

I122 S. 186 in force at 1.4.2011 by S.I. 2011/720, **art. 2(a)**

F75 187 Claims management services

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Textual Amendments

F75 S. 187 omitted (29.11.2018 for specified purposes, 1.4.2019 in so far as not already in force) by virtue of The Financial Services and Markets Act 2000 (Claims Management Activity) Order 2018 (S.I. 2018/1253), arts. 1(2)(3), **95(7)** (with arts. 106, 108)

Advocates and litigators

188 Duties of advocates and litigators

(1) This section applies to a person who—

(a) exercises before any court a right of audience, or

(b) conducts litigation in relation to proceedings in any court,

by virtue of being an authorised person in relation to the activity in question.

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(2) A person to whom this section applies has a duty to the court in question to act with independence in the interests of justice.

(3) That duty, and the duty to comply with relevant conduct rules imposed on the person by section 176(1), override any obligations which the person may have (otherwise than under the criminal law) if they are inconsistent with them.

(4) "Relevant conduct rules" are the conduct rules of the relevant authorising body which relate to the exercise of a right of audience or the conduct of litigation.

(5) The relevant authorising body is—

(a) the approved regulator by which the person is authorised to exercise the right of audience or conduct the litigation, or

(b) where the person is authorised to exercise the right of audience or conduct the litigation by the Board in its capacity as a licensing authority, the Board.

189 Employed advocates

(1) This section applies where an authorised person in relation to the exercise of a right of audience is employed as a Crown Prosecutor or in any other description of employment.

(2) Qualification regulations or conduct rules of the approved regulator by whom the person is authorised to carry on that activity which relate to the right of audience do not have effect in relation to the person if—

(a) they—

(i) limit the courts before which, or proceedings in which, that activity may be carried on by persons who are employed, or

(ii) limit the circumstances in which that activity may be carried on by persons who are employed by requiring such persons to be accompanied by some other person when carrying on that activity, and

(b) they do not impose the same limitation on persons who are authorised persons in relation to the activity in question but are not employed.

Legal professional privilege

190 Legal professional privilege

(1) Subsection (2) applies where an individual ("P") who is not a barrister or solicitor—

(a) provides advocacy services as an authorised person in relation to the exercise of rights of audience,

(b) provides litigation services as an authorised person in relation to the conduct of litigation,

(c) provides conveyancing services as an authorised person in relation to reserved instrument activities, or

(d) provides probate services as an authorised person in relation to probate activities.

(2) Any communication, document, material or information relating to the provision of the services in question is privileged from disclosure in like manner as if P had at all material times been acting as P's client's solicitor.

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(3) Subsection (4) applies where—

(a) a licensed body provides services to a client, and

(b) the individual ("E") through whom the body provides those services—

(i) is a relevant lawyer, or

(ii) acts at the direction and under the supervision of a relevant lawyer ("the supervisor").

(4) Any communication, document, material or information relating to the provision of the services in question is privileged from disclosure only if, and to the extent that, it would have been privileged from disclosure if—

(a) the services had been provided by E or, if E is not a relevant lawyer, by the supervisor, and

(b) at all material times the client had been the client of E or, if E is not a relevant lawyer, of the supervisor.

(5) "Relevant lawyer" means an individual who is—

(a) a solicitor;

(b) a barrister;

(c) a solicitor in Scotland;

(d) an advocate in Scotland;

(e) a solicitor of the Court of Judicature of Northern Ireland;

(f) a member of the Bar of Northern Ireland;

(g) a registered foreign lawyer (within the meaning of section 89 of the Courts and Legal Services Act 1990 (c. 41));

(h) an individual not within paragraphs (a) to (g) who is an authorised person in relation to an activity which is a reserved legal activity; or

(i) a European lawyer (within the meaning of the European Communities (Services of Lawyers) Order 1978 (S.I. 1978/1910) [F76, as it has effect by virtue of regulation 5 of the Services of Lawyers and Lawyer's Practice (Revocation etc.) (EU Exit) Regulations 2020]).

(6) In this section—

"advocacy services" means any services which it would be reasonable to expect a person who is exercising, or contemplating exercising, a right of audience in relation to any proceedings, or contemplated proceedings, to provide;

"litigation services" means any services which it would be reasonable to expect a person who is exercising, or contemplating exercising, a right to conduct litigation in relation to any proceedings, or contemplated proceedings, to provide;

"conveyancing services" means the preparation of transfers, conveyances, contracts and other documents in connection with, and other services ancillary to, the disposition or acquisition of estates or interests in land;

"probate services" means the preparation of any papers on which to found or oppose a grant of probate or a grant of letters of administration and the administration of the estate of a deceased person.

(7) This section is without prejudice to any other enactment or rule of law by virtue of which a communication, a document, material or information is privileged from disclosure.

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Textual Amendments

F76 Words in s. 190(5)(i) inserted (31.12.2020) by The Services of Lawyers and Lawyer's Practice (Revocation etc.) (EU Exit) Regulations 2020 (S.I. 2020/1342), reg. 1(1), **Sch. para. 12(3)** (with Sch. para. 13)

PROSPECTIVE

Employees of housing management bodies

191 Rights of audience etc of employees of housing management bodies

After section 60 of the County Courts Act 1984 (c. 28) insert—

"**60A Rights of audience etc of employees of housing management bodies**

(1) An employee of a housing management body who is authorised by that body for the purposes of this section has—

(a) a right of audience in relation to any proceedings to which this section applies, and

(b) a right to conduct litigation in relation to any such proceedings.

(2) This section applies to relevant housing proceedings in a county court before a district judge which are brought—

(a) in the name of a local housing authority, and

(b) by the housing management body in the exercise of functions of that local housing authority delegated to that body under a housing management agreement.

(3) "Relevant housing proceedings" are—

(a) proceedings under section 82A of the Housing Act 1985 (demotion because of anti-social behaviour);

(b) proceedings for possession of a dwelling-house subject to a secure tenancy, where possession is sought on ground 2 in Part 1 of Schedule 2 to that Act (anti-social behaviour);

(c) proceedings for possession of a dwelling-house subject to a demoted tenancy;

(d) proceedings for a suspension order under section 121A of the Housing Act 1985 (suspension of right to buy);

(e) proceedings under section 153A, 153B or 153D of the Housing Act 1996 (injunctions against anti-social behaviour);

(f) proceedings for the attachment of a power of arrest to an injunction by virtue of section 91(2) of the Anti-social Behaviour Act 2003 or section 27(2) of the Police and Justice Act 2006 (proceedings under section 222 of the Local Government Act 1972: power of arrest attached to injunction);

(g) at a hearing at which a decision is made in relation to proceedings within paragraphs (a) to (f), proceedings for permission to appeal against that decision;

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(h) such other proceedings as the Lord Chancellor may prescribe by order.

(4) An authorisation for the purposes of this section must be in writing.

(5) The power to make an order under subsection (3)(h) is exercisable by statutory instrument subject to annulment by resolution of either House of Parliament.

(6) In subsection (3)(e) the reference to section 153A of the Housing Act 1996 is a reference to that section—

(a) as inserted by section 13 of the Anti-social Behaviour Act 2003, or

(b) as substituted by section 26 of the Police and Justice Act 2006.

(7) In this section—

"dwelling-house" has the same meaning as in Part 4 of the Housing Act 1985;

"housing management agreement" means an agreement under section 27 of the Housing Act 1985 (including an agreement to which section 27B(2) or (3) of that Act applies);

"housing management body" means a person who exercises management functions of a local housing authority by virtue of a housing management agreement;

"local housing authority" has the same meaning as in section 27 of the Housing Act 1985;

"right of audience" means the right to appear before and address a court, including the right to call and examine witnesses;

"right to conduct litigation" means the right—

(a) to issue proceedings before any court in England and Wales,

(b) to commence, prosecute and defend such proceedings, and

(c) to perform any ancillary functions in relation to such proceedings (such as entering appearances to actions);

"secure tenancy" has the same meaning as in Part 4 of the Housing Act 1985."

Savings

192 Powers of court in respect of rights of audience and conduct of litigation

(1) Nothing in this Act affects the power of any court in any proceedings to refuse to hear a person (for reasons which apply to that person as an individual) who would otherwise have a right of audience before the court in relation to those proceedings.

(2) Where a court refuses to hear a person as mentioned in subsection (1), it must give its reasons for refusing.

(3) Where—

(a) immediately before the commencement of section 13 (entitlement to carry on reserved legal activities), or

(b) by virtue of any provision made by or under an enactment passed subsequently,

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a court does not permit the appearance of advocates, or permits the appearance of advocates only with leave, no person may exercise a right of audience before the court, in relation to any proceedings, solely by virtue of being entitled to do so under this Act.

(4) But a court may not limit the right to appear before the court in any proceedings to only some of those who are entitled to exercise that right by virtue of this Act.

(5) A court may not limit the right to conduct litigation in relation to proceedings before the court to only some of those who are entitled to exercise that right by virtue of this Act.

(6) In this section "advocate", in relation to any proceedings, means a person exercising a right of audience as a representative of, or on behalf of, any party to the proceedings.

193 Solicitors to public departments and the City of London

(1) Nothing in this Act is to prejudice or affect any rights or privileges of—

(a) the Treasury Solicitor,

(b) the solicitor to any other public department,

(c) the solicitor to the Church Commissioners, or

(d) the solicitor to the Duchy of Cornwall.

(2) Nothing in this Act requires a person to whom subsection (1) applies, or any clerk or officer appointed to act for such a person, to be entitled to carry on an activity which is a reserved legal activity in any case where, by virtue of section 88(1) of the Solicitors Act 1974 (c. 47), it would not have been necessary for that person to be admitted and enrolled and to hold a practising certificate under that Act if this Act had not been passed.

(3) Nothing in this Act is to prejudice or affect any rights or privileges which immediately before the commencement of this Act attached to the office of Solicitor of the City of London.

(4) Nothing in section 17 (offence to pretend to be entitled) applies to a person to whom subsection (1) applies, or any clerk or officer appointed to act for such a person, or to the Solicitor of the City of London.

(5) A person who—

(a) exercises before any court a right of audience, or

(b) conducts litigation in relation to proceedings in any court,

by virtue of this section has a duty to the court in question to act with independence in the interests of justice.

(6) That duty overrides any obligations which the person may have (otherwise than under the criminal law) if it is inconsistent with them.

Pro bono representation

194 Payments in respect of pro bono representation [F77: civil courts in England and Wales]

(1) This section applies to proceedings in a civil court in which—

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(a) a party to the proceedings ("P") is or was represented by a legal representative ("R"), and

(b) R's representation of P is or was provided free of charge, in whole or in part.

(2) This section applies to such proceedings even if P is or was also represented by a legal representative not acting free of charge.

(3) The court may order any person to make a payment to the prescribed charity in respect of R's representation of P (or, if only part of R's representation of P was provided free of charge, in respect of that part).

(4) In considering whether to make such an order and the terms of such an order, the court must have regard to—

(a) whether, had R's representation of P not been provided free of charge, it would have ordered the person to make a payment to P in respect of the costs payable to R by P in respect of that representation, and

(b) if it would, what the terms of the order would have been.

(5) The court may not make an order under subsection (3) against a person represented in the proceedings if the person's representation was at all times within subsection (6).

(6) Representation is within this subsection if it is—

(a) provided by a legal representative acting free of charge, or

[F78(b) provided under arrangements made for the purposes of Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012.]

(7) Rules of court may make further provision as to the making of orders under subsection (3), and may in particular—

(a) provide that such orders may not be made in civil proceedings of a description specified in the rules;

(b) make provision about the procedure to be followed in relation to such orders;

(c) specify matters (in addition to those mentioned in subsection (4)) to which the court must have regard in deciding whether to make such an order, and the terms of any order.

(8) "The prescribed charity" means the charity prescribed [F79under section 194C].

F80(9) . . . . . .

(10) In this section—

"legal representative", in relation to a party to proceedings, means a person exercising a right of audience or conducting litigation on the party's behalf;

[F81 "civil court" means—

a F82...

b the civil division of the Court of Appeal,

c the High Court,

ca [F83the family court,] or

d [F84the county] court;

F85...

"free of charge" means otherwise than for or in expectation of fee, gain or reward.

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(11) The court may not make an order under subsection (3) in respect of representation if (or to the extent that) it is provided before this section comes into force.**]**

Textual Amendments

F77 Words in s. 194 heading inserted (28.6.2022) by Judicial Review and Courts Act 2022 (c. 35), **ss. 48(1)(a)**, 51(3)

F78 S. 194(6)(b) substituted (1.4.2013) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 5 para. 68**; S.I. 2013/453, art. 3(h) (with savings and transitional provisions in S.I. 2013/534, art. 6)

F79 Words in s. 194(8) substituted (28.6.2022) by Judicial Review and Courts Act 2022 (c. 35), **ss. 48(1)(b)**, 51(3)

F80 S. 194(9) omitted (28.6.2022) by virtue of Judicial Review and Courts Act 2022 (c. 35), **ss. 48(1)(c)**, 51(3)

F81 Words in s. 194(10) substituted (1.10.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10) , **ss. 61(1)** , 151(1) (with s. 61(2)); S.I. 2012/2412 , art. 2(c)

F82 Words in s. 194(10) omitted (28.6.2022) by virtue of Judicial Review and Courts Act 2022 (c. 35), **ss. 48(1)(d)(i)**, 51(3)

F83 Words in s. 194(10) inserted (22.4.2014) by The Crime and Courts Act 2013 (Family Court: Consequential Provision) Order 2014 (S.I. 2014/605), arts. 1, **25**

F84 Words in s. 194(10) substituted (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 9 para. 101**; S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

F85 Words in s. 194(10) omitted (28.6.2022) by virtue of Judicial Review and Courts Act 2022 (c. 35), **ss. 48(1)(d)(ii)**, 51(3)

Commencement Information

I123 S. 194 wholly in force at 1.10.2008; s. 194 not in force at Royal assent see. s. 211; s. 194(8)(9) in force and s. 194(10) in force for certain purposes at 30.6.2008 and s. 194 in force at 1.10.2008 in so far as not already in force by S.I. 2008/1436 , **arts. 2(a)** , **3(a)**

[F86 194A Payments in respect of pro bono representation: tribunals

(1) This section applies to relevant tribunal proceedings in which—

(a) a party to the proceedings ("P") is or was represented by a legal representative ("R"), and

(b) R's representation of P is or was provided free of charge, in whole or in part.

(2) This section applies to such proceedings even if P is or was also represented by a legal representative not acting free of charge.

(3) The tribunal may make an order under this section against a person if the condition in subsection (5) is met in respect of that person (and if subsection (7) does not apply).

(4) An order under this section is an order for the person to make a payment to the prescribed charity in respect of R's representation of P (or, if only part of R's representation of P was provided free of charge, in respect of that part).

(5) The condition is that, had R's representation of P not been provided free of charge, the tribunal would have had the power to order the person to make a payment to P in respect of sums payable to R by P in respect of that representation.

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(6) In considering whether to make an order under this section against a person, and the terms of such an order, the tribunal must have regard to—

(a) whether, had R's representation of P not been provided free of charge, it would have made an order against that person as described in subsection (5), and

(b) if it would, what the terms of the order would have been.

(7) The tribunal may not make an order under this section against a person represented in the proceedings if the person's representation was at all times within subsection (8).

(8) Representation is within this subsection if it is provided—

(a) by a legal representative acting free of charge, or

(b) by way of legal aid.

(9) For the purposes of subsection (8)(b), representation is provided by way of legal aid if it is—

(a) provided under arrangements made for the purposes of Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012,

(b) made available under Part 2 or 3 of the Legal Aid (Scotland) Act 1986, or

(c) funded under Part 2 of the Access to Justice (Northern Ireland) Order 2003 (S.I. 2003/435 (N.I. 10)).

(10) Procedure rules may make further provision as to the making of orders under this section, and may in particular—

(a) provide that such orders may not be made in proceedings of a description specified in the rules;

(b) make provision about the procedure to be followed in relation to such orders;

(c) specify matters (in addition to those mentioned in subsection (6)) to which the tribunal must have regard in deciding whether to make such an order, and the terms of any order.

(11) In this section "relevant tribunal proceedings" means proceedings in—

(a) the First-tier Tribunal,

(b) the Upper Tribunal,

(c) an employment tribunal,

(d) the Employment Appeal Tribunal, or

(e) the Competition Appeal Tribunal,

but does not include proceedings within devolved competence.

(12) For the purposes of subsection (11), proceedings are within devolved competence if provision regulating the procedure to be followed in those proceedings could be made by—

(a) an Act of the Scottish Parliament,

(b) an Act of Senedd Cymru (including one passed with the consent of a Minister of the Crown within the meaning of section 158(1) of the Government of Wales Act 2006), or

(c) an Act of the Northern Ireland Assembly the Bill for which would not require the consent of the Secretary of State.

(13) The Lord Chancellor may by regulations—

(a) amend subsection (11) so as to add a tribunal to the list in that subsection, and

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(b) make consequential amendments of the definition of "procedure rules" in subsection (14).

(14) In this section—

"free of charge" means otherwise than for or in expectation of fee, gain or reward;

"legal representative" means a person who is—

(a) entitled in accordance with section 13 to carry on the activity of exercising a right of audience or conducting litigation,

(b) a solicitor enrolled in the roll of solicitors kept under section 7 of the Solicitors (Scotland) Act 1980,

(c) a member of the Faculty of Advocates in Scotland,

(d) a person having a right to conduct litigation, or a right of audience, by virtue of section 27 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990,

(e) a member of the Bar of Northern Ireland, or

(f) a solicitor of the Court of Judicature of Northern Ireland,

irrespective of the capacity in which the person is acting in the proceedings concerned;

"prescribed charity" means the charity prescribed under section 194C;

"procedure rules" means—

(a) Tribunal Procedure Rules, in relation to proceedings in the First-tier Tribunal or the Upper Tribunal,

(b) Employment Tribunal Procedure Rules, in relation to proceedings in an employment tribunal or the Employment Appeal Tribunal, or

(c) rules under section 15 of the Enterprise Act 2002, in relation to proceedings in the Competition Appeal Tribunal;

"tribunal" does not include an ordinary court of law.

(15) An order under this section may not be made in respect of representation if (or to the extent that) it was provided before section 48 of the Judicial Review and Courts Act 2022 came into force.**]**

Textual Amendments

F86 S. 194A inserted (28.6.2022) by Judicial Review and Courts Act 2022 (c. 35), **ss. 48(2)**, 51(3)

[F87 194B Payments in respect of pro bono representation: Supreme Court

(1) This section applies to proceedings in a relevant civil appeal to the Supreme Court in which—

(a) a party to the proceedings ("P") is or was represented by a legal representative ("R"), and

(b) R's representation of P is or was provided free of charge, in whole or in part.

(2) This section applies to such proceedings even if P is or was also represented by a legal representative not acting free of charge.

(3) The Court may make an order under this section against a person if the condition in subsection (5) is met in respect of that person (and if subsection (7) does not apply).

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(4) An order under this section is an order for the person to make a payment to the prescribed charity in respect of R's representation of P (or, if only part of R's representation of P was provided free of charge, in respect of that part).

(5) The condition is that, had R's representation of P not been provided free of charge, the Court would have had the power to order the person to make a payment to P in respect of sums payable to R by P in respect of that representation.

(6) In considering whether to make an order under this section against a person, and the terms of such an order, the Court must have regard to—

(a) whether, had R's representation of P not been provided free of charge, it would have made an order against that person as described in subsection (5), and

(b) if it would, what the terms of the order would have been.

(7) The Court may not make an order under this section against a person represented in the proceedings if the person's representation was at all times within subsection (8).

(8) Representation is within this subsection if it is—

(a) provided by a legal representative acting free of charge, or

(b) provided by way of legal aid.

(9) For the purposes of subsection (8)(b), representation is provided by way of legal aid if it is—

(a) provided under arrangements made for the purposes of Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012, or

(b) funded under Part 2 of the Access to Justice (Northern Ireland) Order 2003 (S.I. 2003/435 (N.I. 10)).

(10) Supreme Court Rules may make further provision as to the making of orders under this section, and may in particular—

(a) provide that such orders may not be made in proceedings of a description specified in the Rules;

(b) make provision about the procedure to be followed in relation to such orders;

(c) specify matters (in addition to those mentioned in subsection (6)) to which the Court must have regard in deciding whether to make such an order, and the terms of any order.

(11) In this section—

"free of charge" means otherwise than for or in expectation of fee, gain or reward;

"legal representative", in relation to a party to proceedings, means—

(a) a person exercising a right of audience, or conducting litigation, on the party's behalf pursuant to an entitlement under section 13, or

(b) a member of the Bar of Northern Ireland, or a solicitor of the Court of Judicature of Northern Ireland, practising or acting as such on the party's behalf;

"prescribed charity" means the charity prescribed under section 194C;

"relevant civil appeal" means an appeal—

(a) from the High Court under Part 2 of the Administration of Justice Act 1969,

(b) from the Upper Tribunal under section 14B(4) of the Tribunals, Courts and Enforcement Act 2007,

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(c) from the Court of Appeal under section 40(2) of the Constitutional Reform Act 2005 or section 42 of the Judicature (Northern Ireland) Act 1978, or

(d) under section 13 of the Administration of Justice Act 1960 (appeal in cases of contempt of court), other than an appeal from an order or decision made in the exercise of jurisdiction to punish for criminal contempt of court.

(12) An order under this section may not be made in respect of representation in proceedings in a relevant civil appeal—

(a) from a court in Northern Ireland, or

(b) from the Upper Tribunal under section 14B(4) of the Tribunals, Courts and Enforcement Act 2007,

if (or to the extent that) the representation was provided before section 48 of the Judicial Review and Courts Act 2022 came into force.**]**

Textual Amendments

F87 S. 194B inserted (28.6.2022) by Judicial Review and Courts Act 2022 (c. 35), **ss. 48(3)**, 51(3)

[F88 194C Sections 194 to 194B: the prescribed charity

(1) The Lord Chancellor may by order prescribe a registered charity for the purposes of sections 194 to 194B.

(2) The charity must be one which provides financial support to persons who provide, or organise or facilitate the provision of, legal advice or assistance (by way of representation or otherwise) which is free of charge.

(3) In this section—

"free of charge" means otherwise than for or in expectation of fee, gain or reward;

"registered charity" means a charity registered in accordance with—

(a) section 30 of the Charities Act 2011,

(b) section 3 of the Charities and Trustee Investment (Scotland) Act 2005 (asp 10), or

(c) section 16 of the Charities Act (Northern Ireland) 2008 (c. 12 (N.I.)).

(4) An order under section 194(8) that was in force immediately before section 48 of the Judicial Review and Courts Act 2022 came into force—

(a) remains in force despite the amendment by that section of section 194(8),

(b) has effect as if its prescription of a charity for the purposes of section 194 were the prescription of that charity under this section for the purposes of sections 194 to 194B, and

(c) may be amended or revoked by an order under this section.**]**

Textual Amendments

F88 S. 194C inserted (28.6.2022) by Judicial Review and Courts Act 2022 (c. 35), **ss. 48(4)**, 51(3)

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Scotland

195 Application of the Legal Profession and Legal Aid (Scotland) Act 2007

(1) The Legal Profession and Legal Aid (Scotland) Act 2007 (asp 5) ("the 2007 Act") applies to—

(a) any element of a complaint relating to,

(b) the provision by a practitioner of,

the advice, services and activities mentioned in subsection (2) as it applies to any other advice, services and activities provided by a practitioner.

(2) The advice, services and activities are—

F89(a) . . . . . .

(b) activities of an insolvency practitioner within the meaning of Part 13 of the Insolvency Act 1986 (c. 45);

(c) activities mentioned in paragraph (a) of paragraph 5(1) of Schedule 3 to the Financial Services Act 1986 (c. 60);

(d) immigration advice or immigration services;

(e) regulated activity within the meaning of section 22 of the Financial Services and Markets Act 2000 (c. 8), other than activity falling within paragraph (f) below, in respect of which the **[**F90Financial Conduct Authority**]** has by virtue of Part 20 of that Act arranged for its regulatory role to be carried out by the Law Society of Scotland;

(f) exempt regulated activities within the meaning of section 325(2) of the Financial Services and Markets Act 2000.

(3) In subsection (1), "complaint" and "practitioner" have the same meaning as in Part 1 of the 2007 Act.

(4) Omit section 77 of the 2007 Act (advice services and activities to which Act does not apply).

(5) Schedule 20 contains minor and consequential amendments in connection with the application of the 2007 Act by virtue of this section.

Textual Amendments

F89 S. 195(2)(a) omitted (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by virtue of The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No.2) Order 2013 (S.I. 2013/1881), art. 1(2)(6), **Sch. para. 13**

F90 Words in s. 195(2)(e) substituted (1.4.2013) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 18 para. 125(4)** (with Sch. 20); S.I. 2013/423, art. 3, Sch.

196 Scottish legal services ombudsman: functions

(1) The functions of the Scottish legal services ombudsman cease to be exercisable in relation to the advice, services and activities mentioned in section 195(2).

(2) In the Immigration and Asylum Act 1999 (c. 33)—

(a) in section 86(4)(c) (designated professional bodies), for "Scottish Legal Services Ombudsman" substitute " Scottish Legal Complaints Commission ", and

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(b) in paragraph 4(2)(c) of Schedule 5 (the Immigration Services Commissioner), for "Scottish Legal Services Ombudsman" substitute " Scottish Legal Complaints Commission ".

Modifications etc. (not altering text)

C16 S. 196(1) excluded (1.10.2008) by The Legal Services Act 2007 (Transitional, Savings and Consequential Provisions) (Scotland) Order 2008 (S.I. 2008/2341), **art. 3(1)**

PART 9

GENERAL

Offences

197 Offences committed by bodies corporate and unincorporated bodies

(1) Where an offence committed by a body corporate is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of an officer of the body corporate, that officer (as well as the body corporate) is guilty of the offence and is liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in connection with the member's functions of management as it applies to an officer of the body corporate.

(3) Proceedings for an offence alleged to have been committed by an unincorporated body are to be brought in the name of that body (and not in that of any of its members) and, for the purposes of any such proceedings, any rules of court relating to the service of documents have effect as if that body were a corporation.

(4) A fine imposed on an unincorporated body on its conviction of an offence is to be paid out of the funds of that body.

(5) If an unincorporated body is charged with an offence, section 33 of the Criminal Justice Act 1925 (c. 86) and Schedule 3 to the Magistrates' Courts Act 1980 (c. 43) (procedure on charge of an offence against a corporation) have effect in like manner as in the case of a corporation so charged.

(6) Where an offence committed by an unincorporated body (other than a partnership) is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any officer of the body or any member of its governing body, that officer or member as well as the unincorporated body is guilty of the offence and liable to be proceeded against and punished accordingly.

(7) Where an offence committed by a partnership is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner, that partner as well as the partnership is guilty of the offence and liable to be proceeded against and punished accordingly.

(8) In this section—

"offence" means an offence under this Act;

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"officer", in relation to a body corporate, means—

(a) any director, secretary or other similar officer of the body corporate, or

(b) any person who was purporting to act in any such capacity.

198 Local weights and measures authorities

(1) A local weights and measures authority may institute proceedings for an offence under section 14 if the activity which it is alleged that the accused was not entitled to carry on constitutes reserved instrument activities.

(2) A local weights and measures authority may institute proceedings for an offence under section 16 if the activity which it is alleged that E was not entitled to carry on constitutes reserved instrument activities.

"E" has the same meaning as in that section.

(3) In this section—

"relevant offence" means an offence in relation to which proceedings may be instituted by virtue of subsection (1) or (2);

"weights and measures officer" means an officer of a local weights and measures authority who is authorised by the authority to exercise the powers conferred by subsection (4).

(4) A weights and measures officer who has reasonable cause to suspect that a relevant offence may have been committed may, at any reasonable time—

(a) enter any premises which are not used solely as a dwelling;

(b) require any officer, agent or other competent person on the premises who is, or may be, in possession of information relevant to an investigation of the suspected offence to provide such information;

(c) require the production of any document which may be relevant to such an investigation;

(d) take copies, or extracts, of any such documents;

(e) seize and retain any document which the weights and measures officer has reason to believe may be required as evidence in proceedings for a relevant offence.

(5) Any person exercising a power given by subsection (4) must, if asked to do so, produce evidence that that person is a weights and measures officer.

(6) A justice of the peace may issue a warrant under this section if satisfied, on information on oath given by a weights and measures officer, that there is reasonable cause to believe that a relevant offence may have been committed and that—

(a) entry to the premises concerned, or production of any documents which may be relevant to an investigation of the relevant offence, has been or is likely to be refused to a weights and measures officer, or

(b) there is reasonable cause to believe that, if production of any such document were to be required by the weights and measures officer without a warrant having been issued under this section, the document would not be produced but would be removed from the premises or hidden, tampered with or destroyed.

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(7) A warrant issued under this section must authorise the weights and measures officer accompanied, where that officer considers it appropriate, by a constable or other person—

(a) to enter the premises specified in the information, using such force as is reasonably necessary, and

(b) to exercise any of the powers given to the weights and measures officer by subsection (4).

(8) It is an offence for a person ("P")—

(a) intentionally to obstruct a weights and measures officer in the exercise of any power under this section;

(b) intentionally to fail to comply with any requirement properly imposed on P by a weights and measures officer in the exercise of any such power;

(c) to fail, without reasonable excuse, to give a weights and measures officer any assistance or information which the weights and measures officer may reasonably require of P for the purpose of exercising any such power; or

(d) in giving to a weights and measures officer any information which P has been required to give a weights and measures officer exercising any such power, to make any statement which P knows to be false or misleading in a material particular.

(9) A person who is guilty of an offence under subsection (8) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(10) Nothing in this section is to be taken to require any person to answer any question put to that person by a weights and measures officer, or to give any information to such an officer, if to do so might incriminate that person.

Protected functions of the Lord Chancellor

199 Protected functions of the Lord Chancellor

(1) Schedule 7 to the Constitutional Reform Act 2005 (c. 4) (protected functions of the Lord Chancellor) is amended as follows.

(2) After paragraph 3 insert—

"3A Any function of the Lord Chancellor under the Legal Services Act 2007."

(3) Part A of paragraph 4 is amended in accordance with subsections (4) to (7).

(4) After the entry for the Juries Act 1974 (c. 23), insert—

"Solicitors Act 1974 (c. 47)

Section 56".

(5) After the entry for the Reserve Forces (Safeguard of Employment) Act 1985 (c. 17), insert—

"Administration of Justice Act 1985 (c. 61)

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Section 9(7)

Section 69(2)

Schedule 3".

(6) In the entry for the Courts and Legal Services Act 1990 (c. 41)—

(a) after "Section 1" insert—

"Section 53

Section 60", and

(b) after "Section 72" insert—

"Section 89

Section 125(4)

Schedule 19, paragraph 17".

(7) After the entry for the Finance Act 1999 (c. 16), insert—

"Access to Justice Act 1999 (c. 22)

Section 45".

Commencement Information

I124 S. 199 wholly in force at 1.1.2010; s. 199 not in force at Royal Assent see s. 211; s. 199(1)(2) in force at 7.3.2008 by S.I. 2008/222, **art. 2(g)**; s.199(4)(5)(6)(b) in force for certain purposes at 30.6.2008 by S.I. 2008/1436, **art. 2(b)**; s. 199(3)(5)(6)(b) in force and s. 199(6)(a) in force for certain purposes at 31.3.2009 by S.I. 2009/503, **art. 2(a)**; s. 199 in force otherwise at 1.1.2010 by S.I. 2009/3250, **art. 2(g)** (with art. 9)

Notices etc

200 Notices and directions

(1) A requirement or power under this Act to give a notice (or to notify) is a requirement or power to give notice in writing.

(2) A requirement or power under this Act to give a direction (or to direct) is a requirement or power to give a direction in writing.

(3) Any power conferred by this Act to give a direction includes power to revoke the direction.

(4) Subsection (3) does not apply to the power conferred on an ombudsman to give a direction under section 137 (directions on a determination of a complaint).

Commencement Information

I125 S. 200 wholly in force at 1.1.2009; s. 200 not in force at Royal Assent see s. 211; s. 200(1) in force at 7.3.2008 by S.I. 2008/222, **art. 2(g)**; s. 200(2)-(4) in force at 1.1.2009 by S.I. 2008/3149, **art. 2(f)**

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201 Documents

(1) In this Act "document" includes anything in which information is recorded in any form.

(2) In relation to a document in which information is recorded otherwise than in a legible form, any reference to the production of the document is a reference to the production of the information in a legible form or in a form from which it can readily be produced in a legible form.

202 The giving of notices, directions and other documents

(1) This section applies where provision made (in whatever terms) by or under this Act authorises or requires a notice, direction or any other document (including a copy of a document) to be given to a person.

(2) The notice, direction or document may be given to the person—

(a) by delivering it to the person,

(b) by leaving it at the person's proper address, or

(c) by sending it by post to the person at that address.

(3) The notice, direction or document may be given to a body corporate by being given to the secretary or clerk of that body.

(4) The notice, direction or document may be given to a partnership by being given to—

(a) a partner in the partnership, or

(b) a person having the control or management of the partnership business.

(5) The notice, direction or document may be given to any other unincorporated body by being given to a member of the governing body of the unincorporated body.

(6) For the purposes of this section, and section 7 of the Interpretation Act 1978 (c. 30) (service of documents by post) in its application to this section, the proper address of a person is—

(a) in the case of a body corporate, the address of the registered or principal office of the body;

(b) in the case of a partnership, or any other unincorporated body, the address of the principal office of the partnership or body;

(c) in the case of a person to whom the notice or other document is given in reliance on any of subsections (3) to (5), the proper address of the body corporate, partnership or other unincorporated body in question;

(d) in any other case, the last known address of the person in question.

(7) In the case of—

(a) a company registered outside the United Kingdom,

(b) a partnership carrying on business outside the United Kingdom, or

(c) any other unincorporated body with offices outside the United Kingdom,

the references in subsection (6) to its principal office include references to its principal office within the United Kingdom (if any).

(8) This section has effect subject to section 203 (notices, directions and documents in electronic form).

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203 The giving of notices, directions and other documents in electronic form

(1) This section applies where—

(a) section 202 authorises the giving of a notice, direction or other document by its delivery to a particular person ("the recipient"), and

(b) the notice, direction or other document is transmitted to the recipient—

(i) by means of an electronic communications network, or

(ii) by other means but in a form that nevertheless requires the use of apparatus by the recipient to render it intelligible.

(2) The transmission has effect for the purposes of this Act as a delivery of the notice, direction or other document to the recipient, but only if the requirements imposed by or under this section are complied with.

(3) Where the recipient is the Board, the OLC or an ombudsman—

(a) the recipient must have indicated its willingness to receive the notice, direction or other document in a manner mentioned in subsection (1)(b),

(b) the transmission must be made in such manner, and satisfy such other conditions as the recipient may require, and

(c) the notice, direction or other document must take such form as the recipient may require.

(4) Where the person making the transmission is the Board, the OLC or an ombudsman, that person may (subject to subsection (5)) determine—

(a) the manner in which the transmission is made, and

(b) the form in which the notice, direction or other document is transmitted.

(5) Where the recipient is a person other than the Board, the OLC or an ombudsman—

(a) the recipient, or

(b) the person on whose behalf the recipient receives the notice, direction or other document,

must have indicated to the person making the transmission the recipient's willingness to receive notices, directions or other documents transmitted in the form and manner used.

(6) An indication to any person for the purposes of subsection (5)—

(a) must be given to that person in such manner as that person may require;

(b) may be a general indication or one that is limited to notices or documents of particular descriptions;

(c) must state the address to be used and must be accompanied by such other information as that person requires for the making of the transmission;

(d) may be modified or withdrawn at any time by a notice given to that person in such manner as that person may require.

(7) An indication, requirement or determination given, imposed or made by the Board, the OLC or an ombudsman for the purposes of this section is to be given, imposed or made by being published by that person.

(8) In this section "electronic communications network" has the same meaning as in the Communications Act 2003 (c. 21).

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Orders, rules etc

204 Orders, regulations and rules

(1) Any order or regulations made by the Lord Chancellor under this Act must be made by statutory instrument.

(2) Any rules made by the Board under section 37(4), 95(3) or 173 must be made by statutory instrument, and the Statutory Instruments Act 1946 (c. 36) applies to the Board's powers to make rules under those sections as if the Board were a Minister of the Crown.

(3) An instrument to which this subsection applies may—

(a) provide for a person to exercise a discretion in dealing with any matter;

(b) include incidental, supplementary and consequential provision;

(c) make transitory or transitional provision and savings;

(d) make provision generally or subject to exceptions or only in relation to specified cases;

(e) make different provision for different cases or circumstances or for different purposes.

(4) Subsection (3) applies to—

(a) any order or regulations made by the Lord Chancellor,

(b) any rules or regulations made by the Board, and

(c) any rules made by the OLC,

under or by virtue of this Act.

Modifications etc. (not altering text)

C17 S. 204 extended to S. and N.I. in accordance with the amending provision (28.6.2022) by Judicial Review and Courts Act 2022 (c. 35), **ss. 48(5)**, 51(3)

Commencement Information

I126 S. 204 partly in force; s. 204 not in force at Royal Assent see s. 211; s. 204(1)(3)(4)(a) in force at 7.3.2008 by S.I. 2008/222, **art. 2(g)**

205 Consultation requirements for rules

(1) This section applies in relation to—

(a) rules made by the Board under this Act, and

(b) rules made by the OLC under Part 6,

other than excluded rules.

(2) If the Board or the OLC ("the rule-making body") proposes to make any rules, it must publish a draft of the proposed rules.

(3) The draft must be accompanied by a notice which states that representations about the proposals may be made to the rule-making body within the period specified in the notice.

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(4) Before making the rules, the rule-making body must have regard to any representations duly made.

(5) If the rules differ from the draft published under subsection (2) in a way which is, in the opinion of the rule-making body, material, it must publish details of the differences.

(6) The rule-making body must publish any rules it makes, and rules may not take effect before the time they are published.

(7) Subsection (6) does not apply to rules made by the Board under section 37(4), 95(3) or 173.

(8) The rule-making body may make a reasonable charge for providing a person with a copy of—

(a) a draft published under subsection (2), or

(b) rules published under subsection (6).

(9) In this section "excluded rules" means—

(a) rules of procedure made by the Board for the purposes of paragraph 21 of Schedule 1,

(b) rules made by the Board in its capacity as an approved regulator or a licensing authority, and

(c) rules of procedure made by the OLC for the purposes of paragraph 20 of Schedule 15;

and references to making rules include references to modifying the rules and, in relation to any modifications of rules, references to the proposed rules are to be read as references to the proposed modifications.

(10) This section is subject to section 156(3) (which disapplies this section to OLC rules made in response to a Board direction under section 156(1)(b)).

206 Parliamentary control of orders and regulations

(1) A statutory instrument containing an order or regulations made by the Lord Chancellor under this Act is subject to annulment in pursuance of a resolution of either House of Parliament.

(2) Subsection (1) is subject to subsections (3) and (4).

(3) Subsection (1) does not apply to an order if it contains only provision made under one or more of the following—

(a) section 23(3)(b) (day appointed as end of transitional period relating to non-commercial bodies);

(b) section 30(4) (appointed day before which first set of rules must be made under section 30);

(c) section 211 (commencement);

(d) paragraph 3(1)(b) of Schedule 5 (day appointed as end of transitional period during which rights conferred by virtue of Part 2 of that Schedule);

(e) paragraph 18(1)(b) of Schedule 18 (day appointed as end of transitional period during which rights conferred by virtue of Part 3 of that Schedule).

(4) Subsection (1) does not apply to an order or regulations which contains (whether alone or together with other provision) provision made under any of the following—

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(a) section 24(1) (orders adding to reserved legal activities);
(b) section 25(1) or (3) (provisional designation of approved regulators);
(c) section 42(6) (regulations relating to warrants under section 42);
(d) section 45(1) (cancellation of designation as approved regulator);
(e) section 46 (transitional arrangements following cancellation under section 45);
(f) section 48(6) (regulations relating to warrants under section 48);
(g) section 62(1) (power to designate Board as an approved regulator, modify its functions or cancel its designation);
(h) section 69(1) (modification of functions of approved regulators etc);
(i) section 76(1) (cancellation of designation as licensing authority);
(j) section 77 (transitional arrangements following cancellation under section 76);
(k) section 79(6) (regulations relating to warrants under section 79);
(l) section 80(1) (order establishing appellate body etc);
(m) section 106(1)(e) (power to prescribe bodies as bodies to which section 106 applies);
(n) section 109 (power to modify application of Part 5 to foreign bodies);
[F91(na) section 111D (order to confer information powers on other approved regulators);]
(o) section 173(5)(c) (power to prescribe persons as leviable bodies);
F92(oa) . . . . . .
(p) section 207(5) (power to modify definition of "manager" in its application to foreign bodies);
(q) section 208(3) (power to make consequential provision etc by amending enactments);
(r) paragraph 9(1) of Schedule 3 (modification of exempt persons);
(s) paragraph 17 of Schedule 4 (designation of approved regulators);
(t) paragraph 9 of Schedule 13 (power to modify definitions of "material interest" and "associates");
(u) paragraph 2 of Schedule 22 (transitory power to modify functions of designated regulators etc).

(5) An order or regulations within subsection (4) may not be made unless a draft of the order or regulations has been laid before, and approved by a resolution of, each House of Parliament.

(6) A statutory instrument containing rules made by the Board under section 37(4), 95(3) or 173 is subject to annulment in pursuance of a resolution of either House of Parliament.

Textual Amendments

F91 S. 206(4)(na) inserted (26.10.2023 for specified purposes, 4.3.2024 in so far as not already in force) by Economic Crime and Corporate Transparency Act 2023 (c. 56), **ss. 210(3)**, 219(1)(2)(b); S.I. 2024/269, reg. 2(z64)

F92 S. 206(4)(oa) omitted (29.11.2018 for specified purposes, 1.4.2019 in so far as not already in force) by virtue of The Financial Services and Markets Act 2000 (Claims Management Activity) Order 2018 (S.I. 2018/1253), arts. 1(2)(3), **95(8)**

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Modifications etc. (not altering text)
C18 S. 206 extended to S. and N.I. in accordance with the amending provision (28.6.2022) by Judicial Review and Courts Act 2022 (c. 35), **ss. 48(5)**, 51(3)

Interpretation

207 Interpretation

(1) In this Act, except where the context otherwise requires—

"barrister" means an individual who—

(a) has been called to the Bar by an Inn of Court, and

(b) is not disbarred by order of an Inn of Court;

[[F93]"the CMA" means the Competition and Markets Authority;**]**

"consumers" means (subject to subsection (3)) persons—

(a) who use, have used or are or may be contemplating using, services within subsection (2),

(b) who have rights or interests which are derived from, or are otherwise attributable to, the use of such services by other persons, or

(c) who have rights or interests which may be adversely affected by the use of such services by persons acting on their behalf or in a fiduciary capacity in relation to them;

"conveyancing services" has the same meaning as in Part 2 of the Administration of Justice Act 1985 (c. 61) (licensed conveyancing) (see section 11(3) of that Act);

"court" includes—

(a) a tribunal that **[**[F94]was**]** (to any extent) a listed tribunal for, or for any of, the purposes of Schedule 7 to the Tribunals, Courts and Enforcement Act 2007 (functions etc of Administrative Justice and Tribunals Council);**[**[F95]immediately before the coming into force of the repeal of that Schedule**]**

(b) a court-martial;

(c) a statutory inquiry within the meaning of section 16(1) of the Tribunals and Inquiries Act 1992 (c. 53);

(d) an ecclesiastical court (including the Court of Faculties);

"functions" includes powers and duties;

"immigration advice" and "immigration services" have the meaning given by section 82 of the Immigration and Asylum Act 1999 (c. 33) (interpretation of Part 5) (see also subsection (4) below);

"independent trade union" has the same meaning as in the Trade Union and Labour Relations (Consolidation) Act 1992 (c. 52) (see section 5 of that Act);

"manager", in relation to a body, means (subject to subsection (5)) a person who—

(a) if the body is a body corporate whose affairs are managed by its members, is a member of the body,

(b) if the body is a body corporate and paragraph (a) does not apply, is a director of the body,

(c) if the body is a partnership, is a partner, and

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(d) if the body is an unincorporated body (other than a partnership), is a member of its governing body;

"modify" includes amend, add to or revoke, and references to "modifications" are to be construed accordingly;

"non-commercial legal services" means—

(a) legal services carried on otherwise than with a view to profit;

(b) legal services carried on by a not for profit body, a community interest company or an independent trade union;

"not for profit body" means a body which, by or by virtue of its constitution or any enactment—

(a) is required (after payment of outgoings) to apply the whole of its income, and any capital which it expends, for charitable or public purposes, and

(b) is prohibited from directly or indirectly distributing amongst its members any part of its assets (otherwise than for charitable or public purposes);

[[F96] " the OFT " means the Office of Fair Trading; **]**

"person" includes a body of persons (corporate or unincorporate);

"reserved legal services" means services provided by a person which consist of or include reserved legal activities carried on by, or on behalf of, that person;

"solicitor" means solicitor of the Senior Courts.

(2) The services within this subsection are—

(a) any services provided by a person who is an authorised person in relation to an activity which is a reserved legal activity, and

(b) any other services provided by a person which consist of or include a legal activity carried on by, or on behalf of, that person.

(3) For the purposes of the definition of "consumers" in subsection (1)—

(a) if a person ("A") is carrying on an activity in A's capacity as a trustee, the persons who are, have been or may be beneficiaries of the trust are to be treated as persons who use, have used or are or may be contemplating using services provided by A in A's carrying on of that activity, and

(b) a person who deals with another person ("B") in the course of B's carrying on of an activity is to be treated as using services provided by B in carrying on that activity.

(4) The references in this Act (other than section 195) to the provision of immigration advice or immigration services are to the provision of such advice or services by a person—

(a) in England and Wales (regardless of whether the persons to whom they are provided are in England and Wales or elsewhere), and

(b) in the course of a business carried on (whether or not for profit) by the person or another person.

(5) The Lord Chancellor may by order make provision modifying the definition of "manager" in its application to a body of persons formed under, or in so far as the body is recognised by, law having effect outside England and Wales.

(6) In this section "enactment" means a provision of—

(a) an Act of Parliament;

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(b) an Act of the Scottish Parliament;
(c) a Measure or Act of the National Assembly for Wales;
(d) Northern Ireland legislation.

Textual Amendments

F93 Words in s. 207(1) inserted (E.W.) (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 116(a)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)

F94 Word in s. 207 substituted (19.9.2013) by The Public Bodies (Abolition of Administrative Justice and Tribunals Council) Order 2013 (S.I. 2013/2042), art. 1(2), **Sch. para. 39(a)**

F95 Words in s. 207 inserted (19.9.2013) by The Public Bodies (Abolition of Administrative Justice and Tribunals Council) Order 2013 (S.I. 2013/2042), art. 1(2), **Sch. para. 39(b)**

F96 Words in s. 207(1) omitted (E.W.) (1.4.2014) by virtue of Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 116(b)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)

Modifications etc. (not altering text)

C19 S. 207 modified (temp.) (7.3.2008) by The Legal Services Act 2007 (Commencement No.1 and Transitory Provisions) Order 2008 (S.I. 2008/222), **art. 7(1)**

Commencement Information

I127 S. 207 wholly in force; s. 207 not in force at Royal Assent see s. 211; s. 207 in force for certain purposes at 7.3.2008 by S.I. 2008/222, **art. 3**; s. 207(1)(5) in force for certain purposes at 30.6.2008 by S.I. 2008/1436, **art. 2(c)**; s. 207 in force for certain purposes at 31.3.2009 by S.I. 2009/503, **art. 2(a)**; s. 207 in force at 1.1.2010 by S.I. 2009/3250, **art. 2(g)** (with art. 9)

Miscellaneous and supplementary

208 Minor and consequential provision etc

(1) Schedule 21 contains minor and consequential amendments.

(2) The Lord Chancellor may by order make any supplementary, incidental or consequential provision and any transitory, transitional or saving provision which the Lord Chancellor considers necessary or expedient—
(a) for the general purposes, or any particular purpose, of this Act, or
(b) in consequence of any provision made by or under it or for giving full effect to it.

(3) An order under this section may make provision amending, repealing or revoking (with or without savings) any provision of—
(a) an Act passed before or in the same session as this Act, or
(b) an instrument made under an Act before the passing of this Act.

(4) An order under this section may make such adaptations of provisions of this Act brought into force as appear to be necessary or expedient in consequence of other provisions of this Act not yet having come into force.

(5) Provision made under this section is additional, and without prejudice, to that made by or under any other provision of this Act.

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Commencement Information

I128 S. 208 wholly in force: s. 208(2)-(5) in force at Royal Assent see s. 211(1): s. 208(1) in force at 31.3.2009 by S.I 2009/503, {art. 2(a)}

209 Transitional and transitory provision

Schedule 22 contains transitional and transitory provision.

210 Repeals

Schedule 23 contains repeals (including repeals of spent provisions).

211 Commencement

(1) This section and sections 208(2) to (5), 212 and 214 come into force on the day this Act is passed.

(2) Subject to that, the provisions of this Act come into force on such day as may be appointed by order of the Lord Chancellor.

Subordinate Legislation Made

P1 S. 211 power partly exercised: 7.3.2008 appointed for specified provisions and purposes by {S.I. 2008/222}, arts. 2, 3;
S. 211 power partly exercised: 30.6.2008 for specified provisions by {S.I. 2008/1436}, art. 2 (as amended by S.I. 2008/1591, **art. 2**);
S. 211 power partly exercised: 1.1.2009 appointed for specified provisions and purposes by {S.I. 2008/3149}, art. 2;
S. 211 power partly exercised: 31.3.2009 appointed for specified provisions and purposes by {S.I. 2009/503}, arts. 2, 3;
S. 211 power partly exercised: 1.7.2009 appointed for specified provisions and purposes by {S.I. 2009/1365}, art. 2
S. 211 power partly exercised: 1.1.2010 appointed for specified provisions and purposes by {S.I. 2009/3250}, art. 2 (with art. 9)

212 Extent

(1) Subject to subsections (2) and (3), this Act extends to England and Wales only.

(2) Sections 195 and 196(1) and Schedule 20 extend to Scotland only (and, for the purposes of those provisions, this Part also extends there).

(3) An amendment or repeal contained in this Act (and, for the purposes of such an amendment or repeal, this Part) has the same extent as the enactment or relevant part of the enactment to which the amendment or repeal relates.

213 Index of defined expressions

Schedule 24 lists the places where expressions used in this Act are defined or otherwise explained.

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214 Short title

This Act may be cited as the Legal Services Act 2007.

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SCHEDULES

SCHEDULE 1

Section 2

THE LEGAL SERVICES BOARD

Membership

1 (1) The Board is to consist of the following members—

(a) a chairman appointed by the Lord Chancellor,

(b) the Chief Executive of the Board (see paragraph 13), and

(c) at least 7, but not more than 10, other persons appointed by the Lord Chancellor.

(2) In this Schedule a reference to an "ordinary member" is a reference to a member of the Board other than the Chief Executive.

(3) Before appointing an ordinary member, the Lord Chancellor must consult the Lord Chief Justice about the process for appointment of the member and about the person selected for appointment.

(4) The Lord Chancellor may by order amend sub-paragraph (1) by substituting for the limit on the maximum number of persons for the time being specified in paragraph (c) of that sub-paragraph a different limit.

2 (1) In appointing persons as ordinary members the Lord Chancellor must ensure that a majority of the members of the Board are lay persons.

(2) The chairman must be a lay person.

(3) It is a condition of the appointment of the chairman that the person appointed must not during the appointment—

(a) carry on any activity which is a reserved legal activity,

[F97(b) carry on a regulated claims management activity (within the meaning given by section 417(1) of the Financial Services and Markets Act 2000 (definitions)), or]

(c) provide immigration advice or immigration services,

for or in expectation of any fee, gain or reward.

(4) In this Schedule a reference to a "lay person" is a reference to a person who has never been—

(a) an authorised person in relation to an activity which is a reserved legal activity;

(b) a person authorised, by a person designated under section 5(1) of the Compensation Act 2006, to provide services which are regulated claims management services (within the meaning of that Act);

[F98(ba) an authorised person (within the meaning given in section 31 of the Financial Services and Markets Act 2000 (authorised persons)) in relation to regulated

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claims management activity (within the meaning given by section 417(1) of that Act (definitions));**]**

(c) an advocate in Scotland;

(d) a solicitor in Scotland;

(e) a member of the Bar of Northern Ireland;

(f) a solicitor of the Court of Judicature of Northern Ireland.

(5) For the purposes of sub-paragraph (4), a person is deemed to have been an authorised person in relation to an activity which is a reserved legal activity if that person has before the appointed day been—

(a) a barrister;

(b) a solicitor;

(c) a public notary;

(d) a licensed conveyancer;

(e) granted a certificate issued by the Institute of Legal Executives authorising the person to practise as a legal executive;

(f) a registered patent attorney, within the meaning given by section 275(1) of the Copyright, Designs and Patents Act 1988 (c. 48);

(g) a registered trade mark attorney, within the meaning of the Trade Marks Act 1994 (c. 26); or

(h) granted a right of audience or a right to conduct litigation in relation to any proceedings by virtue of section 27(2)(a) or section 28(2)(a) of the Courts and Legal Services Act 1990 (c. 41) (rights of audience and rights to conduct litigation).

(6) For the purpose of sub-paragraph (5)—

"appointed day" means the day appointed for the coming into force of section 13;

"licensed conveyancer" has the meaning given by section 11(2) of the Administration of Justice Act 1985 (c. 61).

Textual Amendments

F97 Sch. 1 para. 2(3)(b) substituted (29.11.2018 for specified purposes, 1.4.2019 in so far as not already in force) by The Financial Services and Markets Act 2000 (Claims Management Activity) Order 2018 (S.I. 2018/1253), arts. 1(2)(3), **95(9)(a)(i)**

F98 Sch. 1 para. 2(4)(ba) inserted (29.11.2018 for specified purposes, 1.4.2019 in so far as not already in force) by The Financial Services and Markets Act 2000 (Claims Management Activity) Order 2018 (S.I. 2018/1253), arts. 1(2)(3), **95(9)(a)(ii)**

3 In appointing persons to be ordinary members, the Lord Chancellor must have regard to the desirability of securing that the Board includes members who (between them) have experience in or knowledge of—

(a) the provision of legal services;

(b) legal education and legal training;

(c) consumer affairs;

(d) civil or criminal proceedings and the working of the courts;

(e) competition matters;

(f) the maintenance of the professional standards of persons who provide legal services;

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(g) the maintenance of standards in professions other than the legal profession;
(h) the handling of complaints;
(i) commercial affairs;
(j) non-commercial legal services;
(k) the differing needs of consumers;
(l) the provision of claims management services (within the meaning of **[**F99section 419A of the Financial Services and Markets Act 2000 (c. 8)**]**).

Textual Amendments

F99 Words in Sch. 1 para. 3(l) substituted (29.11.2018 for specified purposes, 1.4.2019 in so far as not already in force) by The Financial Services and Markets Act 2000 (Claims Management Activity) Order 2018 (S.I. 2018/1253), arts. 1(2)(3), **95(9)(b)**

Terms of appointment and tenure of members

4 An ordinary member is to hold and vacate office in accordance with the terms and conditions of that member's appointment (subject to this Schedule).

5 (1) An ordinary member must be appointed for a fixed period.

(2) The period for which an ordinary member is appointed must not exceed 5 years.

(3) A person who has held office as an ordinary member may be re-appointed, once only, for a further period (whether consecutive or not) not exceeding 5 years.

6 If an ordinary member who is a lay person becomes a person within paragraphs (a) to (f) of paragraph 2(4) that person ceases to be a member of the Board.

7 (1) An ordinary member may at any time—
(a) resign from office by giving notice to the Lord Chancellor;
(b) be removed from office by the Lord Chancellor.

(2) The Lord Chancellor may not under sub-paragraph (1)(b) remove an ordinary member from office unless sub-paragraph (3) or (4) applies.

(3) This sub-paragraph applies if the Lord Chancellor is satisfied that the member—
(a) has failed without reasonable excuse to discharge the functions of the office for a continuous period of at least 6 months,
(b) has been convicted of an offence,
(c) is an undischarged bankrupt **[**F100or is a person in relation to whom a moratorium period under a debt relief order applies (under Part 7A of the Insolvency Act 1986)**]**, or
(d) is otherwise unfit to hold the office or unable to discharge its functions.

(4) This sub-paragraph applies if the member is the chairman and has breached the condition imposed on his appointment by paragraph 2(3).

(5) Before removing any ordinary member under sub-paragraph (1)(b), the Lord Chancellor must consult—
(a) the Lord Chief Justice, and
(b) if the ordinary member is not the chairman, the chairman.

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(6) The Lord Chancellor may not remove an ordinary member on the ground mentioned in paragraph (a) of sub-paragraph (3) more than 3 months after the end of the period mentioned in that paragraph.

Textual Amendments

F100 Words in Sch. 1 para. 7(3)(c) inserted (1.10.2012) by The Tribunals, Courts and Enforcement Act 2007 (Consequential Amendments) Order 2012 (S.I. 2012/2404), art. 1, **Sch. 2 para. 61(2)** (with art. 5)

8 The chairman ceases to be chairman upon ceasing to be a member of the Board.

9 Where a person ceases to be employed as Chief Executive, that person ceases to be a member of the Board.

Remuneration etc of members

10 The chairman and other ordinary members are to be paid by the Board in accordance with provision made by or under their terms of appointment.

Modifications etc. (not altering text)

C20 Sch. 1 para. 10 modified (temp.) (7.3.2008) by The Legal Services Act 2007 (Commencement No.1 and Transitory Provisions) Order 2008 (S.I. 2008/222), **art. 8**

11 The terms of appointment of the chairman or any other ordinary member may provide for the Board to pay, or make payments towards the provision of, a pension, allowance or gratuity to or in respect of that person.

12 If the Lord Chancellor thinks there are circumstances that make it right for a person ceasing to hold office as chairman or another ordinary member to receive compensation, the Board may pay that person such compensation as the Lord Chancellor may determine.

Staff

13 The Board must appoint a person as its Chief Executive.

14 The Board may appoint such other staff as it considers appropriate to assist in the performance of its functions.

15 The Chief Executive and other staff are to be—

(a) appointed on terms and conditions determined by the Board, and

(b) paid by the Board in accordance with provision made by or under the terms of appointment.

16 The terms and conditions on which the Chief Executive or any other member of staff is appointed may provide for the Board to pay, or make payments towards the provision of, a pension, allowance or gratuity to or in respect of that person.

17 The Board may pay compensation for loss of employment to or in respect of a member (or former member) of staff.

18 A member of staff appointed under paragraph 14 may be a member (but not chairman) of the Board.

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Arrangements for assistance

19 (1) The Board may make arrangements with such persons as it considers appropriate for assistance to be provided to it.

(2) Arrangements may include the paying of fees to such persons.

Committees

20 (1) The Board may establish committees.

(2) Any committee so established may establish sub-committees.

(3) Only members of the Board may be members of a committee or sub-committee.

(4) A majority of the members of a committee or sub-committee must be lay persons.

Proceedings

21 (1) The Board may regulate its own procedure, and the procedure of its committees and sub-committees, including quorum.

(2) But the quorum of a committee or sub-committee must not be less than 3.

(3) The Board must publish any rules of procedure made under this paragraph.

(4) This paragraph is without prejudice to any other power the Board has under this Act to make rules.

22 The validity of any act of the Board is not affected—

(a) by a vacancy in the office of chairman or amongst the other members, or

(b) by a defect in the appointment or any disqualification of a person as chairman or another member of the Board.

Delegation of functions

23 (1) The Board may authorise—

(a) the chairman, the Chief Executive or any other member of the Board,

(b) a committee or sub-committee of the Board, or

(c) a member of staff appointed under paragraph 14,

to exercise, on behalf of the Board, such of its functions, in such circumstances, as it may determine.

(2) A committee may delegate functions (including functions delegated to the committee) to—

(a) a sub-committee,

(b) the chairman, the Chief Executive or any other member of the Board, or

(c) a member of staff appointed under paragraph 14.

(3) Sub-paragraphs (1) and (2) are subject to—

(a) any provision made by an order under section 62 by virtue of section 64(2)(k) (powers to authorise the Board to delegate to any person functions conferred on it in its capacity as an approved regulator), and

(b) section 73(3)(a) (power to delegate to any person functions conferred on the Board in its capacity as a licensing authority).

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(4) Sub-paragraph (1) does not apply to any power or duty the Board has to make rules (other than excluded rules) under this Act.

(5) In sub-paragraph (4) "excluded rules" means—

(a) rules of procedure made under paragraph 21 in relation to any committee or sub-committee of the Board, and

(b) rules made by the Board in its capacity as an approved regulator or a licensing authority.

Borrowing

24 The Board is not to borrow money, except—

(a) with the consent of the Lord Chancellor, or

(b) in accordance with a general authorisation given by the Lord Chancellor.

Accounts

25 (1) The Board must—

(a) keep proper accounts and proper records in relation to the accounts, and

(b) prepare in respect of each financial year a statement of accounts.

(2) Each statement of accounts must comply with any directions given by the Lord Chancellor, with the approval of the Treasury, as to—

(a) the information to be contained in it and the manner in which it is to be presented;

(b) the methods and principles according to which the statement is to be prepared;

(c) the additional information (if any) which is to be provided for the information of Parliament.

(3) The Board must give a copy of each statement of accounts—

(a) to the Lord Chancellor, and

(b) to the Comptroller and Auditor General,

before the end of the month of August next following the financial year to which the statement relates.

(4) The Comptroller and Auditor General must—

(a) examine, certify and report on each statement of accounts which is received under sub-paragraph (3), and

(b) give a copy of the Comptroller and Auditor General's report to the Lord Chancellor.

(5) In respect of each financial year, the Lord Chancellor must lay before Parliament a document consisting of—

(a) a copy of the statement of accounts for that year, and

(b) a copy of the Comptroller and Auditor General's report on that statement.

(6) "Financial year" means—

(a) the period beginning with the day on which the Board is established and ending with the next following 31 March, and

(b) each successive period of 12 months.

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Status

26 (1) The Board is not to be regarded—

(a) as the servant or agent of the Crown, or

(b) as enjoying any status, immunity or privilege of the Crown.

(2) Accordingly—

(a) the Board's property is not to be regarded as property of or held on behalf of the Crown, and

(b) the Board's staff are not to be regarded as servants or agents of the Crown or as enjoying any status, immunity or privilege of the Crown.

Application of seal and proof of instruments

27 The application of the seal of the Board is to be authenticated by the signature of any member of the Board, or of its staff, who has been authorised (whether generally or specifically) by the Board for the purpose.

28 Any contract or instrument which, if entered into or executed by an individual, would not need to be under seal may be entered into or executed on behalf of the Board by any person who has been authorised (whether generally or specifically) by the Board for the purpose.

29 A document purporting to be duly executed under the seal of the Board or signed on its behalf—

(a) is to be received in evidence, and

(b) is to be taken to be executed or signed in that way, unless the contrary is proved.

Disqualification

30 (1) In Part 2 of Schedule 1 to the House of Commons Disqualification Act 1975 (c. 24) (bodies of which all members are disqualified) at the appropriate place insert— " The Legal Services Board. "

(2) In Part 2 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (c. 25) (bodies of which all members are disqualified) at the appropriate place insert — " The Legal Services Board. "

Freedom of information

31 In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (c. 36) (other public bodies and offices which are public authorities) at the appropriate place insert— " The Legal Services Board. "

Public records

32 In Schedule 1 to the Public Records Act 1958 (c. 51) (definition of public records) at the appropriate place in Part 2 of the Table at the end of paragraph 3 insert— " The Legal Services Board. "

Exemption from liability in damages

33 (1) This paragraph applies to—

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(a) the Board,
(b) a member of the Board,
(c) a member of the Board's staff appointed under paragraph 14,
(d) a person to whom the Board (in its capacity as an approved regulator) delegates any of its functions by virtue of provision made under section 64(2)(k), and
(e) a person to whom the Board (in its capacity as a licensing authority) delegates any of its functions by virtue of section 73(3)(a).

(2) A person to whom this paragraph applies is not liable in damages for anything done or omitted in the exercise or purported exercise of the functions of the Board conferred by or by virtue of this or any other enactment.

(3) But sub-paragraph (1) does not apply—
(a) if it is shown that the act or omission was in bad faith, or
(b) so as to prevent an award of damages made in respect of an act or omission on the ground that the act or omission was unlawful as a result of section 6(1) of the Human Rights Act 1998 (c. 42).

SCHEDULE 2

Section 12

THE RESERVED LEGAL ACTIVITIES

Introduction

1 This Schedule makes provision about the reserved legal activities.

Commencement Information
I129 Sch. 2 para. 1 wholly in force at 1.1.2010; Sch. 2 para. 1 not in force at Royal Assent see s. 211; Sch. 2 para. 1 in force for certain purposes at 7.3.2008 by S.I. 2008/222, **art. 3**; Sch. 2 para. 1 in force for further certain purposes at 31.3.2009 by S.I. 2009/503, **art. 3**; Sch. 2 para. 1 in force otherwise at 1.1.2010 by S.I. 2009/3250, **art. 2(b)(ii)** (with art. 9)

2 In this Schedule "the appointed day" means the day appointed for the coming into force of section 13 (entitlement to carry on reserved legal activities).

Commencement Information
I130 Sch. 2 para. 2 wholly in force at 1.1.2010; Sch. 2 para. 2 not in force at Royal Assent see s. 211; Sch. 2 para. 2 in force for certain purposes at 7.3.2008 by S.I. 2008/222, **art. 3**; Sch. 2 para. 2 in force for further certain purposes at 31.3.2009 by S.I. 2009/503, **art. 3**; Sch. 2 para. 2 in force otherwise at 1.1.2010 by S.I. 2009/3250, **art. 2(b)(ii)** (with art. 9)

Rights of audience

3 (1) A "right of audience" means the right to appear before and address a court, including the right to call and examine witnesses.

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(2) But a "right of audience" does not include a right to appear before or address a court, or to call or examine witnesses, in relation to any particular court or in relation to particular proceedings, if immediately before the appointed day no restriction was placed on the persons entitled to exercise that right.

Commencement Information

I131 Sch. 2 para. 3 wholly in force at 1.1.2010; Sch. 2 para. 3 not in force at Royal Assent see s. 211; Sch. 2 para. 3 in force for certain purposes at 7.3.2008 by S.I. 2008/222, **art. 3**; Sch. 2 para. 3 in force for further certain purposes at 31.3.2009 by S.I. 2009/503, **art. 3**; Sch. 2 para. 3 in force otherwise at 1.1.2010 by S.I. 2009/3250, **art. 2(b)(ii)** (with art. 9)

Conduct of litigation

4 (1) The "conduct of litigation" means—

(a) the issuing of proceedings before any court in England and Wales,

(b) the commencement, prosecution and defence of such proceedings, and

(c) the performance of any ancillary functions in relation to such proceedings (such as entering appearances to actions).

(2) But the "conduct of litigation" does not include any activity within paragraphs (a) to (c) of sub-paragraph (1), in relation to any particular court or in relation to any particular proceedings, if immediately before the appointed day no restriction was placed on the persons entitled to carry on that activity.

Commencement Information

I132 Sch. 2 para. 4 wholly in force at 1.1.2010; Sch. 2 para. 4 not in force at Royal Assent see s. 211; Sch. 2 para. 4 in force for certain purposes at 7.3.2008 by S.I. 2008/222, **art. 3**; Sch. 2 para. 4 in force for further certain purposes at 31.3.2009 by S.I. 2009/503, **art. 3**; Sch. 2 para. 4 in force otherwise at 1.1.2010 by S.I. 2009/3250, **art. 2(b)(ii)** (with art. 9)

Reserved instrument activities

5 (1) "Reserved instrument activities" means—

(a) preparing any instrument of transfer or charge for the purposes of the Land Registration Act 2002 (c. 9);

(b) making an application or lodging a document for registration under that Act;

(c) preparing any other instrument relating to real or personal estate for the purposes of the law of England and Wales or instrument relating to court proceedings in England and Wales.

(2) But "reserved instrument activities" does not include the preparation of an instrument relating to any particular court proceedings if, immediately before the appointed day, no restriction was placed on the persons entitled to carry on that activity.

(3) In this paragraph "instrument" includes a contract for the sale or other disposition of land (except a contract to grant a short lease), but does not include—

(a) a will or other testamentary instrument,

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(b) an agreement not intended to be executed as a deed, other than a contract that is included by virtue of the preceding provisions of this sub-paragraph,

(c) a letter or power of attorney, or

(d) a transfer of stock containing no trust or limitation of the transfer.

(4) In this paragraph a "short lease" means a lease such as is referred to in section 54(2) of the Law of Property Act 1925 (c. 20) (short leases).

Commencement Information

I133 Sch. 2 para. 5 wholly in force at 1.1.2010; Sch. 2 para. 5 not in force at Royal Assent see s. 211; Sch. 2 para. 5 in force for certain purposes at 7.3.2008 by S.I. 2008/222, **art. 3**; Sch. 2 para. 5 in force for further certain purposes at 31.3.2009 by S.I. 2009/503, **art. 3**; Sch. 2 para. 5 in force otherwise at 1.1.2010 by S.I. 2009/3250, **art. 2(b)(ii)** (with art. 9)

Probate activities

6 (1) "Probate activities" means preparing any probate papers for the purposes of the law of England and Wales or in relation to any proceedings in England and Wales.

(2) In this paragraph "probate papers" means papers on which to found or oppose—

(a) a grant of probate, or

(b) a grant of letters of administration.

Commencement Information

I134 Sch. 2 para. 6 wholly in force at 1.1.2010; Sch. 2 para. 6 not in force at Royal Assent see s. 211; Sch. 2 para. 6 in force for certain purposes at 7.3.2008 by S.I. 2008/222, **art. 3**; Sch. 2 para. 6 in force for further certain purposes at 31.3.2009 by S.I. 2009/503, **art. 3**; Sch. 2 para. 6 in force otherwise at 1.1.2010 by S.I. 2009/3250, **art. 2(b)(ii)** (with art. 9)

Notarial activities

7 (1) "Notarial activities" means activities which, immediately before the appointed day, were customarily carried on by virtue of enrolment as a notary in accordance with section 1 of the Public Notaries Act 1801 (c. 79).

(2) Sub-paragraph (1) does not include activities carried on—

(a) by virtue of section 22 or 23 of the Solicitors Act 1974 (c. 47) (reserved instrument activities and probate activities), or

(b) by virtue of section 113 of the Courts and Legal Services Act 1990 (c. 41) (administration of oaths).

Commencement Information

I135 Sch. 2 para. 7 wholly in force at 1.1.2010; Sch. 2 para. 7 not in force at Royal Assent see s. 211; Sch. 2 para. 7 in force for certain purposes at 7.3.2008 by S.I. 2008/222, **art. 3**; Sch. 2 para. 7 in force for further certain purposes at 31.3.2009 by S.I. 2009/503, **art. 3**; Sch. 2 para. 7 in force otherwise at 1.1.2010 by S.I. 2009/3250, **art. 2(b)(ii)** (with art. 9)

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Administration of oaths

8 The "administration of oaths" means the exercise of the powers conferred on a commissioner for oaths by—

(a) the Commissioners for Oaths Act 1889 (c. 10);

(b) the Commissioners for Oaths Act 1891 (c. 50);

(c) section 24 of the Stamp Duties Management Act 1891 (c. 38).

Commencement Information

I136 Sch. 2 para. 8 wholly in force at 1.1.2010; Sch. 2 para. 8 not in force at Royal Assent see s. 211; Sch. 2 para. 8 in force for certain purposes at 7.3.2008 by S.I. 2008/222, **art. 3**; Sch. 2 para. 8 in force for further certain purposes at 31.3.2009 by S.I. 2009/503, **art. 3**; Sch. 2 para. 8 in force otherwise at 1.1.2010 by S.I. 2009/3250, **art. 2(b)(ii)** (with art. 9)

SCHEDULE 3

Section 19

EXEMPT PERSONS

Rights of audience

1 (1) This paragraph applies to determine whether a person is an exempt person for the purpose of exercising a right of audience before a court in relation to any proceedings (subject to paragraph 7).

(2) The person is exempt if the person—

(a) is not an authorised person in relation to that activity, but

(b) has a right of audience granted by that court in relation to those proceedings.

(3) The person is exempt if the person—

(a) is not an authorised person in relation to that activity, but

(b) has a right of audience before that court in relation to those proceedings granted by or under any enactment.

(4) The person is exempt if the person is the Attorney General or the Solicitor General and—

(a) the name of the person is on the roll kept by the Law Society under section 6 of the Solicitors Act 1974 (c. 47), or

(b) the person has been called to the Bar by an Inn of Court.

(5) The person is exempt if the person is the Advocate General for Scotland and is admitted—

(a) as a solicitor in Scotland under section 6 of the Solicitors (Scotland) Act 1980 (c. 46), or

(b) to practise as an advocate before the courts of Scotland.

(6) The person is exempt if the person—

(a) is a party to those proceedings, and

(b) would have a right of audience, in the person's capacity as such a party, if this Act had not been passed.

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(7) The person is exempt if—

(a) the person is an individual whose work includes assisting in the conduct of litigation,

(b) the person is assisting in the conduct of litigation—

(i) under instructions given (either generally or in relation to the proceedings) by an individual to whom sub-paragraph (8) applies, and

(ii) under the supervision of that individual, and

[F101(c) the proceedings are not reserved family proceedings and are being heard in chambers—

(i) in the High Court or county court, or

(ii) in the family court by a judge who is not, or by two or more judges at least one of whom is not, within section 31C(1)(y) of the Matrimonial and Family Proceedings Act 1984 (lay justices).**]**

(8) This sub-paragraph applies to—

(a) any authorised person in relation to an activity which constitutes the conduct of litigation;

(b) any person who by virtue of section 193 is not required to be entitled to carry on such an activity.

(9) The person is an exempt person in relation to the exercise of a right of audience in proceedings on an appeal from the Comptroller-General of Patents, Designs and Trade Marks to the Patents Court under the Patents Act 1977 (c. 37), if the person is a solicitor of the Court of Judicature of Northern Ireland.

(10) For the purposes of this paragraph—

"family proceedings" has the same meaning as in the Matrimonial and Family Proceedings Act 1984 (c. 42) and also includes **[**F102any proceedings in the family court and **]** any other proceedings which are family proceedings for the purposes of the Children Act 1989 (c. 41);

"reserved family proceedings" means such category of family proceedings as the Lord Chancellor may, after consulting the President of the Law Society and with the concurrence of the President of the Family Division, by order prescribe;

and any order made under section 27(9) of the Courts and Legal Services Act 1990 (c. 41) before the day appointed for the coming into force of this paragraph is to have effect on and after that day as if it were an order made under this sub-paragraph.

Textual Amendments

F101 Sch. 3 para. 1(7)(c) substituted (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 10 para. 98(1)**; S.I. 2014/954, art. 2(d) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

F102 Words in Sch. 3 para. 1(10) inserted (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 10 para. 98(2)**; S.I. 2014/954, art. 2(d) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

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Conduct of litigation

2 (1) This paragraph applies to determine whether a person is an exempt person for the purpose of carrying on any activity which constitutes the conduct of litigation in relation to any proceedings (subject to paragraph 7).

(2) The person is exempt if the person—

(a) is not an authorised person in relation to that activity, but

(b) has a right to conduct litigation granted by a court in relation to those proceedings.

(3) The person is exempt if the person—

(a) is not an authorised person in relation to that activity, but

(b) has a right to conduct litigation in relation to those proceedings granted by or under any enactment.

(4) The person is exempt if the person—

(a) is a party to those proceedings, and

(b) would have a right to conduct the litigation, in the person's capacity as such a party, if this Act had not been passed.

(5) The person is an exempt person in relation to any activity which is carried on in or in connection with proceedings on an appeal from the Comptroller-General of Patents, Designs and Trade Marks to the Patents Court under the Patents Act 1977 (c. 37), if the person is a solicitor of the Court of Judicature of Northern Ireland.

Reserved instrument activities

3 (1) This paragraph applies to determine whether a person is an exempt person for the purpose of carrying on any activity which constitutes reserved instrument activities (subject to paragraph 7).

(2) The person is exempt if the person prepares the instruments or applications in the course of the person's duty as a public officer.

(3) The person ("E") is exempt if—

(a) E is an individual,

(b) E carries on the activity at the direction and under the supervision of another individual ("P"),

(c) when E does so, P and E are connected, and

(d) P is entitled to carry on the activity, otherwise than by virtue of sub-paragraph (10).

(4) For the purposes of sub-paragraph (3), P and E are connected if—

(a) P is E's employer,

(b) P is a fellow employee of E,

(c) P is a manager or employee of a body which is an authorised person in relation to the activity, and E is also a manager or employee of that body.

(5) If the person is an accredited person, the person is exempt to the extent that the activity consists of the preparation of any instrument—

(a) which creates, or which the person believes on reasonable grounds will create, a farm business tenancy (within the meaning of the Agricultural Tenancies Act 1995 (c. 8)), or

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(b) which relates to an existing tenancy which is, or which the person believes on reasonable grounds to be, such a tenancy.

(6) In sub-paragraph (5) "accredited person" means a person who is—

(a) a Fellow of the Central Association of Agricultural Valuers, or

(b) a Member or Fellow of the Royal Institution of Chartered Surveyors.

(7) The person is exempt to the extent that the activity carried on by the person is also a reserved legal activity within sub-paragraph (8) and the person is—

(a) authorised to carry on that activity (other than under Part 5) by a relevant approved regulator in relation to the activity,

(b) authorised to carry on that activity by a licence under Part 5, or

(c) an exempt person in relation to that activity by virtue of paragraph 1 or 2 of this Schedule.

(8) The activities are—

(a) the exercise of a right of audience;

(b) the conduct of litigation.

(9) The person is exempt if the person is employed merely to engross the instrument or application.

(10) The person is exempt if the person is an individual who carries on the activity otherwise than for, or in expectation of, any fee, gain or reward.

(11) The person is exempt if—

(a) the person is a person qualified to practise as a solicitor in Scotland in accordance with section 4 of the Solicitors (Scotland) Act 1980 (c. 46), and

(b) the reserved instrument activities fall within paragraph 5(1)(c) of Schedule 2 (preparation of certain instruments relating to real or personal property or legal proceedings).

Probate activities

4 (1) This paragraph applies to determine whether a person is an exempt person for the purpose of carrying on any activity which constitutes probate activities (subject to paragraph 7).

(2) The person ("E") is an exempt person if—

(a) E is an individual,

(b) E provides the probate activities at the direction and under the supervision of another individual ("P"),

(c) when E does so, P and E are connected, and

(d) P is entitled to carry on the activity, otherwise than by virtue of sub-paragraph (4).

(3) For the purposes of sub-paragraph (2), P and E are connected if—

(a) P is E's employer,

(b) P is a fellow employee of E,

(c) P is a manager or employee of a body which is an authorised person in relation to the activity, and E is also a manager or employee of that body.

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(4) The person is exempt if the person is an individual who carries on the activity otherwise than for, or in expectation of, any fee, gain or reward.

Notarial activities

5 (1) This paragraph applies to determine whether a person is an exempt person for the purpose of carrying on any activity which constitutes notarial activities (subject to paragraph 7).

(2) The person is exempt if the person is not an authorised person in relation to that activity under this Act, but is authorised to carry on that activity by or by virtue of any other enactment.

(3) The person is exempt if section 14 of the Public Notaries Act 1801 (c. 79) applies to the person, and—

(a) where that section applies by virtue of the person holding or exercising an office or appointment, the person carries on the activity for ecclesiastical purposes;

(b) where that section applies by virtue of the person performing a public duty or service under government, the person carries on the activity in the course of performing that duty or service.

(4) The person is exempt if the person is an individual who carries on the notarial activities otherwise than for or in expectation of a fee, gain or reward.

Administration of oaths

6 (1) This paragraph applies to determine whether a person is an exempt person for the purpose of carrying on any activity which constitutes the administration of oaths (subject to paragraph 7).

(2) The person is exempt if the person is not an authorised person in relation to that activity under this Act, but is authorised to carry on that activity by or by virtue of any other enactment.

(3) The person is exempt if the person has a commission under section 1(1) of the Commissioners for Oaths Act 1889 (c. 10).

European lawyers

7 A European lawyer (within the meaning of the European Communities (Services of Lawyers) Order 1978 (S.I. 1978/1910) **[**F103, as it has effect by virtue of regulation 5 of the Services of Lawyers and Lawyer's Practice (Revocation etc.) (EU Exit) Regulations 2020**]**) is an exempt person for the purposes of carrying on an activity which is a reserved legal activity and which the European lawyer is entitled to carry on by virtue of that order **[**F104, as it has effect by virtue of that regulation**]**.

Textual Amendments

F103 Words in Sch. 3 para. 7 inserted (31.12.2020) by The Services of Lawyers and Lawyer's Practice (Revocation etc.) (EU Exit) Regulations 2020 (S.I. 2020/1342), reg. 1(1), **Sch. para. 12(4)(a)** (with Sch. para. 13)

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F104 Words in Sch. 3 para. 7 inserted (31.12.2020) by The Services of Lawyers and Lawyer's Practice (Revocation etc.) (EU Exit) Regulations 2020 (S.I. 2020/1342), reg. 1(1), **Sch. para. 12(4)(b)** (with Sch. para. 13)

Employers etc acting through exempt person

8 (1) This paragraph applies where—

(a) a person ("P") carries on an activity ("the relevant activity") which is a reserved legal activity,

(b) P carries on the relevant activity by virtue of an employee of P ("E") carrying it on in E's capacity as such an employee, and

(c) E is an exempt person in relation to the relevant activity.

(2) P is an exempt person in relation to the relevant activity to the extent that P carries on that activity by virtue of E so carrying it on.

(3) This paragraph does not apply where E—

(a) carries on the relevant activity at the direction and under the supervision of an authorised person in relation to that activity, and

(b) is exempt in relation to that activity by virtue of paragraph 1(7), 3(3) or 4(2).

(4) If P is a body, in this paragraph references to an employee of P include references to a manager of P.

Further exempt persons

9 (1) The Lord Chancellor may, by order, amend this Schedule so as to provide—

(a) for persons to be exempt persons in relation to any activity which is a reserved legal activity (including any activity which is a reserved legal activity by virtue of an order under section 24 (extension of reserved legal activities)),

(b) for persons to cease to be such persons, or

(c) for the amendment of any provision made in respect of an exempt person.

(2) The Lord Chancellor may make an order under sub-paragraph (1) only on the recommendation of the Board.

SCHEDULE 4

Section 20

APPROVED REGULATORS

PART 1

EXISTING REGULATORS

1 (1) Each body listed in the first column of the Table in this paragraph is an approved regulator.

(2) Each body so listed is an approved regulator in relation to the reserved legal activities listed in relation to it in the second column of the Table.

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TABLE

Approved regulator	***Reserved legal activities***
The Law Society	The exercise of a right of audience. The conduct of litigation. Reserved instrument activities. Probate activities. The administration of oaths.
The General Council of the Bar	The exercise of a right of audience. The conduct of litigation. Reserved instrument activities. Probate activities. The administration of oaths.
The Master of the Faculties	Reserved instrument activities. Probate activities. Notarial activities. The administration of oaths.
The Institute of Legal Executives	The exercise of a right of audience. The administration of oaths.
The Council for Licensed Conveyancers	Reserved instrument activities. The administration of oaths. [F105Probate activities.]
The Chartered Institute of Patent Attorneys	The exercise of a right of audience. The conduct of litigation. Reserved instrument activities. The administration of oaths.
The Institute of Trade Mark Attorneys	The exercise of a right of audience. The conduct of litigation. Reserved instrument activities. The administration of oaths.
The Association of Law Costs Draftsmen	The exercise of a right of audience. The conduct of litigation. The administration of oaths.
[F106The Institute of Chartered Accountants of Scotland	Probate activities.]
[F107The Association of Chartered Certified Accountants	Probate activities.]

Textual Amendments

F105 Words in Sch. 4 para. 1 Table inserted (30.12.2009) by The Legal Services Act 2007 (Approved Regulators) Order 2009 (S.I. 2009/3233), arts. 1(1), **3(a)**

F106 Words in Sch. 4 para. 1 Table inserted (30.12.2009) by The Legal Services Act 2007 (Approved Regulators) Order 2009 (S.I. 2009/3233), arts. 1(1), **3(b)**

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F107 Words in Sch. 4 para. 1 Table inserted (30.12.2009) by The Legal Services Act 2007 (Approved Regulators) Order 2009 (S.I. 2009/3233), arts. 1(1), **3(b)**

2 (1) The regulatory arrangements of a listed body, as they have effect immediately before paragraph 1 comes into force, are to be treated as having been approved by the Board for the purposes of this Act at the time that paragraph comes into force.

(2) "Listed body" means a body listed in the first column of the Table in paragraph 1 as that Table has effect at the time that paragraph comes into force.

(3) Sub-paragraph (1) is without prejudice to the Board's power to give directions under section 32 (powers to direct an approved regulator to take steps in certain circumstances, including steps to amend its regulatory arrangements).

PART 2

DESIGNATION OF BODIES BY ORDER

Application to the Board

3 (1) This paragraph applies where a body wishes to authorise persons to carry on one or more activities which constitute one or more reserved legal activities.

(2) The body may apply to the Board for the Board—

(a) to recommend that an order be made by the Lord Chancellor designating the body as an approved regulator in relation to the reserved legal activity or activities in question, and

(b) to approve what the body proposes as its regulatory arrangements if such an order is made ("the proposed regulatory arrangements").

(3) An application under this paragraph must be made in such form and manner as the Board may specify in rules and must be accompanied by—

(a) a statement of the reserved legal activity or activities to which it relates,

(b) details of the applicant's proposed regulatory arrangements,

(c) such explanatory material (including material about the applicant's constitution and activities) as the applicant considers is likely to be needed for the purposes of this Part of this Schedule, and

(d) the prescribed fee.

(4) The prescribed fee is the fee specified in, or determined in accordance with, rules made by the Board with the consent of the Lord Chancellor.

(5) The proposed regulatory arrangements must, in particular, include—

(a) details of the authority which the applicant proposes to give persons to carry on activities which are reserved legal activities and of the nature of the persons to whom the authority is to be given,

(b) regulations (however they may be described) as to the education and training which persons must receive, and any other requirements which must be met by or in respect of them, in order for them to be authorised, and

(c) rules (however they may be described) as to the conduct required of persons in carrying on any activity by virtue of the authority.

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(6) An applicant may, at any time, withdraw the application by giving notice to that effect to the Board.

Commencement Information

I137 Sch. 4 para. 3 wholly in force at 1.1.2010; Sch. 4 para. 3 not in force at Royal Assent see s. 211; Sch. 4 para. 3(1)(3)(4) in force at 1.1.2009 by S.I. 2008/3149, **art. 2(b)(ii)**; Sch. 4 para. 3 in force otherwise at 1.1.2010 by S.I. 2009/3250, **art. 2(b)(ii)** (with art. 9)

Dismissal of application

4 (1) The Board may refuse to consider, or to continue its consideration of, an application.

(2) The Board must make rules about the procedures and criteria that it will apply when determining whether to refuse to consider, or to continue its consideration of, an application under sub-paragraph (1).

(3) Where the Board decides to refuse to consider, or to continue its consideration of, an application it must give the applicant notice of that decision and of its reasons for it.

(4) The Board must publish a notice given under sub-paragraph (3).

Commencement Information

I138 Sch. 4 para. 4 wholly in force at 1.1.2010; Sch. 4 para. not in force at Royal Assent see s. 211; Sch. 4 para. 3(1)(3)(4) in force at 1.1.2009 by S.I. 2008/3149, **art. 2(b)(ii)**; Sch. 4 para. 4 in force otherwise at 1.1.2010 by S.I. 2009/3250 {art. 2(b)(ii)} (with art. 9)

Board's duty to seek advice

5 (1) The Board must give each of the persons listed in sub-paragraph (2)—

(a) a copy of the application and accompanying material, and

(b) a notice specifying a period within which any advice given under paragraphs 6 to 8 must be given.

(2) Those persons are—

(a) the **[**F108 CMA**]**,

(b) the Consumer Panel,

(c) the Lord Chief Justice, and

(d) such other persons as the Board considers it reasonable to consult regarding the application.

(3) In this Part of this Schedule, in relation to an application, "selected consultee" means a person within sub-paragraph (2)(d).

Textual Amendments

F108 Word in Sch. 4 para. 5(2)(a) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 117(2)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)

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Advice of [F109 Competition and Markets Authority]

Textual Amendments

F109 Words in Sch. 4 para. 6 cross-heading substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 117(3)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)

6 (1) The [F110 CMA] must give the Board such advice as the [F110 CMA] thinks fit regarding whether the application should be granted.

(2) In deciding what advice to give, the [F110 CMA] must, in particular, have regard to whether making an order under paragraph 17 in accordance with the recommendation applied for would (or would be likely to) prevent, restrict or distort competition within the market for reserved legal services to any significant extent.

Textual Amendments

F110 Word in Sch. 4 para. 6(1) (2) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 117(4)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)

Advice of the Consumer Panel

7 (1) The Consumer Panel must give the Board such advice as the Consumer Panel thinks fit regarding whether the application should be granted.

(2) In deciding what advice to give, the Consumer Panel must, in particular, have regard to the likely impact on consumers of the making of an order under paragraph 17 in accordance with the recommendation applied for.

Advice of selected consultees

8 A selected consultee may give the Board such advice as the selected consultee thinks fit in respect of the application.

Advice of the Lord Chief Justice

9 (1) The Board must give the Lord Chief Justice—

(a) a copy of any advice duly given under paragraphs 6 to 8, and

(b) a notice specifying a period within which any advice under this paragraph must be given.

(2) The Lord Chief Justice must then give such advice to the Board as the Lord Chief Justice thinks fit regarding whether the application should be granted.

(3) In deciding what advice to give, the Lord Chief Justice must, in particular, have regard to the likely impact on the courts in England and Wales of the making of an order under paragraph 17 in accordance with the recommendation applied for.

Information obtained by consultees

10 A person ("the consultee") to whom a copy of the application is given under paragraph 5(1) may, for the purposes of giving advice under paragraphs 6 to

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9, request the applicant or any other person to provide the consultee with such additional information as may be specified by the consultee.

Representations by applicant

11 (1) The Board must give the applicant a copy of any advice duly given under paragraphs 6 to 9.

(2) The applicant may make to the Board—

(a) written representations, and

(b) if the Board authorises it to do so, oral representations,

about the advice.

(3) The Board must make rules governing the making of oral and written representations.

(4) Representations under this paragraph must be made within—

(a) the period of 28 days beginning with the day on which the copy of the advice is given to the applicant, or

(b) such longer period as the Board may specify in a particular case.

(5) Where oral representations are made, the Board must prepare a report of those representations.

(6) Before preparing that report, the Board must—

(a) give the applicant a reasonable opportunity to comment on a draft of the report, and

(b) have regard to any comments duly made.

Commencement Information

I139 Sch. 4 para. 11 wholly in force at 1.1.2010; Sch. 4 para. 11 not in force at Royal Assent see s. 211; Sch. 4 para. 11(3) in force at 1.1.2009 by S.I. 2008/3149, **art. 2(b)(ii)**; Sch. 4 para. 11 in force otherwise at 1.1.2010 by S.I. 2009/3250, **art. 2(b)(ii)** (with art. 9)

Publication of advice and representations etc

12 (1) The Board must, as soon as practicable after the end of the period within which representations under paragraph 11 may be made, publish—

(a) any advice duly given under paragraphs 6 to 9, and

(b) any written representations duly made under paragraph 11 and the report (if any) prepared under that paragraph.

(2) Nothing in sub-paragraph (1) operates—

(a) to prevent a person who gives advice under paragraphs 6 to 9 from publishing that advice, or

(b) to prevent a person who makes representations under paragraph 11 from publishing those representations.

(3) A person ("the publisher") publishing any such material (whether under sub-paragraph (1) or otherwise) must, so far as practicable, exclude any matter which relates to the private affairs of a particular individual the publication of which, in

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the opinion of the publisher, would or might seriously and prejudicially affect the interests of that individual.

Rules governing decisions by the Board

13 (1) The Board must make rules specifying how it will determine applications.

(2) Rules under sub-paragraph (1) must, in particular, provide that the Board may grant an application in relation to a particular reserved legal activity only if it is satisfied—

(a) that, if an order were to be made under paragraph 17 designating the body in relation to that activity, the applicant would have appropriate internal governance arrangements in place at the time the order takes effect,

(b) that, if such an order were to be made, the applicant would be competent, and have sufficient resources, to perform the role of approved regulator in relation to the reserved legal activity at that time,

(c) that the applicant's proposed regulatory arrangements make appropriate provision,

(d) that the applicant's proposed regulatory arrangements comply with the requirement imposed by sections 52 and 54 (resolution of regulatory conflict), and

(e) that those arrangements comply with the requirements imposed by sections 112 and 145 (requirements imposed in relation to the handling of complaints).

(3) The rules made for the purposes of sub-paragraph (2)(a) must in particular require the Board to be satisfied—

(a) that the exercise of the applicant's regulatory functions would not be prejudiced by any of its representative functions, and

(b) that decisions relating to the exercise of its regulatory functions would so far as reasonably practicable be taken independently from decisions relating to the exercise of its representative functions.

Determination of applications

14 (1) After considering—

(a) the application and accompanying material,

(b) any other information provided by the applicant,

(c) any advice duly given under paragraphs 6 to 9,

(d) any representations duly made under paragraph 11, and

(e) any other information which the Board considers relevant to the application,

the Board must decide whether to grant the application.

(2) Where the application relates to more than one reserved legal activity, the Board may grant the application in relation to all or any of them.

(3) The Board must give notice of its decision to the applicant ("the decision notice").

(4) Where the Board decides to refuse the application (in whole or in part), the decision notice must specify the reasons for that decision.

(5) The Board must publish the decision notice.

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15 (1) Where an application is made under this Part, the Board must give the decision notice under paragraph 14 within the decision period.

(2) The "decision period" is the period of 12 months beginning with the day on which the application is made to the Board.

(3) The Board may, before the end of the decision period, issue a notice extending that period by a period specified in the notice.

(4) More than one notice may be issued under sub-paragraph (3), but the decision period must not exceed 16 months.

(5) The Board may issue a notice under sub-paragraph (3) only after it has consulted—

(a) the [F111CMA],

(b) the Consumer Panel, and

(c) the Lord Chief Justice.

(6) A notice under sub-paragraph (3) must state the Board's reasons for extending the decision period.

(7) The Board must publish any notice issued under sub-paragraph (3).

Textual Amendments

F111 Word in Sch. 4 para. 15(5)(a) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 117(5)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)

Effect of grant of application

16 (1) This paragraph applies where an application is granted in relation to a reserved legal activity or activities.

(2) The Board must recommend to the Lord Chancellor that an order be made designating the applicant as an approved regulator in relation to the reserved legal activity or activities in question.

(3) The Board must publish any recommendation made under sub-paragraph (2).

(4) The Board must make available to the Lord Chancellor—

(a) any advice duly given under paragraphs 6 to 9,

(b) any written representations duly made under paragraph 11 and the report (if any) prepared under that paragraph, and

(c) any other material considered by the Board for the purpose of determining the application.

Lord Chancellor's decision to make an order

17 (1) Where a recommendation is made to the Lord Chancellor under paragraph 16, the Lord Chancellor may—

(a) make an order in accordance with the recommendation, or

(b) refuse to make such an order.

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(2) Where the recommendation relates to more than one reserved legal activity, the Lord Chancellor may make an order under sub-paragraph (1)(a) in relation to all or any of them.

(3) The Lord Chancellor must—

(a) decide whether to make an order under this paragraph, and

(b) give notice of that decision ("the decision notice") to the applicant,

within the period of 90 days beginning with the day on which the recommendation was made.

(4) If the Lord Chancellor decides not to make an order in accordance with the whole or part of the recommendation, the decision notice must state the reasons for the decision.

(5) The Lord Chancellor must publish the decision notice.

Approval of regulatory arrangements

18 (1) Where an order is made by the Lord Chancellor under paragraph 17, the applicant's proposed regulatory arrangements are at the same time treated as having been approved by the Board.

(2) But where the order relates to one or more (but not all) of the reserved legal activities to which the application related, sub-paragraph (1) has effect as if the reference to the applicant's proposed regulatory arrangements were a reference to those arrangements excluding any provision made in respect of any activities excluded from the order.

(3) Sub-paragraph (1) is without prejudice to the Board's power to give directions under section 32 (powers to direct an approved regulator to take steps in certain circumstances, including steps to amend its regulatory arrangements).

PART 3

ALTERATION OF APPROVED REGULATOR'S REGULATORY ARRANGEMENTS

Requirement for approval

19 (1) If an alteration is made of the regulatory arrangements of an approved regulator, the alteration does not have effect unless it is approved for the purposes of this Act.

(2) An alteration is approved for the purposes of this Act if—

(a) it is approved by virtue of paragraph 18 (approval of proposed regulatory arrangements on designation by order as approved regulator),

(b) it is approved by the Board under this Part of this Schedule,

(c) it is an exempt alteration,

(d) it is an alteration made in compliance with a direction under section 32,

(e) it is approved by virtue of paragraph 16 of Schedule 10 (approval of licensing rules on designation by order as licensing authority), or

(f) it is approved by virtue of paragraph 7 of Schedule 18 (approval of proposed regulatory arrangements when granting "qualifying regulator" status for the purposes of Part 5 of the Immigration and Asylum Act 1999 (c. 33)).

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(3) An exempt alteration is an alteration which the Board has directed is to be treated as exempt for the purposes of this paragraph.

(4) A direction under sub-paragraph (3) may be specific or general and must be published by the Board.

(5) In this Part of this Schedule, references to an "alteration" of regulatory arrangements include an addition to, or the revocation of any part of, the arrangements.

(6) If a question arises whether approval is required by virtue of this Part of this Schedule, it is for the Board to decide.

(7) Nothing in this Part of this Schedule applies in relation to any alteration of the regulatory arrangements of the Board in its capacity as an approved regulator (or of its licensing rules).

Commencement Information

I140 Sch. 4 para. 19 partly in force; Sch. 4 para. 19 not in force at Royal Assent see s. 211; Sch. 4 para. 19(1)(2)(a)-(e)(3)-(7) in force at 1.1.2010 by S.I. 2009/3250, **art. 2(b)(ii)** (with art. 9)

I141 Sch. 4 para. 19(2)(f) in force at 1.4.2011 by S.I. 2011/720, **art. 2(b)**

Application to Board

20 (1) An application by an approved regulator for the Board to approve an alteration or alterations of its regulatory arrangements must be made in such form and manner as the Board may specify in rules.

(2) The application must be accompanied by—

(a) details of such of the approved regulator's regulatory arrangements as are relevant to the application,

(b) details of the alteration or alterations, and

(c) such explanatory material as the approved regulator considers is likely to be needed for the purposes of this Part of this Schedule.

Initial determination

21 (1) Where the Board has received an application under paragraph 20 it may—

(a) grant the application and give the approved regulator a notice to that effect, or

(b) give the approved regulator a notice stating that the Board is considering whether to refuse the application (a "warning notice").

(2) The Board must publish any notice given by it under sub-paragraph (1)(a) or (b).

(3) If the Board does not give the approved regulator a notice under sub-paragraph (1)(a) or (b) within the initial decision period, the application is deemed to have been granted by the Board.

(4) The "initial decision period" means the period of 28 days beginning with the day on which the application was received by the Board.

(5) The Board may extend the initial decision period—

(a) with the consent of the approved regulator, or

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(b) by giving an extension notice to the approved regulator,

before the end of that period (or if it has previously been extended under this sub-paragraph, that period as so extended).

(6) An extension notice—

(a) must specify the period of the extension, and

(b) must state the Board's reasons for extending the initial decision period.

(7) The period specified in the notice under sub-paragraph (6)(a) must end no later than the end of the period of 90 days beginning with the date on which the application was made under paragraph 20.

Advice

22 (1) Where the Board has given the approved regulator a warning notice, the Board may invite such persons as it considers appropriate to give the Board advice regarding whether the application should be granted.

(2) A person ("the consultee") to whom an invitation is given under sub-paragraph (1) may, for the purposes of giving advice to the Board under this paragraph, request the approved regulator or any other person to provide the consultee with such additional information as may be specified by the consultee.

Representations by applicant

23 (1) The Board must give the approved regulator a copy of any advice obtained under paragraph 22.

(2) The approved regulator may make to the Board—

(a) written representations, and

(b) if the Board authorises it to do so, oral representations,

about the advice.

(3) The Board must make rules governing the making of oral and written representations.

(4) Representations under this paragraph must be made within—

(a) the period of 28 days beginning with the day on which the copy of the advice is given to the approved regulator, or

(b) such longer period as the Board may specify in a particular case.

(5) Where oral representations are made, the Board must prepare a report of those representations.

(6) Before preparing that report, the Board must—

(a) give the approved regulator a reasonable opportunity to comment on a draft of the report, and

(b) have regard to any comments duly made.

Commencement Information

I142 Sch. 4 para. 23 wholly in force at 1.1.2010; Sch. 4 para. 23 not in force at Royal Assent see s. 211; Sch. 4 para. 23(3) in force at 1.1.2009 by S.I. 2008/3149, **art. 2(b)(ii)**; Sch. 4 para. 23 in force otherwise at 1.1.2010 by S.I. 2009/3250, **art. 2(b)(ii)** (with art. 9)

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Publication of advice and representations etc

24 (1) The Board must, as soon as practicable after the end of the period within which representations under paragraph 23 may be made, publish—

(a) any advice given under paragraph 22, and

(b) any written representations duly made under paragraph 23 and the report (if any) prepared under that paragraph.

(2) Nothing in sub-paragraph (1) operates—

(a) to prevent a person who gives advice under paragraph 22 from publishing that advice, or

(b) to prevent a person who makes representations under paragraph 23 from publishing those representations.

(3) A person ("the publisher") publishing any such material (whether under sub-paragraph (1) or otherwise) must, so far as practicable, exclude any matter which relates to the private affairs of a particular individual the publication of which, in the opinion of the publisher, would or might seriously and prejudicially affect the interests of that individual.

Decision by the Board

25 (1) After considering—

(a) the application and any accompanying material,

(b) any other information provided by the approved regulator,

(c) any advice obtained under paragraph 22,

(d) any representations duly made under paragraph 23, and

(e) any other information which the Board considers relevant to the application,

the Board must decide whether to grant the application.

(2) The Board may grant the application in whole or in part.

(3) The Board may refuse the application only if it is satisfied that—

(a) granting the application would be prejudicial to the regulatory objectives,

(b) granting the application would be contrary to any provision made by or by virtue of this Act or any other enactment or would result in any of the designation requirements ceasing to be satisfied in relation to the approved regulator,

(c) granting the application would be contrary to the public interest,

(d) the alteration would enable the approved regulator to authorise persons to carry on activities which are reserved legal activities in relation to which it is not a relevant approved regulator,

(e) the alteration would enable the approved regulator to license persons under Part 5 to carry on activities which are reserved legal activities in relation to which it is not a licensing authority, or

(f) the alteration has been or is likely to be made otherwise than in accordance with the procedures (whether statutory or otherwise) which apply in relation to the making of the alteration.

(4) For the purposes of sub-paragraph (3)(b) the designation requirements are—

(a) a requirement that the approved regulator has appropriate internal governance arrangements in place,

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(b) a requirement that the applicant is competent, and has sufficient resources to perform the role of approved regulator in relation to the reserved legal activities in respect of which it is designated, and

(c) the requirements of paragraph 13(2)(c) to (e).

(5) Sub-paragraph (3) applies in relation to any part of an application as if references to the application were to the part.

(6) The Board must give notice of its decision ("the decision notice") to the approved regulator.

(7) Where the Board decides to refuse the application (in whole or in part), the decision notice must specify the reasons for that decision.

(8) The Board must publish the decision notice.

Failure to decide application during decision period

26 (1) This paragraph applies where the Board gives an approved regulator a warning notice under paragraph 21 in respect of the approved regulator's application.

(2) If the Board does not give the approved regulator notice of its decision under paragraph 25 within the decision period, the application is deemed to have been granted by the Board at the end of that period.

(3) Subject to sub-paragraphs (4) and (5), "the decision period" means the period of 12 months beginning with the day on which the approved regulator received the warning notice.

(4) The Board may, on one or more occasions, give the approved regulator a notice (an "extension notice") extending the decision period.

(5) But—

(a) an extension notice may only be given before the time when the decision period would end, but for the extension notice, and

(b) the total decision period must not exceed 18 months.

(6) The Board must publish any extension notice given by it.

Effect of grant of application

27 (1) Where an application is granted under paragraph 21(1)(a) or (3), 25(1) or 26(2), the alteration or alterations of the regulatory arrangements to which the application relates are approved.

(2) Where a part of an application is granted under paragraph 25(1), the alteration or alterations of the regulatory arrangements to which the part relates are approved.

(3) Sub-paragraphs (1) and (2) are without prejudice to the Board's power to give directions under section 32 (power to direct an approved regulator to take steps in certain circumstances, including steps to amend its regulatory arrangements).

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SCHEDULE 5

Section 22

AUTHORISED PERSONS

PART 1

CONTINUITY OF RIGHTS

Rights of audience and conduct of litigation

1 (1) For the purposes of section 18 (authorised persons), in the case of a person who is authorised by a listed body—

(a) to exercise a right of audience before a court in relation to any proceedings, or

(b) to conduct litigation in relation to any proceedings,

it is irrelevant whether the person's authorisation was granted before or on or after the appointed day.

(2) The "listed bodies" are—

(a) The Law Society,

(b) The General Council of the Bar,

(c) The Chartered Institute of Patent Attorneys,

(d) The Institute of Trade Mark Attorneys,

(e) The Association of Law Costs Draftsmen, and

(f) for the purposes of sub-paragraph (1)(a) only, The Institute of Legal Executives.

(3) For the purposes of sub-paragraph (1), any authority conferred by section 31 of the Courts and Legal Services Act 1990 (c. 41) (barristers and solicitors deemed to have rights of audience and rights to conduct litigation) is to be disregarded (see paragraphs 4 and 7 below).

Commencement Information

I143 Sch. 5 para. 1 wholly in force at 1.1.2010, see s. 211 and S.I. 2009/3250, **art. 2(b)(ii)** (with art. 9)

Conveyancing services

2 (1) For the purposes of section 18, in the case of a licensed conveyancer who is authorised to carry on an activity which is a reserved instrument activity by a conveyancing licence, it is irrelevant whether the licence was granted before or on or after the appointed day.

(2) For the purposes of this paragraph "conveyancing licence" means a licence to practise as a licensed conveyancer granted under Part 2 of the Administration of Justice Act 1985 (c. 61).

Commencement Information

I144 Sch. 5 para. 2 wholly in force at 1.1.2010, see s. 211 and S.I. 2009/3250, **art. 2(b)(ii)** (with art. 9)

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I[F112] Probate activities

Textual Amendments

F112 Sch. 5 para. 2A inserted (30.12.2009) by The Legal Services Act 2007 (Approved Regulators) Order 2009 (S.I. 2009/3233), arts. 1(1), **4**

2A (1) This paragraph applies to a person who, immediately before the time paragraph 1 of Schedule 4 comes into force, has an exemption from the provisions of section 23(1) of the Solicitors Act 1974 (c. 47) (preparation of papers for probate etc by unqualified person) granted by a body within sub-paragraph (3).

(2) For the purposes of section 18, the person is to be treated as if the exemption were an authorisation to carry on probate activities granted by the body in question at the time paragraph 1 of Schedule 4 comes into force.

(3) The bodies are—

(a) The Council for Licensed Conveyancers;

(b) The Institute of Chartered Accountants of Scotland;

(c) The Association of Chartered Certified Accountants.**]**

PART 2

RIGHTS DURING TRANSITIONAL PERIOD

The transitional period

3 (1) In this Part of this Schedule references to "the transitional period" are to the period which—

(a) begins with the appointed day (within the meaning given by paragraph 19), and

(b) ends with the day appointed by the Lord Chancellor by order for the purposes of this paragraph.

(2) Different days may be appointed under sub-paragraph (1)(b) for different purposes.

(3) An order may be made under sub-paragraph (1)(b) only on the recommendation of the Board.

Commencement Information

I145 Sch. 5 para. 3 wholly in force at 1.1.2010, see s. 211 and S.I. 2009/3250, **art. 2(b)(ii)** (with art. 9)

Barristers etc

4 (1) During the transitional period, every barrister is deemed to be authorised by the General Council of the Bar to carry on the activities in sub-paragraph (2).

(2) Those activities are—

(a) the exercise of a right of audience before every court in relation to all proceedings;

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(b) reserved instrument activities;
(c) probate activities;
(d) the administration of oaths.

(3) The authority conferred on a barrister by this paragraph is exercisable in accordance with, and subject to, the regulatory arrangements of the General Council of the Bar.

(4) A person is not authorised under sub-paragraph (1) unless the person has in force a certificate issued by the General Council of the Bar authorising the person to practise as a barrister.

Commencement Information

I146 Sch. 5 para. 4 wholly in force at 1.1.2010, see s. 211 and S.I. 2009/3250, **art. 2(b)(ii)** (subject to art. 4 and with art. 9)

5 (1) During the transitional period, every registered European lawyer registered with the Inns of Court and the General Council of the Bar is deemed to be authorised by the General Council of the Bar to carry on activities which—

(a) are within paragraph 4(2), and

(b) the registered European lawyer is entitled to carry on under his **[**[F113]Swiss professional title**]** by virtue of the European regulations.

(2) The authority conferred on a registered European lawyer by virtue of this paragraph is exercisable in accordance with, and subject to, the regulatory arrangements of the General Council of the Bar (as they apply to the registered European lawyer by virtue of the European regulations).

(3) In this paragraph—

"European regulations" means the European Communities (Lawyer's Practice) Regulations 2000 (S.I. 2000/1119) **[**[F114], as they have effect by virtue of regulation 6 of the Services of Lawyers and Lawyer's Practice (Revocation etc.) (EU Exit) Regulations 2020**]**;

"**[**[F115]Swiss professional title**]**" and "registered European lawyer" have the same meaning as in the European regulations.

Textual Amendments

F113 Words in Sch. 5 para. 5(1)(b) substituted (31.12.2020) by The Services of Lawyers and Lawyer's Practice (Revocation etc.) (EU Exit) Regulations 2020 (S.I. 2020/1342), reg. 1(1), **Sch. para. 12(5)(a)(i)** (with Sch. para. 13)

F114 Words in Sch. 5 para. 5(3) inserted (31.12.2020) by The Services of Lawyers and Lawyer's Practice (Revocation etc.) (EU Exit) Regulations 2020 (S.I. 2020/1342), reg. 1(1), **Sch. para. 12(5)(a)(ii)(aa)** (with Sch. para. 13)

F115 Words in Sch. 5 para. 5(3) substituted (31.12.2020) by The Services of Lawyers and Lawyer's Practice (Revocation etc.) (EU Exit) Regulations 2020 (S.I. 2020/1342), reg. 1(1), **Sch. para. 12(5)(a)(ii)(bb)** (with Sch. para. 13)

Commencement Information

I147 Sch. 5 para. 5 wholly in force at 1.1.2010, see s. 211 and S.I. 2009/3250, **art. 2(b)(ii)** (with art. 9)

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6 During the transitional period members of the Bar not in actual practice are to continue to have the rights conferred by section 102A(2) of the Patents Act 1977 (c. 37) (right of audience, etc in proceedings on appeal from the comptroller).

Commencement Information

I148 Sch. 5 para. 6 wholly in force at 1.1.2010, see s. 211 and S.I. 2009/3250, **art. 2(b)(ii)** (with art. 9)

Solicitors etc

7 (1) During the transitional period—

(a) every qualified solicitor,

(b) every legal partnership, and

(c) every body recognised under section 9 of the Administration of Justice Act 1985 (c. 61) (incorporated practices) ("a recognised body"),

is deemed to be authorised by the Law Society to carry on the activities in sub-paragraph (2).

(2) Those activities are—

(a) the exercise of a right of audience before every court in relation to all proceedings;

(b) the conduct of litigation in relation to every court and all proceedings;

(c) reserved instrument activities;

(d) probate activities;

(e) the administration of oaths.

(3) The authority conferred on a qualified solicitor, legal partnership or recognised body by this paragraph is exercisable in accordance with, and subject to, the regulatory arrangements of the Law Society.

(4) In this paragraph—

"legal partnership" means a partnership in which a qualified solicitor, a registered European Lawyer or a body recognised under section 9 of the Administration of Justice Act 1985 (c. 61) is permitted to practise by virtue of rules made under that section or section 31 of the Solicitors Act 1974 (c. 47);

"qualified solicitor" means a person who is qualified under section 1 of the Solicitors Act 1974 to act as a solicitor;

"registered European lawyer" means a registered European lawyer within the meaning of the European Communities (Lawyer's Practice) Regulations 2000 (S.I. 2000/1119) **[**F116, as they have effect by virtue of regulation 6 of the Services of Lawyers and Lawyer's Practice (Revocation etc.) (EU Exit) Regulations 2020,**]** who is registered with the Law Society.

Textual Amendments

F116 Words in Sch. 5 para. 7(4) inserted (31.12.2020) by The Services of Lawyers and Lawyer's Practice (Revocation etc.) (EU Exit) Regulations 2020 (S.I. 2020/1342), reg. 1(1), **Sch. para. 12(5)(b)** (with Sch. para. 13)

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Commencement Information

I149 Sch. 5 para. 7 wholly in force at 1.1.2010; Sch. 5 para. 7 not in force at Royal Assent see s. 211; Sch. 5 para. 7(4) in force for certain purposes at 31.3.2009 by S.I. 2009/503, **art. 3**, Sch. 5 para. 7 in force otherwise at 1.1.2010 by S.I. 2009/3250, **art. 2(b)(i)** (with art. 9)

8 (1) During the transitional period, every registered European lawyer registered with the Law Society is deemed to be authorised by the Law Society to carry on activities which—

(a) are within paragraph 7(2), and

(b) the registered European lawyer is entitled to carry on under his **[**F117Swiss professional title**]** by virtue of the European regulations.

(2) The authority conferred on a registered European lawyer by virtue of this paragraph is exercisable in accordance with, and subject to, the regulatory arrangements of the Law Society (as they apply to the registered European lawyer by virtue of the European regulations).

(3) In this paragraph—

"European regulations" means the European Communities (Lawyer's Practice) Regulations 2000 (S.I. 2000/1119) **[**F118, as they have effect by virtue of regulation 6 of the Services of Lawyers and Lawyer's Practice (Revocation etc.) (EU Exit) Regulations 2020**]**;

"**[**F119Swiss professional title**]**" and "registered European lawyer" have the same meaning as in the European regulations.

Textual Amendments

F117 Words in Sch. 5 para. 8(1)(b) substituted (31.12.2020) by The Services of Lawyers and Lawyer's Practice (Revocation etc.) (EU Exit) Regulations 2020 (S.I. 2020/1342), reg. 1(1), **Sch. para. 12(5)(c)(i)** (with Sch. para. 13)

F118 Words in Sch. 5 para. 8(3) inserted (31.12.2020) by The Services of Lawyers and Lawyer's Practice (Revocation etc.) (EU Exit) Regulations 2020 (S.I. 2020/1342), reg. 1(1), **Sch. para. 12(5)(c)(ii)(aa)** (with Sch. para. 13)

F119 Words in Sch. 5 para. 8(3) substituted (31.12.2020) by The Services of Lawyers and Lawyer's Practice (Revocation etc.) (EU Exit) Regulations 2020 (S.I. 2020/1342), reg. 1(1), **Sch. para. 12(5)(c)(ii)(bb)** (with Sch. para. 13)

Commencement Information

I150 Sch. 5 para. 8 wholly in force at 1.1.2010, see s. 211 and S.I. 2009/3250, **art. 2(b)(ii)** (with art. 9)

9 (1) During the transitional period, solicitors are to continue to have the rights conferred on them by subsection (1) of section 102A of the Patents Act 1977 (c. 37) (rights of audience, etc in proceedings on appeal from the comptroller).

(2) During that period, registered European lawyers are to continue to have the rights conferred on them by that subsection by virtue of the European regulations.

(3) In this paragraph "European regulations" and "registered European lawyer" have the same meaning as in paragraph 8.

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Commencement Information
I151 Sch. 5 para. 9 wholly in force at 1.1.2010, see s. 211 and S.I. 2009/3250, **art. 2(b)(ii)** (with art. 9)

Legal Executives

10 (1) During the transitional period, a person authorised by the Institute of Legal Executives to practise as a member of the profession of legal executives is deemed to be authorised by that Institute to administer oaths.

(2) The authority conferred by sub-paragraph (1) is exercisable in accordance with and subject to the regulatory arrangements of the Institute of Legal Executives.

(3) A person is not authorised under sub-paragraph (1) unless the person has in force a certificate issued by the Institute of Legal Executives authorising the person to practise as a legal executive.

Commencement Information
I152 Sch. 5 para. 10 wholly in force at 1.1.2010, see s. 211 and S.I. 2009/3250, **art. 2(b)(ii)** (with art. 9)

Licensed conveyancers

11 (1) During the transitional period every individual who holds a conveyancing licence is deemed to be authorised by the Council for Licensed Conveyancers to administer oaths.

[F120(1A) During the transitional period every individual, not being a licensed conveyancer, who holds a licence under section 53 of the Courts and Legal Services Act 1990 is deemed to be authorised by the Council to administer oaths.**]**

(2) The authority conferred by sub-paragraph (1) **[**F121or (1A)**]** is exercisable in accordance with and subject to the regulatory arrangements of the Council.

(3) During that period, every conveyancing partnership and every **[**F122conveyancing services**]** body recognised under section 32 of the Administration of Justice Act 1985 (c. 61) (bodies corporate entitled to provide conveyancing **[**F123or other**]** services) is deemed to be authorised by the Council—

(a) to carry on conveyancing services, and

(b) to administer oaths.

[F124(3A) During that period, every CLC practitioner services body recognised under section 32 of the Administration of Justice Act 1985 is deemed to be authorised by the Council to administer oaths.**]**

(4) The authority conferred by sub-paragraph (3) **[**F125or (3A)**]** is exercisable in accordance with and subject to—

(a) in the case of a body recognised under section 32 of the Administration of Justice Act 1985, any condition subject to which its recognition has effect, and

(b) the regulatory arrangements of the Council.

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[F126(5) In this paragraph—

" CLC practitioner services body " has the meaning given by section 32B of the Administration of Justice Act 1985;

" conveyancing partnership " means a partnership at least some of the members of which are licensed conveyancers, but does not include a CLC practitioner services body;

" conveyancing services body " has the meaning given by section 32A of the Administration of Justice 1985. **]**

(6) For the purposes of this paragraph a conveyancing licence **[**F127or a licence under section 53 of the Courts and Legal Services Act 1990**]** is to be treated as not in force during any period when it is suspended.

Textual Amendments

F120 Sch. 5 para. 11(1A) inserted (29.6.2015) by Deregulation Act 2015 (c. 20), s. 115(6)(b), **Sch. 19 para. 16(2)**; S.I. 2015/1402, art. 2(b)

F121 Words in Sch. 5 para. 11(2) inserted (29.6.2015) by Deregulation Act 2015 (c. 20), s. 115(6)(b), **Sch. 19 para. 16(3)**; S.I. 2015/1402, art. 2(b)

F122 Words in Sch. 5 para. 11(3) inserted (29.6.2015) by Deregulation Act 2015 (c. 20), s. 115(6)(b), **Sch. 19 para. 16(4)(a)**; S.I. 2015/1402, art. 2(b)

F123 Words in Sch. 5 para. 11(3) inserted (29.6.2015) by Deregulation Act 2015 (c. 20), s. 115(6)(b), **Sch. 19 para. 16(4)(b)**; S.I. 2015/1402, art. 2(b)

F124 Sch. 5 para. 11(3A) inserted (29.6.2015) by Deregulation Act 2015 (c. 20), s. 115(6)(b), **Sch. 19 para. 16(5)**; S.I. 2015/1402, art. 2(b)

F125 Words in Sch. 5 para. 11(4) inserted (29.6.2015) by Deregulation Act 2015 (c. 20), s. 115(6)(b), **Sch. 19 para. 16(6)**; S.I. 2015/1402, art. 2(b)

F126 Sch. 5 para. 11(5) substituted (29.6.2015) by Deregulation Act 2015 (c. 20), s. 115(6)(b), **Sch. 19 para. 16(7)**; S.I. 2015/1402, art. 2(b)

F127 Words in Sch. 5 para. 11(6) inserted (29.6.2015) by Deregulation Act 2015 (c. 20), s. 115(6)(b), **Sch. 19 para. 16(8)**; S.I. 2015/1402, art. 2(b)

Commencement Information

I153 Sch. 5 para. 11 wholly in force at 1.1.2010, see s. 211 and S.I. 2009/3250, **art. 2(b)(ii)** (with art. 9)

Notaries public

12 (1) During the transitional period, every duly certificated notary is deemed to be authorised by the Master of the Faculties to carry on the activities in sub-paragraph (2).

(2) Those activities are—

(a) reserved instrument activities;

(b) probate activities;

(c) notarial activities;

(d) the administration of oaths.

(3) The authority conferred by sub-paragraph (1) is exercisable in accordance with and subject to the regulatory arrangements of the Master of the Faculties.

(4) In this paragraph "duly certificated notary" means a notary who either—

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(a) has in force a practising certificate as a solicitor issued under the Solicitors Act 1974 (c. 47), and is duly entered in the Court of Faculties of the Archbishop of Canterbury in accordance with rules made by the Master of the Faculties, or

(b) has in force a practising certificate as a public notary issued by the said Court of Faculties in accordance with rules so made.

Commencement Information

I154 Sch. 5 para. 12 wholly in force at 1.1.2010; Sch. 5 para. 12 not in force at Royal Assent see s. 211; Sch. 5 para. 12(4) in force for certain purposes at 31.3.2009 by S.I. 2009/503, **art. 3**, Sch. 5 para. 12 in force otherwise at 1.1.2010 by S.I. 2009/3250, **art. 2(b)(ii)** (with art. 9)

13 (1) During the transitional period, a person ("P") is an exempt person in relation to the carrying on of an activity ("the relevant activity") which is a notarial activity if—

(a) P carries on the relevant activity by virtue of an employee of P ("E") carrying it on in E's capacity as such an employee, and

(b) E is an authorised person in relation to the relevant activity.

(2) If P is a body, in this paragraph references to an employee of P include references to a manager of P.

Commencement Information

I155 Sch. 5 para. 13 wholly in force at 1.1.2010, see s. 211 and S.I. 2009/3250, **art. 2(b)(ii)** (with art. 9)

Patent attorneys

14 (1) During the transitional period, every registered patent attorney is deemed to be authorised by the Chartered Institute of Patent Attorneys to carry on reserved instrument activities.

(2) During that period, every authorised patent attorney is deemed to be authorised by the Chartered Institute of Patent Attorneys to administer oaths.

(3) During that period, every patent attorney body is deemed to be authorised by the Chartered Institute of Patent Attorneys to carry on the activities in sub-paragraph (4).

(4) Those activities are any activities which are reserved legal activities within sub-paragraph (5) and which—

(a) if the body is a partnership, any partner who is a registered patent attorney is authorised to carry on;

(b) if the body is a body corporate, any director who is a registered patent attorney is authorised to carry on.

(5) Those activities are—

(a) the exercise of a right of audience;

(b) the conduct of litigation;

(c) reserved instrument activities;

(d) the administration of oaths.

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(6) The authority conferred by any of sub-paragraphs (1) to (3) is exercisable in accordance with and subject to the regulatory arrangements of the Chartered Institute of Patent Attorneys.

(7) In this paragraph—

"authorised patent attorney" means a registered patent attorney who is authorised by the Chartered Institute of Patent Attorneys to carry on one or both of the following activities—

(a) the exercise of a right of audience;

(b) the conduct of litigation;

"patent attorney body" means—

(a) a partnership all the partners of which are registered patent attorneys,

(b) a body corporate all the directors of which are registered patent attorneys,

(c) a partnership or body corporate which satisfies the conditions prescribed under section 279 of the Copyright, Designs and Patents Act 1988 (c. 48), or

(d) a body corporate to which section 276(4) of that Act applies;

"registered patent attorney" has the meaning given by section 275(2) of that Act;

and, in the case of a patent attorney body to which section 276(4) of that Act applies, the reference in sub-paragraph (4)(b) to a director includes a reference to the manager (within the meaning of section 276(4) of that Act) of the company.

Commencement Information

I156 Sch. 5 para. 14 wholly in force at 1.1.2010; Sch. 5 para. 14 not in force at Royal Assent see s. 211; Sch. 5 para. 14(7) in force for certain purposes at 31.3.2009 by S.I. 2009/503, **art. 3**, Sch. 5 para. 14 in force otherwise at 1.1.2010 by S.I. 2009/3250, **art. 2(b)(ii)** (with art. 9)

15 (1) During the transitional period registered patent attorneys are to continue to have the rights conferred by section 102A(2) of the Patents Act 1977 (c. 37) and section 292 of the Copyright, Designs and Patents Act 1988 (c. 48).

(2) In this paragraph "registered patent attorney" has the same meaning as in paragraph 14.

Commencement Information

I157 Sch. 5 para. 15 wholly in force at 1.1.2010, see s. 211 and S.I. 2009/3250, **art. 2(b)(ii)** (with art. 9)

Trade mark attorneys

16 (1) During the transitional period, every registered trade mark attorney is deemed to be authorised by the Institute of Trade Mark Attorneys to carry on reserved instrument activities.

(2) During that period, every authorised trade mark attorney is deemed to be authorised by the Institute of Trade Mark Attorneys to administer oaths.

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(3) During that period, every trade mark attorney body is deemed to be authorised by the Institute of Trade Mark Attorneys to carry on the activities in sub-paragraph (4).

(4) Those activities are any activities which are reserved legal activities within sub-paragraph (5) and which—

(a) if the body is a partnership, any partner who is a registered trade mark attorney is authorised to carry on, or

(b) if the body is a body corporate, any director who is a registered trade mark attorney is authorised to carry on.

(5) Those activities are—

(a) the exercise of a right of audience;

(b) the conduct of litigation;

(c) reserved instrument activities;

(d) the administration of oaths.

(6) The authority conferred by any of sub-paragraphs (1) to (3) is exercisable in accordance with and subject to the regulatory arrangements of the Institute of Trade Mark Attorneys.

(7) In this paragraph—

"authorised trade mark attorney" means a registered trade mark attorney who is authorised by the Institute of Trade Mark Attorneys to carry on one or both of the following activities—

(a) the exercise of a right of audience;

(b) the conduct of litigation;

"trade mark attorney body" means—

(a) a partnership all the partners of which are registered trade mark attorneys,

(b) a body corporate all the directors of which are registered trade mark attorneys, or

(c) a partnership or body corporate which satisfies the conditions prescribed under section 85 of the Trade Marks Act 1994 (c. 26);

"registered trade mark attorney" has the same meaning as in the Trade Marks Act 1994.

Commencement Information

I158 Sch. 5 para. 16 wholly in force at 1.1.2010; Sch. 5 para. 16 not in force at Royal Assent see s. 211; Sch. 5 para. 16(7) in force for certain purposes at 31.3.2009 by S.I. 2009/503, **art. 3**, Sch. 5 para. 16 in force otherwise at 1.1.2010 by S.I. 2009/3250, **art. 2(b)(ii)** (with art. 9)

Law costs draftsmen

17 (1) During the transitional period, every authorised member of the Association of Law Costs Draftsmen is deemed to be authorised by that Association to administer oaths.

(2) In this paragraph, "authorised member of the Association of Law Costs Draftsmen" means a member of that Association who has been authorised by that Association to carry on one or both of the following activities—

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(a) the exercise of a right of audience;
(b) the conduct of litigation.

(3) The authority conferred by sub-paragraph (1) is exercisable in accordance with and subject to the regulatory arrangements of the Association of Law Costs Draftsmen.

Commencement Information

I159 Sch. 5 para. 17 wholly in force at 1.1.2010; Sch. 5 para. 17 not in force at Royal Assent see s. 211; Sch. 5 para. 17(2) in force for certain purposes at 31.3.2009 by S.I. 2009/503, **art. 3**, Sch. 5 para. 17 in force otherwise at 1.1.2010 by S.I. 2009/3250, **art. 2(b)(ii)** (with art. 9)

18 (1) During the transitional period, a person ("P") is an exempt person in relation to the carrying on of an activity ("the relevant activity") which is a reserved legal activity within sub-paragraph (2), if—

(a) P carries on the relevant activity by virtue of an employee of P ("E") carrying it on in E's capacity as such an employee, and
(b) E is an authorised member of the Association of Law Costs Draftsmen (within the meaning of paragraph 17(2) of this Schedule).

(2) The reserved legal activities mentioned in sub-paragraph (1) are—

(a) the exercise of a right of audience;
(b) the conduct of litigation;
(c) the administration of oaths.

(3) If P is a body, in this paragraph references to an employee of P include references to a manager of P.

Commencement Information

I160 Sch. 5 para. 18 wholly in force at 1.1.2010; Sch. 5 para. 18 not in force at Royal Assent see s. 211; Sch. 5 para. 18(2) in force for certain purposes at 31.3.2009 by S.I. 2009/503, **art. 3**, Sch. 5 para. 18 in force otherwise at 1.1.2010 by S.I. 2009/3250, **art. 2(b)(ii)** (with art. 9)

PART 3

INTERPRETATION

19 In this Schedule—

"the appointed day" means the day appointed for the coming into force of section 13 (entitlement to carry on a reserved legal activity);

"conveyancing licence" has the meaning given by paragraph 2.

Commencement Information

I161 Sch. 5 para. 19 wholly in force at 1.1.2010, see s. 211 and S.I. 2009/3250, **art. 2(b)(ii)** (with art. 9)

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SCHEDULE 6

Sections 24 and 26

ALTERATION OF RESERVED LEGAL ACTIVITIES

Introductory

1 In this Schedule, in relation to an activity—

"section 24 investigation" means an investigation held with a view to determining whether or not the Board should make a recommendation in respect of the activity for the purposes of section 24 (recommendations and orders to extend the reserved legal activities);

"section 26 investigation" means an investigation held with a view to determining whether or not the Board should make a recommendation in respect of the activity for the purposes of section 26 (recommendations that an activity should cease to be a reserved legal activity).

Requests for Board to hold a full investigation

2 (1) A person may—

(a) request the Board to hold a section 24 investigation in respect of an activity, or

(b) request the Board to hold a section 26 investigation in respect of an activity.

(2) A request under sub-paragraph (1) must be in writing and specify the activity to which it relates.

(3) In the case of a request for a section 24 investigation, the activity in respect of which the request is made must be a legal activity.

Board's duty to hold preliminary inquiries in certain cases

3 (1) This paragraph applies where the Board receives a request under paragraph 2, in respect of an activity, from—

(a) the Lord Chancellor,

(b) the **[**[F128]CMA**]**,

(c) the Consumer Panel, or

(d) the Lord Chief Justice.

(2) The Board must—

(a) carry out such inquiries as it considers appropriate to enable it to determine whether it is appropriate to hold a section 24 investigation or, as the case may be, a section 26 investigation in respect of the activity, and

(b) make that determination within the preliminary inquiry period.

(3) "The preliminary inquiry period" means the period of 3 months beginning with the day on which the request under paragraph 2 was received by the Board.

(4) The Board may, before the end of the preliminary inquiry period in relation to a request, issue a notice extending that period by a period specified in the notice.

(5) More than one notice may be issued under sub-paragraph (4), but the total preliminary inquiry period must not exceed 4 months.

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(6) A notice under sub-paragraph (4) must state the Board's reasons for extending the preliminary inquiry period.

(7) The Board must publish a notice issued under sub-paragraph (4).

Textual Amendments

F128 Word in Sch. 6 para. 3(1)(b) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 118(2)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)

Board's power to hold preliminary inquiries in other cases

4 (1) The Board may—

(a) where it receives a request under paragraph 2 to which paragraph 3 does not apply, or

(b) in any other case where it considers it appropriate to do so,

carry out such inquiries as it considers appropriate to enable it to determine whether it is appropriate to hold a section 24 investigation or a section 26 investigation in respect of an activity.

(2) In the case of a section 24 investigation, that activity must be a legal activity.

Advice

5 (1) Before determining whether it is appropriate to hold a section 24 investigation or a section 26 investigation in respect of an activity, the Board may seek the advice of one or both of the following bodies—

(a) the OFT;

(b) the Consumer Panel.

(2) The OFT or the Consumer Panel must, if its advice is sought, give the Board such advice as it thinks fit, within such reasonable period as the Board may specify.

(3) In deciding what advice to give—

(a) the OFT must, in particular, consider whether making an order under section 24 or (as the case may be) provision in accordance with a recommendation under section 26, in respect of the activity would (or would be likely to) prevent, restrict or distort competition within the market for reserved legal services to any significant extent, and

(b) the Consumer Panel must have regard to the likely impact which making that order or (as the case may be) provision would have on consumers.

(4) The OFT or the Consumer Panel may, for the purposes of giving advice under this paragraph, request any person to provide it with such information as may be specified by it.

6 (1) Before determining whether it is appropriate to hold a section 24 investigation or a section 26 investigation in respect of an activity the Board may also seek the advice of the Lord Chief Justice.

(2) If the Board has sought advice under paragraph 5, the Board may not seek advice from the Lord Chief Justice until—

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(a) the period for giving advice under paragraph 5 has ended, and

(b) it has given the Lord Chief Justice a copy of any advice duly given under that paragraph.

(3) If advice is sought under sub-paragraph (1), the Lord Chief Justice—

(a) must give the Board such advice as the Lord Chief Justice thinks fit, within such reasonable period as may be specified by the Board, and

(b) may, for the purposes of giving that advice, request any person to provide the Lord Chief Justice with such information as may be specified by the Lord Chief Justice.

(4) In deciding what advice to give, the Lord Chief Justice must, in particular, have regard to the likely impact on the courts in England and Wales of the making of an order under section 24 or (as the case may be) provision in accordance with a recommendation under section 26, in respect of the activity in question.

7 (1) The Board must consider, and publish, any advice given under paragraph 5 or 6.

(2) Nothing in this paragraph operates to prevent a person who gives such advice from publishing it.

Restrictions on refusing a paragraph 2 request

8 (1) This paragraph applies where—

(a) a request has been made under paragraph 2, and

(b) paragraph 3 applies to that request.

(2) The Board may refuse the request only if—

(a) the consultation requirements are satisfied, and

(b) either the consent requirement is satisfied or the request was made by the Lord Chancellor.

(3) The consultation requirements are—

(a) that the Board has consulted the OFT, the Consumer Panel and the Lord Chief Justice under paragraphs 5 and 6, and

(b) that—

(i) the Board has obtained advice from the OFT and the Consumer Panel or the period within which that advice is required to be given has expired, and

(ii) the Board has obtained advice from the Lord Chief Justice or the period within which that advice is required to be given has expired.

(4) The consent requirement is that—

(a) the Board has given the Lord Chancellor a copy of any advice given under paragraph 5 or 6, and

(b) the Lord Chancellor has consented to the Board's refusal of the request.

Decision to hold investigation

9 (1) This paragraph applies where the Board has decided, following inquiries under paragraph 3 or 4, to hold a section 24 investigation or a section 26 investigation in respect of an activity.

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(2) The Board must, as soon as reasonably practicable, give notice of its decision to—

(a) the Lord Chancellor,

(b) the [F129CMA],

(c) the Consumer Panel, and

(d) the Lord Chief Justice,

and publish the notice.

(3) The notice must—

(a) state the Board's reasons for its decision to hold the investigation, and

(b) contain a description (in general terms) of the procedure set out in paragraphs 10 to 17 and in rules under this Schedule, including any relevant time limits.

Textual Amendments

F129 Word in Sch. 6 para. 9(2)(b) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 118(5)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)

Duty to investigate and produce a provisional report within the investigation period

10 (1) This paragraph applies where the Board has given notice under paragraph 9(2) of—

(a) a decision to hold a section 24 investigation, or

(b) a decision to hold a section 26 investigation,

in respect of an activity.

(2) The Board must within the investigation period—

(a) carry out such investigations as it considers appropriate for the purposes of enabling it to produce a provisional report in respect of the activity, and

(b) produce and publish such a report.

(3) A provisional report is a report stating—

(a) in a case within sub-paragraph (1)(a), whether or not the Board is minded to make a recommendation for the purposes of section 24 (recommendation that activity should become a reserved legal activity);

(b) in a case within sub-paragraph (1)(b), whether or not the Board is minded to make a recommendation for the purposes of section 26 (recommendation that activity should cease to be a reserved legal activity).

(4) A provisional report must also state the Board's reasons for it being, or not being, minded to make the recommendation in question.

"The investigation period"

11 (1) "The investigation period" means the period of 12 months beginning with the day on which the notice was given under paragraph 9(2).

(2) The Board may, before the end of the investigation period, issue a notice extending that period by a period specified in the notice.

(3) More than one notice may be issued under sub-paragraph (2) but the total investigation period must not exceed 16 months.

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(4) The Board may issue a notice under sub-paragraph (2) only after it has consulted—

(a) the [F130CMA],

(b) the Consumer Panel, and

(c) the Lord Chief Justice.

(5) A notice under sub-paragraph (2) must state the Board's reasons for extending the investigation period.

(6) The Board must publish any notice issued under sub-paragraph (2).

Textual Amendments

F130 Word in Sch. 6 para. 11(4)(a) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 118(6)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)

Supplementary provisions about the investigation

12 (1) This paragraph applies for the purposes of investigations under paragraph 10(2)(a).

(2) The Board may make rules governing the making of oral and written representations, and the giving of oral and written evidence, to the Board.

(3) Rules under sub-paragraph (2) may (among other things) include—

(a) provision about the time and place at which any oral evidence is to be given or oral representations are to be heard;

(b) provision about the period within which any written evidence is to be given or written representations are to be made.

(4) In relation to each investigation, the Board must determine if, and to what extent—

(a) oral evidence or representations should be heard, and

(b) written evidence or representations should be received.

(5) The Board must, so far as is reasonably practicable, consider any written or oral representations duly made under this paragraph.

Commencement Information

I162 Sch. 6 para. 12 wholly in force at 1.1.2010; Sch. 6 para. 12 not in force at Royal Assent see s. 211; Sch. 6 para. 12(1)-(3) in force at 1.1.2009 by S.I. 2008/3149, **art. 2(b)(iii)**; Sch. 6 para. 12 in force otherwise at 1.1.2010 by S.I. 2009/3250, **art. 2(b)(ii)**

Consideration of the provisional report

13 (1) The Board may make rules governing the making to the Board of oral and written representations in respect of provisional reports.

(2) Rules under sub-paragraph (1) may (among other things) include—

(a) provision about the time and place at which any oral representations are to be heard;

(b) provision about the period within which any written representations are to be made.

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(3) The Board must exercise the power conferred by sub-paragraph (1) to make provision—

(a) enabling written representations and, so far as is reasonably practicable, oral representations to be made by affected practitioners, and

(b) enabling written or oral representations to be made by bodies which represent affected practitioners.

(4) An "affected practitioner" is a person carrying on the activity in respect of which the investigation is being held.

14 (1) For the purpose of making a decision under paragraph 16(1)(a) or (b), the Board must, after publication of a provisional report, determine if and to what extent further evidence should be heard or received.

(2) The Board may make rules governing the giving of such evidence.

(3) Rules under sub-paragraph (2) may (among other things) include—

(a) provision about the time and place at which any oral evidence is to be given;

(b) provision about the period within which any written evidence is to be given.

15 The Board must, so far as is reasonably practicable, consider—

(a) any written or oral representations made in accordance with rules to which paragraph 13(3) applies, and

(b) any other representations made in accordance with rules under paragraph 13(1), and any written or oral evidence given in accordance with rules under paragraph 14(2), which the Board considers relevant.

Duty to prepare final report within the final reporting period

16 (1) After complying with paragraph 15, the Board must decide—

(a) in the case of a section 24 investigation, whether or not to make a recommendation for the purposes of that section, and

(b) in the case of a section 26 investigation, whether or not to make a recommendation for the purposes of that section.

(2) The Board must prepare a report ("the final report") which sets out—

(a) its decision and the reasons for it,

(b) where it decides to make a recommendation for the purposes of section 24 or 26, that recommendation, and

(c) where it decides to make a recommendation for the purposes of section 24, a statement of the provision which, in the Board's opinion, will need to be made by virtue of section 204(3) or in an order under section 208 (power to make consequential provision, transitional provision etc) if an order is made under section 24 in accordance with that recommendation.

(3) The Board must—

(a) give a copy of the final report to the Lord Chancellor, and

(b) publish that report.

(4) The Board must comply with the obligations imposed by this paragraph within the final reporting period.

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"The final reporting period"

17 (1) "The final reporting period" means the period of 3 months beginning with the date on which the provisional report was published under paragraph 10(2).

(2) The Board may, before the end of the final reporting period, issue a notice extending that period by a period specified in the notice.

(3) More than one notice may be issued under sub-paragraph (2), but the total final reporting period must not exceed 5 months.

(4) The Board may issue a notice under sub-paragraph (2) only after it has consulted—

(a) the [F131CMA],

(b) the Consumer Panel, and

(c) the Lord Chief Justice.

(5) A notice under sub-paragraph (2) must state the Board's reasons for extending the final reporting period.

(6) The Board must publish a notice issued under sub-paragraph (2).

Textual Amendments

F131 Word in Sch. 6 para. 17(4)(a) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 118(7)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)

Costs

18 The Board may pay such costs of a person as the Board considers reasonable for the purpose of facilitating the giving of oral evidence or the making of oral representations, by or on behalf of that person, in accordance with rules made under this Schedule.

SCHEDULE 7

Section 33

DIRECTIONS: PROCEDURE

Introductory

1 This Schedule applies where the Board proposes giving a direction to an approved regulator under section 32.

Notification of the approved regulator

2 (1) The Board must give the approved regulator a notice ("a warning notice") accompanied by a copy of the proposed direction.

(2) The warning notice must—

(a) state that the Board proposes to give the approved regulator a direction in the form of the accompanying draft,

(b) specify why the Board is satisfied as mentioned in section 32(1) and (2), and

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Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Legal Services Act 2007 is up to date with all changes known to be in force on or before 05 December 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(c) specify a period within which the approved regulator may make representations with respect to the proposal.

(3) The period specified under sub-paragraph (2)(c)—

(a) must begin with the date on which the warning notice is given to the approved regulator, and

(b) must not be less than 14 days.

(4) The approved regulator may make to the Board—

(a) written representations, and

(b) if the Board authorises it to do so, oral representations,

about the proposed direction.

(5) The Board must make rules governing the making of oral and written representations.

(6) The Board must consider any representations duly made by the approved regulator.

(7) Where oral representations are duly made, the Board must prepare a report of those representations.

(8) Before preparing that report, the Board must—

(a) give the approved regulator a reasonable opportunity to comment on a draft of the report, and

(b) have regard to any comments duly made.

Commencement Information

I163 Sch. 7 para. 2 wholly in force at 1.1.2010; Sch. 7 para. 2 not in force at Royal Assent see s. 211; Sch. 7 para. 2(5) in force at 1.1.2009 by S.I. 2008/3149, **art. 2(c)(ii)**; Sch. 7 para. 2 in force otherwise at 1.1.2010 by S.I. 2009/3250, **art. 2(c)(ii)** (with art. 9)

Board's duty to seek advice

3 (1) After complying with paragraph 2, the Board must give each of the persons listed in sub-paragraph (2)—

(a) a copy of the warning notice and the accompanying draft direction,

(b) a copy of any written representations duly made under paragraph 2 and a copy of the report (if any) prepared under that paragraph, and

(c) a notice specifying a period within which any advice under paragraphs 4 to 7 must be given.

(2) Those persons are—

(a) the Lord Chancellor,

(b) the **[**[F132]CMA **]**,

(c) the Consumer Panel,

(d) the Lord Chief Justice, and

(e) such other persons as the Board considers it reasonable to consult in respect of the proposed direction.

(3) In this Schedule, in relation to a proposed direction, "selected consultee" means a person within sub-paragraph (2)(e).

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Textual Amendments

F132 Word in Sch. 7 para. 3(2)(b) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 119(2)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)

Advice of the Lord Chancellor

4 The Lord Chancellor must give the Board such advice as the Lord Chancellor thinks fit in respect of the proposed direction.

Advice of [F133 Competition and Markets Authority]

Textual Amendments

F133 Words in Sch. 7 para. 5 cross-heading substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 119(3)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)

5 (1) The [F134CMA] must give the Board such advice as it thinks fit regarding whether the proposed direction should be given.

(2) In deciding what advice to give, the [F134CMA] must, in particular, have regard to whether giving the proposed direction would (or would be likely to) prevent, restrict or distort competition within the market for reserved legal services to any significant extent.

Textual Amendments

F134 Word in Sch. 7 para. 5(1)(2) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 119(4)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)

Advice of the Consumer Panel

6 (1) The Consumer Panel must give the Board such advice as it thinks fit regarding whether the proposed direction should be given.

(2) In deciding what advice to give, the Consumer Panel must, in particular, have regard to the likely impact of the proposed direction on consumers.

Advice of selected consultees

7 A selected consultee may give the Board such advice as the selected consultee thinks fit in respect of the proposed direction.

Advice of the Lord Chief Justice

8 (1) The Board must give the Lord Chief Justice—

(a) a copy of any advice duly given under paragraphs 4 to 7, and

(b) a notice specifying a period within which any advice under this paragraph must be given.

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(2) The Lord Chief Justice must then give such advice as the Lord Chief Justice thinks fit regarding whether the proposed direction should be given.

(3) In deciding what advice to give, the Lord Chief Justice must, in particular, have regard to the likely impact of the proposed direction on the courts in England and Wales.

Consultees' powers to request information

9 A person ("the consultee") to whom a copy of the warning notice is given under paragraph 3(1) may, for the purposes of giving advice under paragraphs 4 to 8, request the approved regulator or any other person to provide the consultee with such additional information as may be specified by the consultee.

Representations by approved regulator

10 (1) The Board must give the approved regulator a copy of any advice duly given under paragraphs 4 to 8.

(2) The approved regulator may make to the Board—

(a) written representations, and

(b) if the Board authorises it to do so, oral representations,

about the advice.

(3) The Board must make rules governing the making of oral and written representations.

(4) Representations under this paragraph must be made within—

(a) the period of 28 days beginning with the day on which the copy of the advice is given to the approved regulator, or

(b) such longer period as the Board may specify in a particular case.

(5) Where oral representations are made, the Board must prepare a report of those representations.

(6) Before preparing that report, the Board must—

(a) give the approved regulator a reasonable opportunity to comment on a draft of the report, and

(b) have regard to any comments duly made.

Commencement Information

I164 Sch. 7 para. 10 wholly in force at 1.1.2010; Sch. 7 para. 10 not in force at Royal Assent see s. 211; Sch. 7 para. 10(3) in force at 1.1.2009 by S.I. 2008/3149, **art. 2(c)(ii)**; Sch. 7 para. 10 in force otherwise at 1.1.2010 by S.I. 2009/3250, **art. 2(c)(ii)** (with art. 9)

Publication of advice etc

11 (1) The Board must, as soon as practicable after the end of the period within which representations under paragraph 10 may be made, publish—

(a) any advice duly given under paragraphs 4 to 8, and

(b) any written representations duly made under paragraph 10 and the report (if any) prepared under that paragraph.

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(2) Nothing in sub-paragraph (1) operates—

(a) to prevent a person who gives advice under paragraphs 4 to 8 from publishing that advice, or

(b) to prevent a person who makes representations under paragraph 10 from publishing those representations.

(3) A person ("the publisher") publishing any such material (whether under sub-paragraph (1) or otherwise) must, so far as practicable, exclude any matter which relates to the private affairs of a particular individual the publication of which, in the opinion of the publisher, would or might seriously and prejudicially affect the interests of that individual.

Decision by the Board

12 (1) After considering—

(a) any advice duly given under paragraphs 4 to 8,

(b) any representations duly made under paragraph 10, and

(c) any other information which the Board considers relevant,

the Board must decide whether to give the approved regulator the proposed direction.

(2) The Board must give notice of its decision ("the decision notice") to the approved regulator.

(3) Where the Board decides to give the proposed direction, the decision notice must—

(a) contain the direction,

(b) state the time at which the direction is to take effect, and

(c) specify the Board's reasons for the decision to give the direction.

(4) The Board must publish the decision notice.

SCHEDULE 8

Sections 41 and 44

INTERVENTION DIRECTIONS: PROCEDURE

PART 1

GIVING INTERVENTION DIRECTIONS

Introductory

1 (1) This Part of this Schedule applies where the Board proposes giving an intervention direction to an approved regulator in respect of a regulatory function.

(2) In this Schedule "intervention direction" has the same meaning as in section 41.

Notification of the approved regulator

2 (1) The Board must give the approved regulator a notice ("a warning notice") accompanied by a draft of the proposed intervention direction.

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(2) The warning notice must—

(a) state that the Board proposes to give the approved regulator an intervention direction in the form of the accompanying draft and the time when it is proposed that direction should take effect, and

(b) state the reasons why the Board is satisfied of the matters mentioned in section 41(1)(a) and (b).

(3) The Board must publish a copy of the warning notice.

(4) The approved regulator may make to the Board—

(a) written representations, and

(b) if the Board authorises it to do so, oral representations,

about the proposed intervention direction.

(5) The Board must make rules governing the making of written and oral representations.

(6) Any representations under sub-paragraph (4) must be made before the end of—

(a) the period of 28 days beginning with the day on which the warning notice is given to the approved regulator, or

(b) such longer period as the Board may specify in a particular case.

(7) Where oral representations are duly made under this paragraph, the Board must prepare a report of those representations.

(8) Before preparing that report, the Board must—

(a) give the approved regulator a reasonable opportunity to comment on a draft of the report, and

(b) have regard to any comments duly made.

Commencement Information

I165 Sch. 8 para. 2 wholly in force at 1.1.2010; Sch. 8 para. 2 not in force at Royal Assent see s. 211; Sch. 8 para. 2(5) in force at 1.1.2009 by S.I. 2008/3149, **art. 2(c)(iii)**; Sch. 8 para. 2 in force otherwise at 1.1.2010 by S.I. 2009/3250, **art. 2(c)(ii)** (with art. 9)

Board's duty to seek advice

3 (1) After complying with paragraph 2, the Board must give each of the persons listed in sub-paragraph (2)—

(a) a copy of the warning notice and the accompanying draft,

(b) a copy of any written representations duly made under paragraph 2 and a copy of the report (if any) prepared under that paragraph, and

(c) a notice specifying a period within which any advice under paragraphs 4 to 7 must be given.

(2) Those persons are—

(a) the Lord Chancellor,

(b) the [F135CMA],

(c) the Consumer Panel,

(d) the Lord Chief Justice, and

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(e) such other persons as the Board considers it reasonable to consult in respect of the proposed intervention direction.

(3) In this Part of this Schedule, in relation to a proposed intervention direction, "selected consultee" means a person within sub-paragraph (2)(e).

Textual Amendments

F135 Word in Sch. 8 para. 3(2)(b) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 120(2)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)

Advice of the Lord Chancellor

4 The Lord Chancellor must give the Board such advice as the Lord Chancellor thinks fit in respect of the proposed intervention direction.

Advice of ***[****F136Competition and Markets Authority****]***

Textual Amendments

F136 Words in Sch. 8 para. 5 cross-heading substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 120(3)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)

5 (1) The **[**F137CMA**]** must give the Board such advice as it thinks fit regarding whether the proposed intervention direction should be given.

(2) In deciding what advice to give, the **[**F137CMA**]** must, in particular, have regard to whether giving the proposed intervention direction would (or would be likely to) prevent, restrict or distort competition within the market for reserved legal services to any significant extent.

Textual Amendments

F137 Word in Sch. 8 para. 5(1)(2) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 120(4)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)

Advice of the Consumer Panel

6 (1) The Consumer Panel must give the Board such advice as it thinks fit regarding whether the proposed intervention direction should be given.

(2) In deciding what advice to give, the Consumer Panel must, in particular, have regard to the likely impact of the proposed direction on consumers.

Advice of selected consultees

7 A selected consultee may give the Board such advice as the selected consultee thinks fit in respect of the proposed intervention direction.

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Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Legal Services Act 2007 is up to date with all changes known to be in force on or before 05 December 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Advice of the Lord Chief Justice

8 (1) The Board must give the Lord Chief Justice—

(a) a copy of any advice duly given under paragraphs 4 to 7, and

(b) a notice specifying a period within which any advice under this paragraph must be given.

(2) The Lord Chief Justice must then give such advice as the Lord Chief Justice thinks fit regarding whether the proposed intervention direction should be given.

(3) In deciding what advice to give, the Lord Chief Justice must, in particular, have regard to the likely impact of the proposed intervention direction on the courts in England and Wales.

Consultees' powers to request information

9 A person ("the consultee") to whom a copy of the warning notice is given under paragraph 3(1) may, for the purposes of giving advice under paragraphs 4 to 8, request the approved regulator or any other person to provide the consultee with such additional information as may be specified by the consultee.

Representations by the approved regulator etc

10 (1) The Board must—

(a) give the approved regulator a copy of any advice duly given under paragraphs 4 to 8, and

(b) publish that advice together with any written representations duly made by the approved regulator under paragraph 2 and the report (if any) prepared under that paragraph.

(2) The approved regulator and any body within sub-paragraph (3) may make to the Board—

(a) written representations, and

(b) if the Board authorises it to do so, oral representations,

about the advice.

(3) A body is within this sub-paragraph if it represents persons authorised by the approved regulator to carry on activities which are reserved legal activities.

(4) The Board may allow any other person to make written or oral representations about the advice.

(5) The Board must make rules governing the making of oral and written representations.

(6) Representations under this paragraph must be made within—

(a) the period of 28 days beginning with the day on which the representations and advice are published under sub-paragraph (1)(b), or

(b) such longer period as the Board may specify in a particular case.

(7) Where oral representations are made, the Board must prepare a report of those representations.

(8) Before preparing that report, the Board must—

(a) give each person who made oral representations a reasonable opportunity to comment on a draft of the report of those representations, and

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(b) have regard to any comments duly made.

(9) The Board must, as soon as reasonably practicable after the end of the period within which representations may be made under this paragraph, publish any written representations duly made and the report (if any) prepared under sub-paragraph (7).

Commencement Information

I166 Sch. 8 para. 10 wholly in force at 1.1.2010; Sch. 8 para. 10 not in force at Royal Assent see s. 211; Sch. 8 para. 10(5) in force at 1.1.2009 by S.I. 2008/3149, **art. 2(c)(iii)**; Sch. 8 para. 10 in force otherwise at 1.1.2010 by S.I. 2009/3250, **art. 2(c)(ii)** (with art. 9)

Further provision about publishing of advice and representations

11 (1) Nothing in paragraph 10 operates—

(a) to prevent a person who gives advice under paragraphs 4 to 8 from publishing that advice, or

(b) to prevent a person who makes representations under paragraph 2 or 10 from publishing those representations.

(2) A person ("the publisher") publishing any such material (whether under paragraph 10 or otherwise) must, so far as practicable, exclude any matter which relates to the private affairs of a particular individual the publication of which, in the opinion of the publisher, would or might seriously and prejudicially affect the interests of that individual.

Decision by the Board

12 (1) After considering—

(a) any advice duly given under paragraphs 4 to 8,

(b) any representations duly made under paragraph 2 or 10, and

(c) any other information which the Board considers relevant,

the Board must decide whether to give an intervention direction.

(2) Where it decides to give an intervention direction, it may decide—

(a) to give an intervention direction in the form of the proposed intervention direction, or

(b) to amend the form of the proposed intervention direction and give an intervention direction in that amended form.

(3) The Board must give notice of its decision ("the decision notice") to the approved regulator.

(4) Where the Board decides to give an intervention direction, the decision notice must—

(a) contain the intervention direction,

(b) state the time at which the intervention direction is to take effect,

(c) specify the reasons why the Board is satisfied of the matters mentioned in section 41(1)(a) and (b), and

(d) if the decision is under sub-paragraph (2)(b), set out the nature of any amendments made and the reasons for them.

(5) The time specified under sub-paragraph (4)(b) must not be before—

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(a) the time specified in the warning notice in accordance with paragraph 2(2)(a), or

(b) the time the decision notice is given to the approved regulator.

(6) The Board must publish the decision notice.

PART 2

REVOKING INTERVENTION DIRECTIONS

Introductory

13 (1) Where an intervention direction has effect in respect of a regulatory function of an approved regulator—

(a) the approved regulator may apply to the Board for the Board to revoke the direction, or

(b) the Board may give the approved regulator a notice stating the Board's intention to revoke the direction.

(2) An application under sub-paragraph (1)(a) must—

(a) be made in the form and manner specified by the Board, and

(b) be accompanied by such material as the applicant considers is likely to be needed for the purposes of this Part of this Schedule.

Commencement Information

I167 Sch. 8 para. 13 wholly in force at 1.1.2010; Sch. 8 para. 13 not in force at Royal Assent see s. 211; Sch. 8 para. 13(2)(a) in force at 1.1.2009 by S.I. 2008/3149, **art. 2(c)(iii)**; Sch. 8 para. 13 in force otherwise at 1.1.2010 by S.I. 2009/3250, **art. 2(c)(ii)** (with art. 9)

Board's duty to seek advice

14 (1) Where the Board has received an application under paragraph 13(1)(a), it must give each of the persons listed in sub-paragraph (3)—

(a) a copy of the application,

(b) a copy of any material which accompanied it, and

(c) a notice specifying a period within which any advice under paragraphs 15 to 18 must be given.

(2) Where the Board has given a notice under paragraph 13(1)(b), it must give each of the persons listed in sub-paragraph (3)—

(a) a copy of the notice, and

(b) a notice specifying a period within which any advice under paragraphs 15 to 18 must be given.

(3) The persons are—

(a) the Lord Chancellor,

(b) the **[**[F138] CMA**]**,

(c) the Consumer Panel,

(d) the Lord Chief Justice, and

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Status: *This version of this Act contains provisions that are prospective.*
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(e) such other persons as the Board considers it reasonable to consult in respect of the proposed revocation.

(4) In this Part of this Schedule, in relation to an application or notice, "selected consultee" means a person within sub-paragraph (3)(e).

Textual Amendments

F138 Word in Sch. 8 para. 14(3)(b) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 120(5)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)

Advice of the Lord Chancellor

15 The Lord Chancellor must give the Board such advice as the Lord Chancellor thinks fit in respect of the proposed revocation.

Advice of ***[****F139* *Competition and Markets Authority****]***

Textual Amendments

F139 Words in Sch. 8 para. 16 cross-heading substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 120(6)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)

16 (1) The **[**F140CMA**]** must give the Board such advice as it thinks fit regarding the proposed revocation.

(2) In deciding what advice to give, the **[**F140CMA**]** must, in particular, have regard to whether revoking the intervention direction would (or would be likely to) prevent, restrict or distort competition within the market for reserved legal services to any significant extent.

Textual Amendments

F140 Word in Sch. 8 para. 16(1)(2) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 120(7)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)

Advice of the Consumer Panel

17 (1) The Consumer Panel must give the Board such advice as it thinks fit regarding the proposed revocation.

(2) In deciding what advice to give, the Consumer Panel must, in particular, have regard to the likely impact which revoking the intervention direction would have on consumers.

Advice of the selected consultees

18 A selected consultee may give the Board such advice as the selected consultee thinks fit in respect of the proposed revocation.

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Advice of the Lord Chief Justice

19 (1) The Board must give the Lord Chief Justice—

(a) a copy of any advice duly given under paragraphs 15 to 18, and

(b) a notice specifying a period within which any advice under this paragraph must be given.

(2) The Lord Chief Justice must then give the Board such advice as the Lord Chief Justice thinks fit in respect of the proposed revocation.

(3) In deciding what advice to give, the Lord Chief Justice must, in particular, have regard to the likely impact which revoking the intervention direction would have on the courts in England and Wales.

Information obtained by consultees

20 A person to whom a copy of the application or notice is given under paragraph 14(1) or (2) may, for the purposes of giving advice under paragraphs 15 to 19, request the approved regulator or any other person to provide that person with such additional information as may be specified by that person.

Representations by approved regulator etc

21 (1) The Board must—

(a) give the approved regulator a copy of any advice duly given under paragraphs 15 to 19, and

(b) publish that advice.

(2) The approved regulator and any body within sub-paragraph (3) may make to the Board—

(a) written representations, and

(b) if the Board authorises it to do so, oral representations,

about the advice.

(3) A body is within this sub-paragraph if it represents persons authorised by the approved regulator to carry on activities which are reserved legal activities.

(4) The Board may allow any other person to make written or oral representations about the advice.

(5) The Board must make rules governing the making of oral and written representations.

(6) Representations under this paragraph must be made within—

(a) the period of 28 days beginning with the day on which the advice is published under sub-paragraph (1), or

(b) such longer period as the Board may specify in a particular case.

(7) Where oral representations are made, the Board must prepare a report of those representations.

(8) Before preparing that report, the Board must—

(a) give each person who made oral representations a reasonable opportunity to comment on a draft of the report of those representations, and

(b) have regard to any comments duly made.

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(9) The Board must, as soon as practicable after the end of the period within which representations may be made under this paragraph, publish any written representations duly made and the report (if any) prepared under sub-paragraph (7).

Commencement Information

I168 Sch. 8 para. 21 wholly in force at 1.1.2010; Sch. 8 para. 21 not in force at Royal Assent see s. 211; Sch. 8 para. 21(5) in force at 1.1.2009 by S.I. 2008/3149, **art. 2(c)(iii)**; Sch. 8 para. 21 in force otherwise at 1.1.2010 by S.I. 2009/3250, **art. 2(c)(ii)** (with art. 9)

Further provision about publishing advice and representations

22 (1) Nothing in paragraph 21 operates—

(a) to prevent a person who gives advice under paragraphs 15 to 19 from publishing that advice, or

(b) to prevent a person who makes representations under paragraph 21 from publishing those representations.

(2) A person ("the publisher") publishing any such material (whether under paragraph 21 or otherwise) must, so far as practicable, exclude any matter which relates to the private affairs of a particular individual the publication of which, in the opinion of the publisher, would or might seriously and prejudicially affect the interests of that individual.

Decision by the Board

23 (1) After considering—

(a) in a case within paragraph 13(1)(a), the application and any accompanying material,

(b) any advice duly given under paragraphs 15 to 19,

(c) any representations duly made under paragraph 21, and

(d) any other information which the Board considers relevant to the application or notice,

the Board must decide whether to revoke the intervention direction in accordance with the application or notice.

(2) The Board must give notice of its decision ("the decision notice") to the approved regulator.

(3) Where the Board decides to revoke the intervention direction, the decision notice must state the time the revocation is to take effect.

(4) Where the Board decides not to revoke the intervention direction, the decision notice must specify the reasons for that decision.

(5) The Board must publish the decision notice.

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Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Legal Services Act 2007 is up to date with all changes known to be in force on or before 05 December 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

SCHEDULE 9

Section 45

CANCELLATION OF DESIGNATION AS APPROVED REGULATOR

Introductory

1 This Schedule applies where the Board considers that it may be appropriate for it to make a recommendation under section 45(5).

Notification of the approved regulator

2 (1) The Board must give the approved regulator a notice ("a warning notice") accompanied by a draft of the proposed recommendation.

(2) The warning notice must—

(a) state that the Board proposes to make a recommendation under subsection (5) of section 45 in the form of the accompanying draft, and

(b) state the reasons why the Board is satisfied of the matters mentioned in paragraphs (a) and (b) of that subsection.

(3) The Board must publish a copy of the warning notice.

(4) The approved regulator may make to the Board—

(a) written representations, and

(b) if the Board authorises it to do so, oral representations,

about the proposed recommendation.

(5) The Board must make rules governing the making of oral and written representations.

(6) Representations under this paragraph must be made within—

(a) the period of 28 days beginning with the day on which the warning notice is given to the approved regulator, or

(b) such longer period as the Board may specify in a particular case.

(7) The Board must consider any representations duly made by the approved regulator.

(8) Where oral representations are duly made, the Board must prepare a report of those representations.

(9) Before preparing that report, the Board must—

(a) give the approved regulator a reasonable opportunity to comment on a draft of the report, and

(b) have regard to any comments duly made.

Commencement Information

I169 Sch. 9 para. 2 wholly in force at 1.1.2010; Sch. 9 para. 2 not in force at Royal Assent see s. 211; Sch. 9 para. 2(5) in force at 1.1.2009 by S.I. 2008/3149, **art. 2(c)(iv)**; Sch. 8 para. 2 in force otherwise at 1.1.2010 by S.I. 2009/3250, **art. 2(c)(ii)** (with art. 9)

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Changes to legislation: *Legal Services Act 2007 is up to date with all changes known to be in force on or before 05 December 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Board's duty to seek advice

3 (1) After complying with paragraph 2, the Board must give each of the persons listed in sub-paragraph (2)—

(a) a copy of the warning notice and the accompanying draft,

(b) a copy of any written representations duly made by the approved regulator under paragraph 2 and a copy of the report (if any) prepared under that paragraph, and

(c) a notice specifying a period within which any advice under paragraphs 4 to 6 must be given.

(2) Those persons are—

(a) the **[**F141CMA**]**,

(b) the Consumer Panel,

(c) the Lord Chief Justice, and

(d) such other persons as the Board considers it reasonable to consult in respect of the proposed recommendation.

(3) In this Schedule, in relation to a proposed recommendation, "selected consultee" means a person within sub-paragraph (2)(d).

Textual Amendments

F141 Word in Sch. 9 para. 3(2)(a) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 121(2)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)

*Advice of **[**F142Competition and Markets Authority**]***

Textual Amendments

F142 Words in Sch. 9 para. 4 cross-heading substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 121(3)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)

4 (1) The **[**F143CMA**]** must give the Board such advice as it thinks fit regarding whether the proposed recommendation should be made.

(2) In deciding what advice to give, the **[**F143CMA**]** must, in particular, have regard to whether making an order under section 45 in accordance with the proposed recommendation would (or would be likely to) prevent, restrict or distort competition within the market for reserved legal services to any significant extent.

Textual Amendments

F143 Words in Sch. 9 para. 4(1)(2) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 121(4)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)

Advice of the Consumer Panel

5 (1) The Consumer Panel must give the Board such advice as it thinks fit regarding whether the proposed recommendation should be made.

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(2) In deciding what advice to give, the Consumer Panel must, in particular, have regard to the likely impact on consumers of making an order under section 45 in accordance with the proposed recommendation.

Advice of selected consultees

6 A selected consultee may give the Board such advice as the selected consultee thinks fit in respect of the proposed recommendation.

Advice of the Lord Chief Justice

7 (1) The Board must give the Lord Chief Justice—

(a) a copy of any advice duly given under paragraphs 4 to 6, and

(b) a notice specifying a period within which advice under this paragraph must be given.

(2) The Lord Chief Justice must then give such advice as the Lord Chief Justice thinks fit in respect of the proposed recommendation.

(3) In deciding what advice to give, the Lord Chief Justice must, in particular, have regard to the likely impact on the courts in England and Wales of making an order under section 45 in accordance with the proposed recommendation.

Information obtained by consultees

8 A person ("the consultee") to whom a copy of the warning notice is given under paragraph 3(1) may, for the purposes of giving advice under paragraphs 4 to 7, request the approved regulator or any other person to provide the consultee with such additional information as may be specified by the consultee.

Representations by the approved regulator etc

9 (1) The Board must—

(a) give the approved regulator a copy of any advice duly given under paragraphs 4 to 7, and

(b) publish that advice together with any written representations duly made by the approved regulator under paragraph 2 and the report (if any) prepared under that paragraph.

(2) The approved regulator and any body within sub-paragraph (3) may make to the Board—

(a) written representations, and

(b) if authorised to do so by the Board, oral representations,

about the advice.

(3) A body is within this sub-paragraph if it represents persons authorised by the approved regulator to carry on activities which are reserved legal activities.

(4) The Board may allow any other person to make written or oral representations about the advice.

(5) The Board may make rules governing the making to the Board of written or oral representations.

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(6) Representations under this paragraph must be made within—

(a) the period of 28 days beginning with the day on which the representations and advice are published under sub-paragraph (1)(b), or

(b) such longer period as the Board may specify in a particular case.

(7) Where oral representations are made, the Board must prepare a report of those representations.

(8) Before preparing that report, the Board must—

(a) give each person who made oral representations a reasonable opportunity to comment on a draft of the report of those representations, and

(b) have regard to any comments duly made.

(9) The Board must, as soon as reasonably practicable after the end of the period within which representations under this paragraph may be made, publish any written representations duly made and the report (if any) prepared under sub-paragraph (7).

Commencement Information

I170 Sch. 9 para. 9 wholly in force at 1.1.2010; Sch. 9 para. 9 not in force at Royal Assent see s. 211; Sch. 9 para. 9(5) in force at 1.1.2009 by S.I. 2008/3149, **art. 2(c)(iv)**; Sch. 9 para. 9 in force otherwise at 1.1.2010 by S.I. 2009/3250, **art. 2(c)(ii)** (with art. 9)

Publication of advice etc

10 (1) Nothing in paragraph 9 operates—

(a) to prevent a person who gives advice under paragraphs 4 to 7 from publishing that advice, or

(b) to prevent a person who makes representations under paragraph 2 or 9 from publishing those representations.

(2) A person ("the publisher") publishing any such material (whether under paragraph 9 or otherwise) must, so far as practicable, exclude any matter which relates to the private affairs of a particular individual the publication of which, in the opinion of the publisher, would or might seriously and prejudicially affect the interests of that individual.

Decision by the Board

11 (1) After considering—

(a) any advice duly given under paragraphs 4 to 7,

(b) any representations duly made under paragraph 2 or 9, and

(c) any other information which the Board considers relevant,

the Board must decide whether to make the proposed recommendation.

(2) The Board must give notice of its decision ("the decision notice") to the approved regulator and to the Lord Chancellor.

(3) If the Board decides to make the proposed recommendation, the decision notice must—

(a) contain the recommendation, and

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(b) state why the Board is satisfied of the matters mentioned in section 45(5)(a) and (b).

(4) The Board must publish the decision notice.

SCHEDULE 10

Sections 74 and 76

DESIGNATION OF APPROVED REGULATORS AS LICENSING AUTHORITIES

PART 1

DESIGNATION OF APPROVED REGULATORS BY ORDER

Application to the Board

1 (1) This paragraph applies where a body wishes to become a licensing authority in relation to one or more activities which constitute one or more reserved legal activities.

(2) The body may apply to the Board for the Board—

(a) to recommend that an order be made by the Lord Chancellor designating the applicant as a licensing authority in relation to the reserved legal activity or activities in question, and

(b) to approve what the applicant proposes as its licensing rules if such an order is made ("the proposed licensing rules").

(3) But the body may make an application under this paragraph in relation to a reserved legal activity only if—

(a) it is a relevant approved regulator in relation to the activity, or

(b) it has made an application under Part 2 of Schedule 4 (designation of approved regulators) for the Board to recommend that an order be made by the Lord Chancellor designating the body as an approved regulator in relation to the activity.

(4) An application under this paragraph must be made in such form and manner as the Board may specify in rules and must be accompanied by—

(a) a statement of the reserved legal activity or activities to which it relates,

(b) details of the applicant's proposed licensing rules,

(c) such explanatory material as the applicant considers is likely to be needed for the purposes of this Part of this Schedule, and

(d) the prescribed fee.

(5) The prescribed fee is the fee specified in, or determined in accordance with, rules made by the Board with the consent of the Lord Chancellor.

(6) An applicant may, at any time, withdraw the application by giving notice to that effect to the Board.

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Commencement Information

I171 Sch. 10 para. 1 partly in force; Sch. 10 para. 1 not in force at Royal Assent see s. 211; Sch. 10 para. 1(1)(4)(5) in force at 1.1.2009 by S.I. 2008/3149, **art. 2(d)(ii)**

I172 Sch. 10 para. 1(2)(3)(6) in force at 2.8.2010 by S.I. 2010/1118, **art. 2(b)**

Dismissal of application

2 (1) The Board may refuse to consider, or to continue its consideration of, an application.

(2) The Board must make rules about the procedures and criteria that it will apply when determining whether to refuse to consider, or to continue its consideration of, an application under sub-paragraph (1).

(3) Where the Board decides to refuse to consider, or to continue its consideration of, an application it must give the applicant notice of that decision and of its reasons for it.

(4) The Board must publish a notice given under sub-paragraph (3).

Commencement Information

I173 Sch. 10 para. 2 partly in force; Sch. 10 para. 2 not in force at Royal Assent see s. 211; Sch. 10 para. 2(2) in force at 1.1.2009 by S.I. 2008/3149, **art. 2(d)(ii)**

I174 Sch. 10 para. 2(1)(3)(4) in force at 2.8.2010 by S.I. 2010/1118, **art. 2(b)**

Board's duty to seek advice

3 (1) The Board must give each of the persons listed in sub-paragraph (2)—

(a) a copy of the application and accompanying material, and

(b) a notice specifying a period within which any advice given under paragraphs 4 to 6 must be given.

(2) Those persons are—

(a) the **[**F144CMA **]**,

(b) the Consumer Panel,

(c) the Lord Chief Justice, and

(d) such other persons as the Board considers it reasonable to consult regarding the application.

(3) In this Part of this Schedule, in relation to an application, "selected consultee" means a person within sub-paragraph (2)(d).

Textual Amendments

F144 Word in Sch. 10 para. 3(2)(a) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 122(2)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)

Commencement Information

I175 Sch. 10 para. 3 in force at 2.8.2010 by S.I. 2010/1118, **art. 2(b)**

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Advice of [F145 Competition and Markets Authority]

Textual Amendments

F145 Words in Sch. 10 para. 4 cross-heading substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 122(3)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)

4 (1) The **[**F146 CMA**]** must give the Board such advice as the **[**F146 CMA**]** thinks fit regarding whether the application should be granted.

(2) In deciding what advice to give, the **[**F146 CMA**]** must, in particular, have regard to whether making an order under paragraph 15 in accordance with the recommendation applied for would (or would be likely to) prevent, restrict or distort competition within the market for reserved legal services to any significant extent.

Textual Amendments

F146 Word in Sch. 10 para. 4(1)(2) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 122(4)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)

Commencement Information

I176 Sch. 10 para. 4 in force at 2.8.2010 by S.I. 2010/1118, **art. 2(b)**

Advice of the Consumer Panel

5 (1) The Consumer Panel must give the Board such advice as the Consumer Panel thinks fit regarding whether the application should be granted.

(2) In deciding what advice to give, the Consumer Panel must, in particular, have regard to the likely impact on consumers of the making of an order under paragraph 15 in accordance with the recommendation applied for.

Commencement Information

I177 Sch. 10 para. 5 in force at 2.8.2010 by S.I. 2010/1118, **art. 2(b)**

Advice of selected consultees

6 A selected consultee may give the Board such advice as the selected consultee thinks fit in respect of the application.

Commencement Information

I178 Sch. 10 para. 6 in force at 2.8.2010 by S.I. 2010/1118, **art. 2(b)**

Advice of the Lord Chief Justice

7 (1) The Board must give the Lord Chief Justice—

(a) a copy of any advice duly given under paragraphs 4 to 6, and

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(b) a notice specifying a period within which any advice under this paragraph must be given.

(2) The Lord Chief Justice must then give such advice to the Board as the Lord Chief Justice thinks fit regarding whether the application should be granted.

(3) In deciding what advice to give, the Lord Chief Justice must, in particular, have regard to the likely impact on the courts in England and Wales of the making of an order under paragraph 15 in accordance with the recommendation applied for.

Commencement Information
I179 Sch. 10 para. 7 in force at 2.8.2010 by S.I. 2010/1118, **art. 2(b)**

Information obtained by consultees

8 A person ("the consultee") to whom a copy of the application is given under paragraph 3(1) may, for the purposes of giving advice under paragraphs 4 to 7, request the applicant or any other person to provide the consultee with such additional information as may be specified by the consultee.

Commencement Information
I180 Sch. 10 para. 8 in force at 2.8.2010 by S.I. 2010/1118, **art. 2(b)**

Representations by applicant

9 (1) The Board must give the applicant a copy of any advice duly given under paragraphs 4 to 7.

(2) The applicant may make to the Board—
(a) written representations, and
(b) if the Board authorises it to do so, oral representations,
about the advice.

(3) The Board must make rules governing the making of oral and written representations.

(4) Representations under this paragraph must be made within—
(a) the period of 28 days beginning with the day on which the copy of the advice is given to the applicant, or
(b) such longer period as the Board may specify in a particular case.

(5) Where oral representations are made, the Board must prepare a report of those representations.

(6) Before preparing that report, the Board must—
(a) give the applicant a reasonable opportunity to comment on a draft of the report, and
(b) have regard to any comments duly made.

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Commencement Information

I181 Sch. 10 para. 9 partly in force; Sch. 10 para. 9 not in force at Royal Assent see s. 211; Sch. 10 para. 9(3) in force at 1.1.2009 by S.I. 2008/3149, **art. 2(d)(ii)**

I182 Sch. 10 para. 9(1) (2) (4)-(6) in force at 2.8.2010 by S.I. 2010/1118, **art. 2(b)**

Publication of advice and representations etc

10 (1) The Board must, as soon as practicable after the end of the period within which representations under paragraph 9 may be made, publish—

(a) any advice duly given under paragraphs 4 to 7,

(b) any written representations duly made under paragraph 9 and the report (if any) prepared under that paragraph.

(2) Nothing in sub-paragraph (1) operates—

(a) to prevent a person who gives advice under paragraphs 4 to 7 from publishing that advice, or

(b) to prevent a person who makes representations under paragraph 9 from publishing those representations.

(3) A person ("the publisher") publishing any such material (whether under sub-paragraph (1) or otherwise) must, so far as practicable, exclude any matter which relates to the private affairs of a particular individual the publication of which, in the opinion of the publisher, would or might seriously and prejudicially affect the interests of that individual.

Commencement Information

I183 Sch. 10 para. 10 in force at 2.8.2010 by S.I. 2010/1118, **art. 2(b)**

Rules governing decisions by the Board

11 (1) The Board must make rules specifying how it will determine applications.

(2) Rules under sub-paragraph (1) must, in particular, provide that the Board may grant an application in relation to a particular reserved legal activity only if it is satisfied—

(a) that the applicant's proposed licensing rules in relation to the activity comply with the requirements of section 83;

(b) that, if an order were to be made under paragraph 15 designating the body in relation to the activity, there would be a body with power to hear and determine appeals which, under this Part or the applicant's proposed licensing rules, may be made against decisions of the applicant;

(c) that, if an order were to be made under paragraph 15 designating the body in relation to the activity, the applicant would have appropriate internal governance arrangements in place at the time the order takes effect;

(d) that, if an order were made under paragraph 15 designating the body in relation to the activity, the applicant would be competent, and have sufficient resources, to perform the role of licensing authority in relation to the activity at the time the order takes effect.

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(3) The rules made for the purposes of sub-paragraph (2)(c) must in particular require the Board to be satisfied—

(a) that the exercise of the applicant's regulatory functions would not be prejudiced by any of its representative functions, and

(b) that decisions relating to the exercise of its regulatory functions would so far as reasonably practicable be taken independently from decisions relating to the exercise of its representative functions.

Determination of applications

12 (1) After considering—

(a) the application and accompanying material,

(b) any other information provided by the applicant,

(c) any advice duly given under paragraphs 4 to 7,

(d) any representations duly made under paragraph 9, and

(e) any other information which the Board considers relevant to the application,

the Board must decide whether to grant the application.

(2) Where the application relates to more than one reserved legal activity, the Board may grant the application in relation to all or any of them.

(3) The Board must give notice of its decision to the applicant ("the decision notice").

(4) Where the Board decides to refuse the application (in whole or in part), the decision notice must specify the reasons for that decision.

(5) The Board must publish the decision notice.

Commencement Information

I184 Sch. 10 para. 12 in force at 2.8.2010 by S.I. 2010/1118, **art. 2(b)**

13 (1) Where an application is made under this Part, the Board must give the decision notice under paragraph 12 within the decision period.

(2) The "decision period" is the period of 12 months beginning with the day on which the application is made to the Board.

(3) The Board may, before the end of the decision period, issue a notice extending that period by a period specified in the notice.

(4) More than one notice may be issued under sub-paragraph (3), but the decision period must not exceed 16 months.

(5) The Board may issue a notice under sub-paragraph (3) only after it has—

(a) consulted the **[**[F147]CMA **]**, the Consumer Panel and the Lord Chief Justice, and

(b) obtained the Lord Chancellor's consent to the extension.

(6) A notice under sub-paragraph (3) must state the Board's reasons for extending the decision period.

(7) The Board must publish any notice issued under sub-paragraph (3).

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Textual Amendments

F147 Word in Sch. 10 para. 13(5)(a) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 122(5)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)

Commencement Information

I185 Sch. 10 para. 13 in force at 2.8.2010 by S.I. 2010/1118, **art. 2(b)**

Effect of grant of application

14 (1) This paragraph applies where an application is granted in relation to a reserved legal activity or activities.

(2) The Board must recommend to the Lord Chancellor that an order be made designating the applicant as a licensing authority in relation to the reserved legal activity or activities in question.

(3) The Board must publish any recommendation made under sub-paragraph (2).

(4) The Board must make available to the Lord Chancellor—

(a) any advice duly given under paragraphs 4 to 7,

(b) any written representations duly made under paragraph 9 and the report (if any) prepared under that paragraph, and

(c) any other material considered by the Board for the purpose of determining the application.

Commencement Information

I186 Sch. 10 para. 14 in force at 2.8.2010 by S.I. 2010/1118, **art. 2(b)**

Lord Chancellor's decision to make an order

15 (1) Where a recommendation is made to the Lord Chancellor under paragraph 14, the Lord Chancellor may—

(a) make an order in accordance with the recommendation, or

(b) refuse to make such an order.

(2) Where the recommendation relates to more than one reserved legal activity, the Lord Chancellor may make an order under sub-paragraph (1)(a) in relation to all or any of them.

(3) But if the application, in relation to a particular reserved legal activity, was made in reliance on paragraph 1(3)(b), the Lord Chancellor must not make an order in relation to that activity unless the Lord Chancellor has made an order under Part 2 of Schedule 4 designating the body as an approved regulator in relation to that activity.

(4) The Lord Chancellor must—

(a) decide whether to make an order under this paragraph, and

(b) give notice of that decision ("the decision notice") to the applicant,

within the period of 90 days beginning with the day on which the recommendation was made.

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(5) If the Lord Chancellor decides not to make an order in accordance with the whole or part of the recommendation, the decision notice must state the reasons for the decision.

(6) The Lord Chancellor must publish the decision notice.

Commencement Information
I187 Sch. 10 para. 15 in force at 2.8.2010 by S.I. 2010/1118, **art. 2(b)**

Approval of licensing rules

16 (1) Where an order is made by the Lord Chancellor under paragraph 15, the applicant's proposed licensing rules are at the same time treated as having been approved by the Board.

(2) But where the order relates to one or more (but not all) of the reserved legal activities to which the application related, sub-paragraph (1) has effect as if the reference to the applicant's proposed licensing rules were a reference to those rules excluding any provision made in respect of any activities excluded from the order.

(3) Sub-paragraph (1) is without prejudice to the Board's power to give directions under section 32 (powers to direct an approved regulator to take steps in certain circumstances, including steps to amend its regulatory arrangements).

Commencement Information
I188 Sch. 10 para. 16 in force at 2.8.2010 by S.I. 2010/1118, **art. 2(b)**

PART 2

CANCELLATION OF DESIGNATION BY ORDER

Introductory

17 This Part of this Schedule applies where the Board considers that it may be appropriate for it to make a recommendation under section 76(5).

Notification of the licensing authority

18 (1) The Board must give the licensing authority a notice ("a warning notice") accompanied by a draft of the proposed recommendation.

(2) The warning notice must—

(a) state that the Board proposes to make a recommendation under subsection (5) of section 76 in the form of the accompanying draft, and

(b) state the reasons why the Board is satisfied of the matters mentioned in paragraphs (a) and (b) of that subsection.

(3) The Board must publish a copy of the warning notice.

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(4) The licensing authority may make to the Board—

(a) written representations, and

(b) if the Board authorises it to do so, oral representations,

about the proposed recommendation.

(5) The Board must make rules governing the making of oral and written representations.

(6) Representations under this paragraph must be made within—

(a) the period of 28 days beginning with the day on which the warning notice is given to the licensing authority, or

(b) such longer period as the Board may specify in a particular case.

(7) The Board must consider any representations duly made by the licensing authority.

(8) Where oral representations are duly made, the Board must prepare a report of those representations.

(9) Before preparing that report, the Board must—

(a) give the licensing authority a reasonable opportunity to comment on a draft of the report, and

(b) have regard to any comments duly made.

Commencement Information

I189 Sch. 10 para. 18 partly in force; Sch. 10 para. 18 not in force at Royal Assent see s. 211; Sch. 10 para. 18(5) in force at 1.1.2009 by S.I. 2008/3149, **art. 2(d)(ii)**

I190 Sch. 10 para. 18(1)-(4) (6)-(9) in force at 2.8.2010 by S.I. 2010/1118, **art. 2(b)**

Board's duty to seek advice

19 (1) After complying with paragraph 18, the Board must give each of the persons listed in sub-paragraph (2)—

(a) a copy of the warning notice and the accompanying draft,

(b) a copy of any written representations duly made by the licensing authority under paragraph 18 and a copy of the report (if any) prepared under that paragraph, and

(c) a notice specifying a period within which any advice under paragraphs 20 to 22 must be given.

(2) Those persons are—

(a) the **[**[F148]CMA **]**,

(b) the Consumer Panel,

(c) the Lord Chief Justice, and

(d) such other persons as the Board considers it reasonable to consult in respect of the proposed recommendation.

(3) In this Part of this Schedule, in relation to a proposed recommendation, "selected consultee" means a person within sub-paragraph (2)(d).

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Textual Amendments

F148 Word in Sch. 10 para. 19(2)(a) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 122(6)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)

Commencement Information

I191 Sch. 10 para. 19 in force at 2.8.2010 by S.I. 2010/1118, **art. 2(b)**

Advice of [F149 Competition and Markets Authority]

Textual Amendments

F149 Words in Sch. 10 para. 20 cross-heading substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 122(7)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)

20 (1) The **[**F150CMA**]** must give the Board such advice as it thinks fit regarding whether the proposed recommendation should be made.

(2) In deciding what advice to give, the **[**F150CMA**]** must, in particular, have regard to whether making an order under section 76 in accordance with the proposed recommendation would (or would be likely to) prevent, restrict or distort competition within the market for reserved legal services to any significant extent.

Textual Amendments

F150 Word in Sch. 10 para. 20(1)(2) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 122(8)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)

Commencement Information

I192 Sch. 10 para. 20 in force at 2.8.2010 by S.I. 2010/1118, **art. 2(b)**

Advice of the Consumer Panel

21 (1) The Consumer Panel must give the Board such advice as it thinks fit regarding whether the proposed recommendation should be made.

(2) In deciding what advice to give, the Consumer Panel must, in particular, have regard to the likely impact on consumers of making an order under section 76 in accordance with the proposed recommendation.

Commencement Information

I193 Sch. 10 para. 21 in force at 2.8.2010 by S.I. 2010/1118, **art. 2(b)**

Advice of selected consultees

22 A selected consultee may give the Board such advice as the selected consultee thinks fit in respect of the proposed recommendation.

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Commencement Information
I194 Sch. 10 para. 22 in force at 2.8.2010 by S.I. 2010/1118, **art. 2(b)**

Advice of the Lord Chief Justice

23 (1) The Board must give the Lord Chief Justice—

(a) a copy of any advice duly given under paragraphs 20 to 22, and

(b) a notice specifying a period within which advice under this paragraph must be given.

(2) The Lord Chief Justice must then give such advice as the Lord Chief Justice thinks fit in respect of the proposed recommendation.

(3) In deciding what advice to give, the Lord Chief Justice must, in particular, have regard to the likely impact on the courts in England and Wales of making an order under section 76 in accordance with the proposed recommendation.

Commencement Information
I195 Sch. 10 para. 23 in force at 2.8.2010 by S.I. 2010/1118, **art. 2(b)**

Information obtained by consultees

24 A person ("the consultee") to whom a copy of the warning notice is given under paragraph 19(1) may, for the purposes of giving advice under paragraphs 20 to 23, request the licensing authority or any other person to provide the consultee with such additional information as may be specified by the consultee.

Commencement Information
I196 Sch. 10 para. 24 in force at 2.8.2010 by S.I. 2010/1118, **art. 2(b)**

Representations by the approved regulator etc

25 (1) The Board must—

(a) give the licensing authority a copy of any advice duly given under paragraphs 20 to 23, and

(b) publish that advice together with any written representations duly made by the licensing authority under paragraph 18 and the report (if any) prepared under that paragraph.

(2) The licensing authority and any body within sub-paragraph (3) may make to the Board—

(a) written representations, and

(b) if authorised to do so by the Board, oral representations,

about the advice.

(3) A body is within this sub-paragraph if it represents licensed bodies authorised by the licensing authority to carry on activities which are reserved legal activities.

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(4) The Board may allow any other person to make written or oral representations about the advice.

(5) The Board may make rules governing the making to the Board of written or oral representations.

(6) Representations under this paragraph must be made within—

(a) the period of 28 days beginning with the day on which the representations and advice are published under sub-paragraph (1)(b), or

(b) such longer period as the Board may specify in a particular case.

(7) Where oral representations are made, the Board must prepare a report of those representations.

(8) Before preparing that report, the Board must—

(a) give each person who made oral representations a reasonable opportunity to comment on a draft of the report of those representations, and

(b) have regard to any comments duly made.

(9) The Board must, as soon as reasonably practicable after the end of the period within which representations under this paragraph may be made, publish any written representations duly made and the report (if any) prepared under sub-paragraph (7).

Commencement Information

I197 Sch. 10 para. 25 partly in force; Sch. 10 para. 25 not in force at Royal Assent see s. 211; Sch. 10 para. 25(5) in force at 1.1.2009 by S.I. 2008/3149, **art. 2(d)(ii)**

I198 Sch. 10 para. 25(1)-(4) (6)-(9) in force at 2.8.2010 by S.I. 2010/1118, **art. 2(b)**

Publication of advice etc

26 (1) Nothing in paragraph 25 operates—

(a) to prevent a person who gives advice under paragraphs 20 to 23 from publishing that advice, or

(b) to prevent a person who makes representations under paragraph 18 or 25 from publishing those representations.

(2) A person ("the publisher") publishing any such material (whether under paragraph 25 or otherwise) must, so far as practicable, exclude any matter which relates to the private affairs of a particular individual the publication of which, in the opinion of the publisher, would or might seriously and prejudicially affect the interests of that individual.

Commencement Information

I199 Sch. 10 para. 26 in force at 2.8.2010 by S.I. 2010/1118, **art. 2(b)**

Decision by the Board

27 (1) After considering—

(a) any advice duly given under paragraphs 20 to 23,

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(b) any representations duly made under paragraph 18 or 25, and

(c) any other information which the Board considers relevant,

the Board must decide whether to make the proposed recommendation.

(2) The Board must give notice of its decision ("the decision notice") to the licensing authority and to the Lord Chancellor.

(3) If the Board decides to make the proposed recommendation, the decision notice must—

(a) contain the recommendation, and

(b) state why the Board is satisfied of the matters mentioned in section 76(5)(a) and (b).

(4) The Board must publish the decision notice.

Commencement Information

I200 Sch. 10 para. 27 in force at 2.8.2010 by S.I. 2010/1118, **art. 2(b)**

SCHEDULE 11

Section 83

LICENSING RULES

PART 1

LICENSING PROCEDURE

Applications for licences

1 (1) Licensing rules must make provision about the form and manner in which applications for licences are to be made, and the fee (if any) which is to accompany an application.

(2) They may make provision about—

(a) the information which applications must contain, and

(b) the documents which must accompany applications.

Commencement Information

I201 Sch. 11 para. 1 in force at 2.8.2010 by S.I. 2010/1118, **art. 2(c)**

Determination of applications

2 (1) Licensing rules must make the following provision about the determination of applications for licences.

(2) Before the end of the decision period the licensing authority must—

(a) decide the application,

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(b) notify the applicant of its decision, and

(c) if it decides to refuse the application, set out in the notice the reasons for the refusal.

(3) The decision period is the period of 6 months beginning with the day on which the application is made to the licensing authority in accordance with its licensing rules.

(4) The licensing authority may, on one or more occasions, give the applicant a notice (an "extension notice") extending the decision period by a period specified in the notice.

(5) But—

(a) an extension notice may only be given before the time when the decision period would end, but for the extension notice, and

(b) the total decision period must not exceed 9 months.

(6) An extension notice must set out the reasons for the extension.

Commencement Information
I202 Sch. 11 para. 2 in force at 2.8.2010 by S.I. 2010/1118, **art. 2(c)**

Review of determination

3 Licensing rules must make provision for review by the licensing authority of—

(a) a decision to refuse an application for a licence;

(b) if a licence is granted, the terms of the licence.

Commencement Information
I203 Sch. 11 para. 3 in force at 2.8.2010 by S.I. 2010/1118, **art. 2(c)**

Period of licence and renewal

4 (1) The licensing rules may make provision—

(a) limiting the period for which any licence is (subject to the provision of this Part of this Schedule and of the licensing rules) to remain in force;

(b) about the renewal of licences, including provision about the form and manner in which an application for the renewal is to be made, and the fee (if any) which is to accompany an application.

(2) The licensing rules may make provision about—

(a) the information which applications for renewal must contain, and

(b) the documents which must accompany applications.

(3) Licensing rules must provide that a licence issued to a licensed body by the licensing authority ceases to have effect if the licensed body is issued with a licence by another licensing authority.

Commencement Information
I204 Sch. 11 para. 4 in force at 2.8.2010 by S.I. 2010/1118, **art. 2(c)**

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Continuity of licences

5 (1) Licensing rules may make provision about the effect, on a licence issued to a partnership or other unincorporated body ("the existing body"), of any change in the membership of the existing body.

(2) The provision which may be made includes provision for the existing body's licence to be transferred where the existing body ceases to exist and another body succeeds to the whole or substantially the whole of its business.

Commencement Information
I205 Sch. 11 para. 5 in force at 2.8.2010 by S.I. 2010/1118, **art. 2(c)**

Modification of licences

6 (1) Licensing rules must make provision about the form and manner in which applications are to be made for modification of the terms of a licence under section 86, and the fee (if any) which is to accompany the application.

(2) They may make provision as to the circumstances in which the licensing authority may modify the terms of a licence under section 86 without an application being made.

(3) They must make provision for review by the licensing authority of—

(a) a decision to refuse an application for modification of the terms of a licence;

(b) if the licensing authority makes licensing rules under sub-paragraph (2), a decision under those rules to modify the terms of a licence.

Commencement Information
I206 Sch. 11 para. 6 in force at 2.8.2010 by S.I. 2010/1118, **art. 2(c)**

Modifications under section 106 or 107

7 (1) Licensing rules must make provision about the form and manner in which applications are to be made under section 106 or 107, and the fee (if any) which is to accompany the application.

(2) They may make provision as to the matters to which the licensing authority must have regard in determining whether to make an order under section 106, or to revoke or modify such an order.

(3) They must make provision for review by the licensing authority of—

(a) a decision to refuse an application under those sections;

(b) the terms of any order made under section 106 or any decision under section 107.

Commencement Information
I207 Sch. 11 para. 7 in force at 2.8.2010 by S.I. 2010/1118, **art. 2(c)**

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8 (1) Licensing rules must make the following provision in relation to licensed bodies to which section 106 applies ("special bodies"), and in relation to which an order under section 106 has been made.

(2) If a special body becomes a special body of a different kind, it must notify the licensing authority of that fact before the end of the relevant period.

(3) If a special body ceases to be a special body, it must notify the licensing authority of that fact before the end of the relevant period.

(4) The relevant period is the period of 30 days (or such longer period as may be specified in licensing rules) beginning with the day on which the body first became a special body of a different kind, or ceased to be a special body.

(5) Licensing rules may make provision requiring a special body to provide the licensing authority with such information relevant to the matters mentioned in section 106(5) as may be specified in the licensing rules.

Commencement Information
I208 Sch. 11 para. 8 in force at 2.8.2010 by S.I. 2010/1118, **art. 2(c)**

PART 2

STRUCTURAL REQUIREMENTS

Management

9 (1) Licensing rules must require a licensed body to comply with the following requirement at all times.

(2) At least one of the licensed body's managers must be a person (other than a licensed body) who is an authorised person in relation to a licensed activity.

(3) No manager of the licensed body may be a person who under this Part of this Act is disqualified from acting as a manager of a licensed body.

Commencement Information
I209 Sch. 11 para. 9 in force at 2.8.2010 by S.I. 2010/1118, **art. 2(c)**

10 (1) Licensing rules may make further provision as to—

(a) the managers of licensed bodies, and

(b) the arrangements for the management by them of the licensed body and its activities.

(2) They must not require all the managers of a licensed body to be authorised persons in relation to a reserved legal activity.

Commencement Information
I210 Sch. 11 para. 10 in force at 2.8.2010 by S.I. 2010/1118, **art. 2(c)**

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Head of Legal Practice

11 (1) Licensing rules must include the following requirements.

(2) A licensed body must at all times have an individual—

(a) who is designated as Head of Legal Practice, and

(b) whose designation is approved by the licensing authority.

(3) A designation of an individual as Head of Legal Practice has effect only while the individual—

(a) consents to the designation,

(b) is an authorised person in relation to one or more of the licensed activities, and

(c) is not under this Part of this Act disqualified from acting as Head of Legal Practice of a licensed body.

(4) The licensing authority may approve a person's designation only if it is satisfied that the person is a fit and proper person to carry out the duties imposed by section 91 in relation to that body.

(5) The licensing authority may approve a person's designation in the course of determining an application for a licence under section 84.

(6) If the licensing authority is satisfied that the person designated as a licensed body's Head of Legal Practice has breached a duty imposed by section 91, it may withdraw its approval of that person's designation.

Commencement Information

I211 Sch. 11 para. 11 in force at 2.8.2010 by S.I. 2010/1118, **art. 2(c)**

12 (1) Licensing rules must make provision—

(a) about the procedures and criteria that will be applied by the licensing authority when determining under paragraph 11(4) whether an individual is a fit and proper person;

(b) for a review by the licensing authority of a determination under that paragraph that an individual is not a fit and proper person;

(c) about the procedures and criteria that will be applied by the licensing authority in determining under paragraph 11(6) whether to withdraw its approval;

(d) for a review by the licensing authority of a determination under that paragraph to withdraw its approval;

(e) about the procedure which is to apply where a licensed body ceases to comply with the requirement imposed by virtue of paragraph 11(2).

(2) Rules made in accordance with sub-paragraph (1)(e) may in particular provide that the requirement imposed by virtue of paragraph 11(2) is suspended until such time as may be specified by the licensing authority if the licensed body complies with such other requirements as may be specified in the rules.

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Commencement Information
I212 Sch. 11 para. 12 in force at 2.8.2010 by S.I. 2010/1118, **art. 2(c)**

Head of Finance and Administration

13 (1) Licensing rules must include the following requirements.

(2) A licensed body must at all times have an individual—

(a) who is designated as Head of Finance and Administration, and

(b) whose designation is approved by the licensing authority.

(3) A designation of an individual as Head of Finance and Administration has effect only while the individual—

(a) consents to the designation, and

(b) is not under this Part of this Act disqualified from acting as Head of Finance and Administration of a licensed body.

(4) The licensing authority may approve a person's designation only if it is satisfied that the person is a fit and proper person to carry out the duties imposed by section 92 in relation to that body.

(5) The licensing authority may approve a person's designation in the course of determining an application for a licence under section 84.

(6) If the licensing authority is satisfied that the person designated as a licensed body's Head of Finance and Administration has breached a duty imposed by section 92, it may withdraw its approval of that person's designation.

Commencement Information
I213 Sch. 11 para. 13 in force at 2.8.2010 by S.I. 2010/1118, **art. 2(c)**

14 (1) Licensing rules must make provision—

(a) about the procedures and criteria that will be applied by the licensing authority when determining under paragraph 13(4) whether an individual is a fit and proper person;

(b) for a review by the licensing authority of a determination under that paragraph that an individual is not a fit and proper person;

(c) about the procedures and criteria that will be applied by the licensing authority in determining under paragraph 13(6) whether to withdraw its approval;

(d) for a review by the licensing authority of a determination under that paragraph to withdraw its approval;

(e) about the procedure which is to apply where a licensed body ceases to comply with the requirement imposed by virtue of paragraph 13(2).

(2) The rules made in accordance with sub-paragraph (1)(e) may in particular provide that the requirement imposed by virtue of sub-paragraph 13(2) is suspended until such time as may be specified by the licensing authority if the licensed body complies with such other requirements as may be specified in the rules.

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Commencement Information
I214 Sch. 11 para. 14 in force at 2.8.2010 by S.I. 2010/1118, **art. 2(c)**

PART 3

PRACTICE REQUIREMENTS

Practising address

15 (1) Licensing rules must require a licensed body, other than one to which sub-paragraph (3) applies, at all times to have a practising address in England and Wales.

(2) For this purpose "practising address", in relation to a licensed body, means an address from which the body provides services which consist of or include the carrying on of reserved legal activities.

(3) This sub-paragraph applies to a licensed body—

(a) which is a company or limited liability partnership, and

(b) the registered office of which is situated in England and Wales (or in Wales).

Commencement Information
I215 Sch. 11 para. 15 in force at 2.8.2010 by S.I. 2010/1118, **art. 2(c)**

Licensed activities

16 Licensing rules must provide that a licensed body may carry on a licensed activity only through a person who is entitled to carry on the activity.

Commencement Information
I216 Sch. 11 para. 16 in force at 2.8.2010 by S.I. 2010/1118, **art. 2(c)**

Compliance with regulatory arrangements etc

17 (1) Licensing rules must include the following provision.

(2) A licensed body must at all times have suitable arrangements in place to ensure that—

(a) it, and its managers and employees, comply with the duties imposed by section 176, and

(b) it, and any person to whom sub-paragraph (3) applies, maintain the professional principles set out in section 1(3).

(3) This sub-paragraph applies to any manager or employee of the licensed body who is an authorised person in relation to an activity which is a reserved legal activity.

(4) A licensed body must at all times have suitable arrangements in place to ensure that non-authorised persons subject to the duty imposed by section 90 in relation to the licensed body comply with that duty.

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(5) Licensing rules may make provision as to the arrangements which are suitable for the purposes of rules made under sub-paragraphs (2) and (4).

Commencement Information
I217 Sch. 11 para. 17 in force at 2.8.2010 by S.I. 2010/1118, **art. 2(c)**

Disqualified employees

18 (1) Licensing rules must include the following requirement.

(2) A licensed body may not employ a person who under this Part of this Act is disqualified from being an employee of a licensed body.

Commencement Information
I218 Sch. 11 para. 18 in force at 2.8.2010 by S.I. 2010/1118, **art. 2(c)**

Indemnification arrangements and compensation arrangements

19 (1) For the purpose of giving effect to indemnification arrangements and compensation arrangements, licensing rules may—

(a) authorise or require the licensing authority to establish and maintain a fund or funds;

(b) authorise or require the licensing authority to take out and maintain insurance with authorised insurers;

(c) require licensed bodies or licensed bodies of any specific description to take out and maintain insurance with authorised insurers.

(2) In this paragraph "authorised insurer" has the same meaning as in section 64.

Commencement Information
I219 Sch. 11 para. 19 in force at 2.8.2010 by S.I. 2010/1118, **art. 2(c)**

Accounts

20 (1) The licensing rules must make provision as to the treatment of money within sub-paragraph (2), and the keeping of accounts in respect of such money.

(2) The money referred to in sub-paragraph (1) is money (including money held on trust) which is received, held or dealt with by the licensed body, its managers and employees for clients or other persons.

Commencement Information
I220 Sch. 11 para. 20 in force at 2.8.2010 by S.I. 2010/1118, **art. 2(c)**

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PART 4

REGULATION

Fees

21 (1) The licensing rules must require licensed bodies to pay periodical fees to the licensing authority.

(2) The rules may provide for the payment of different fees by different descriptions of licensed body.

Commencement Information
I221 Sch. 11 para. 21 in force at 2.8.2010 by S.I. 2010/1118, **art. 2(c)**

Financial penalties

22 The licensing rules must make provision as to—

(a) the acts and omissions in respect of which the licensing authority may impose a penalty under section 95, and

(b) the criteria and procedure to be applied by the licensing authority in determining whether to impose a penalty under that section, and the amount of any penalty.

Commencement Information
I222 Sch. 11 para. 22 in force at 2.8.2010 by S.I. 2010/1118, **art. 2(c)**

Disqualifications

23 (1) Licensing rules must make provision as to the criteria and procedure to be applied by the licensing authority in determining whether a person should be disqualified under section 99.

(2) Licensing rules must make provision—

(a) for a review by the licensing authority of a determination by the licensing authority that a person should be disqualified;

(b) as to the criteria and procedure to be applied by the licensing authority in determining whether a person's disqualification should cease to be in force;

(c) requiring the licensing authority to notify the Board of any determination by the licensing authority that a person should be disqualified, of the results of any review of that determination, and of any decision by the licensing authority that a person's disqualification should cease to be in force.

Commencement Information
I223 Sch. 11 para. 23 in force at 2.8.2010 by S.I. 2010/1118, **art. 2(c)**

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Suspension or revocation of licence under section 101

24 (1) Licensing rules must make the following provision.

(2) The licensing authority may suspend or revoke a licensed body's licence under section 101 in the following cases.

(3) The first case is that the licensed body becomes a body which is not a licensable body.

(4) The second case is that the licensed body fails to comply with licensing rules made under paragraph 16 (carrying on of licensed activities).

(5) The third case is that—

(a) a non-authorised person holds a restricted interest in the licensed body—

(i) as a result of the person taking a step in circumstances where that constitutes an offence under paragraph 24(1) of Schedule 13 (whether or not the person is charged with or convicted of an offence under that paragraph),

(ii) in breach of conditions imposed under paragraph 17, 28, or 33 of that Schedule, or

(iii) the person's holding of which is subject to an objection by the licensing authority under paragraph 31 or 36 of that Schedule,

(b) if the relevant licensing rules make the provision mentioned in paragraph 38(1)(a) of that Schedule, a non-authorised person has under those rules a shareholding in the licensed body, or a parent undertaking of the licensed body, which exceeds the share limit,

(c) if the relevant licensing rules make the provision mentioned in paragraph 38(1)(b) of that Schedule, a non-authorised person has under those rules an entitlement to exercise, or control the exercise of, voting rights in the licensed body or a parent undertaking of the licensed body which exceeds the voting limit,

(d) if the relevant licensing rules make the provision mentioned in paragraph 38(1)(c) of that Schedule, the total proportion of shares in the licensed body or a parent undertaking of the licensed body held by non-authorised persons exceeds the limit specified in the rules, or

(e) if the relevant licensing rules make the provision mentioned in paragraph 38(1)(d) of that Schedule, the total proportion of voting rights in the licensed body or a parent undertaking of the licensed body which non-authorised persons are entitled to exercise, or control the exercise of, exceeds the limit specified in the rules.

(6) The fourth case is that a non-authorised person subject to the duty in section 90 in relation to the licensed body fails to comply with that duty.

(7) The fifth case is that the licensed body, or a manager or employee of the licensed body, fails to comply with the duties imposed by section 176.

(8) The sixth case is that—

(a) the licensed body fails to comply with licensing rules made under paragraph 9(3) or 18 (prohibition on disqualified managers and employees), and

(b) the manager or employee concerned was disqualified as a result of breach of a duty within section 99(4)(c) or (d).

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(9) The seventh case is that the licensed body is unable to comply with licensing rules made under—

(a) paragraph 11 (requirement for Head of Legal Practice), or

(b) paragraph 13 (requirement for Head of Finance and Administration).

(10) Before suspending or revoking a licence in accordance with sub-paragraph (2), the licensing authority must give the licensed body notice of its intention.

(11) The licensing authority may not suspend or revoke the licence before the end of the period of 28 days beginning with the day on which the notice is given to the licensed body (or any longer period specified in the notice).

Commencement Information

I224 Sch. 11 para. 24 in force at 2.8.2010 by S.I. 2010/1118, **art. 2(c)**

25 Licensing rules may make provision about other circumstances in which the licensing authority may exercise its power under section 101 to suspend or revoke a licence.

Commencement Information

I225 Sch. 11 para. 25 in force at 2.8.2010 by S.I. 2010/1118, **art. 2(c)**

26 (1) Licensing rules must make provision about the criteria and procedure the licensing authority will apply in deciding whether to suspend or revoke a licence, or to end the suspension of a licence, under section 101.

(2) They must make provision for a review by the licensing authority of a decision by the licensing authority to suspend or revoke a licence.

Commencement Information

I226 Sch. 11 para. 26 in force at 2.8.2010 by S.I. 2010/1118, **art. 2(c)**

SCHEDULE 12

Section 84

ENTITLEMENT TO MAKE AN APPLICATION FOR A LICENCE TO THE BOARD

PROSPECTIVE

Application to Board

1 (1) A licensable body may apply to the Board for a decision that the body is entitled to make an application for a licence to the Board acting in its capacity as a licensing authority.

(2) An application under sub-paragraph (1) may be made only on one of the grounds specified in this paragraph.

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(3) The first ground is that—

(a) there is no competent licensing authority, and

(b) there is no potentially competent licensing authority.

(4) The second ground is that—

(a) each competent licensing authority has determined that it does not have suitable regulatory arrangements,

(b) if one or more competent licensing authorities have made an application to the Board under Part 3 of Schedule 4 for the approval of alterations of their regulatory arrangements, each of those authorities has determined that it will not have suitable regulatory arrangements if the application is granted, and

(c) each potentially competent licensing authority has determined that it will not have suitable regulatory arrangements if it becomes a competent licensing authority.

(5) The third ground applies only in relation to a licensable body within sub-paragraph (6), and is that—

(a) the body has made an application for a licence to each competent licensing authority which has suitable regulatory arrangements, and

(b) no such licensing authority is prepared to grant the body a licence on terms which are appropriate to that body, having regard to the matters in section 106(5)(a) to (c) and any other matter specified in rules made by the Board for the purposes of this sub-paragraph.

(6) The licensable bodies within this sub-paragraph are—

(a) a not for profit body;

(b) a community interest company;

(c) an independent trade union;

(d) if an order under section 106(1)(e) so provides in relation to a description of body prescribed under that section, a body of that description.

Board's decision on an application under paragraph 1

2 (1) On an application under paragraph 1 the Board must, before the end of the decision period, decide whether the licensable body is entitled to make an application for a licence to the Board acting in its capacity as a licensing authority.

(2) The decision period is—

(a) in relation to an application on the first ground, the period of 14 days beginning with the day on which the application is made,

(b) in relation to an application on the second ground, the period of 28 days beginning with the day on which the application is made, and

(c) in relation to an application on the third ground, the period of 60 days beginning with the day on which the application is made.

(3) The Board must give a notice to the licensable body—

(a) stating its decision, and

(b) giving reasons for its decision.

(4) The Board must make rules providing for a review of any decision made by it under this paragraph.

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(5) The rules may in particular provide that if the Board decides to grant the application, the Board may review that decision if the ground on which the application was granted ceases to be made out before the Board (in its capacity as a licensing authority) determines any application for a licence made by the licensable body.

Commencement Information

I227 Sch. 12 para. 2 partly in force; Sch. 12 para. 2 not in force at Royal Assent see s. 211; Sch. 12 para. 2(4)(5) in force at 1.1.2009 by S.I. 2008/3149, **art. 2(d)(iii)**

PROSPECTIVE

Licensing authority's duty to make relevant determinations

3 (1) A licensable body may apply to each competent licensing authority for—

(a) a determination as to whether the authority has suitable regulatory arrangements;

(b) a statement as to whether the authority has made an application as mentioned in paragraph 1(4)(b) and if it has, a determination as to whether, if the application is granted, the authority will have suitable regulatory arrangements.

(2) A licensable body may apply to each potentially competent licensing authority for a determination as to whether it will have suitable regulatory arrangements in place if it becomes a competent licensing authority.

(3) A competent (or potentially competent) licensing authority to which a licensable body makes an application under sub-paragraph (1) or (2) may require the licensable body to provide it with such information in relation to the licensable body as it may specify.

(4) The authority may specify only information which it reasonably requires for the purpose of making the determination applied for.

(5) A competent (or potentially competent) licensing authority to which an application is made under sub-paragraph (1) or (2) must make the determination before the end of—

(a) the decision period, or

(b) if it requires the licensable body to provide it with information under sub-paragraph (3), the period of 28 days beginning with the day on which the information is provided.

(6) The decision period, in relation to an application under sub-paragraph (1) or (2), is the period of 28 days beginning with the day on which the application is made.

"The Board"

4 In this Schedule references to the Board, unless otherwise stated, are to the Board acting otherwise than in its capacity as a licensing authority or an approved regulator.

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PROSPECTIVE

"Competent licensing authority"

5 "Competent licensing authority", in relation to a licensable body, means an approved regulator designated as a licensing authority in relation to each reserved legal activity which the licensable body proposes to carry on.

PROSPECTIVE

"Potentially competent licensing authority"

6 (1) "Potentially competent licensing authority", in relation to a licensable body, means an approved regulator—

(a) which has made an application to the Board under Part 1 of Schedule 10 for a recommendation that the Lord Chancellor make a relevant designation order, and whose application has not been determined, or

(b) in respect of which the Board has made such a recommendation, but in respect of which no relevant designation order (or decision not to make such an order) has been made by the Lord Chancellor.

(2) A relevant designation order is an order—

(a) designating the approved regulator as a licensing authority in respect of one or more reserved legal activities, and

(b) the effect of which will be that the approved regulator becomes a competent licensing authority in relation to the licensable body.

PROSPECTIVE

"Suitable regulatory arrangements"

7 (1) "Suitable regulatory arrangements", in relation to a licensable body and a competent licensing authority, means regulatory arrangements which are suitable in relation to the licensable body, having regard to—

(a) the composition of the licensable body, including in particular the matters in sub-paragraph (2);

(b) the services the licensable body proposes to provide;

(c) if the licensable body proposes to carry on non-reserved activities, any regulation to which the carrying on of such activities is subject;

(d) the persons to whom the licensable body proposes to provide services.

(2) The matters are—

(a) the kinds of authorised persons who are managers of, or have an interest in, the licensable body,

(b) the proportion of persons who are managers of, or have an interest in, the licensable body who are authorised persons or authorised persons of a particular kind,

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(c) the kinds of non-authorised persons who are managers of, or have an interest in, the licensable body,

(d) the proportion of persons who are managers of, or have an interest in, the licensable body who are non-authorised persons or non-authorised persons of a particular kind, and

(e) the kinds of non-authorised persons who have an indirect interest in the licensable body.

(3) In sub-paragraph (2)—

(a) "authorised person" means a person who is an authorised person in relation to any activity which is a reserved legal activity, and

(b) authorised persons are of different kinds if they are authorised to carry on such activities by different approved regulators.

SCHEDULE 13

Section 89

OWNERSHIP OF LICENSED BODIES

PART 1

INTRODUCTORY

Restricted interests subject to approval

1 (1) The holding by a non-authorised person of a restricted interest in a licensed body is subject to the approval of the relevant licensing authority in accordance with the provisions of this Schedule.

(2) In relation to a licensed body which is a partnership, for the purposes of section 34 of the Partnership Act 1890 (c. 39) (dissolution by illegality) the holding by a non-authorised person of a restricted interest in the body without the approval of the relevant licensing authority does not make it unlawful for the business of the partnership to be carried on, or for the partners to carry it on in partnership.

Commencement Information
I228 Sch. 13 para. 1 in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(d)**

Restricted interest

2 (1) "Restricted interest" means each of the following—

(a) a material interest;

(b) if licensing rules are made by the relevant licensing authority under sub-paragraph (2), a controlled interest.

(2) Licensing rules may specify that a controlled interest is a restricted interest for the purposes of this Schedule.

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Commencement Information
I229 Sch. 13 para. 2 in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(d)**

Material interest

3 (1) For the purposes of this Part of this Act, a person holds a material interest in a body ("B") if the person—

(a) holds at least 10% of the shares in B,

(b) is able to exercise significant influence over the management of B by virtue of the person's shareholding in B,

(c) holds at least 10% of the shares in a parent undertaking ("P") of B,

(d) is able to exercise significant influence over the management of P by virtue of the person's shareholding in P,

(e) is entitled to exercise, or control the exercise of, voting power in B which, if it consists of voting rights, constitutes at least 10% of the voting rights in B,

(f) is able to exercise significant influence over the management of B by virtue of the person's entitlement to exercise, or control the exercise of, voting rights in B,

(g) is entitled to exercise, or control the exercise of, voting power in P which, if it consists of voting rights, constitutes at least 10% of the voting rights in P,

(h) is able to exercise significant influence over the management of P by virtue of the person's entitlement to exercise, or control the exercise of, voting rights in P.

(2) Licensing rules made by the relevant licensing authority may provide—

(a) that the references in sub-paragraph (1) to 10% are to have effect as references to such lesser percentage as may be specified in the rules;

(b) that in relation to a partnership, for the purposes of this Part a person has a material interest in the partnership if he is a partner (whether or not the person has a material interest by virtue of sub-paragraph (1)).

(3) For the purposes of sub-paragraph (1) "the person" means—

(a) the person,

(b) any of the person's associates, or

(c) the person and any of the person's associates taken together.

(4) For the purposes of this Schedule, material interests held by virtue of different paragraphs of sub-paragraph (1) are restricted interests of different kinds.

Commencement Information
I230 Sch. 13 para. 3 in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(d)**

Controlled interest

4 (1) For the purposes of this Schedule, a person holds a controlled interest in a body ("B") if the person—

(a) holds at least x% of the shares in B,

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(b) holds at least x% of the shares in a parent undertaking ("P") of B,

(c) is entitled to exercise, or control the exercise of, at least x% of the voting rights in B, or

(d) is entitled to exercise, or control the exercise of, at least x% of the voting rights in P.

(2) For the purposes of sub-paragraph (1) "the person" means—

(a) the person,

(b) any of the person's associates, or

(c) the person and any of the person's associates taken together.

(3) In sub-paragraph (1), "x" means such percentage as may be specified in licensing rules made by the relevant licensing authority under paragraph 2(2).

(4) Licensing rules made under paragraph 2(2) may specify more than one percentage.

(5) Any percentage specified by licensing rules made under paragraph 2(2) must be greater than—

(a) 10%, or

(b) if the relevant licensing authority makes licensing rules under paragraph 3(2)(a), the percentage specified in those rules.

(6) For the purposes of this Schedule—

(a) controlled interests held by virtue of different paragraphs of sub-paragraph (1) are restricted interests of different kinds;

(b) if licensing rules made under paragraph 2(2) specify more than one percentage, controlled interests held by virtue of each of those percentages are restricted interests of different kinds.

Commencement Information

I231 Sch. 13 para. 4 in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(d)**

Associates, parent undertakings and voting power

5 (1) For the purposes of this Schedule "associate", in relation to a person ("A") and—

(a) a shareholding in a body ("S"), or

(b) an entitlement to exercise or control the exercise of voting power in a body ("V"),

means a person listed in sub-paragraph (2).

(2) The persons are—

(a) the spouse or civil partner of A,

(b) a child or stepchild of A (if under 18),

(c) the trustee of any settlement under which A has a life interest in possession (in Scotland a life interest),

(d) an undertaking of which A is a director,

(e) an employee of A,

(f) a partner of A (except, where S or V is a partnership in which A is a partner, another partner in S or V),

(g) if A is an undertaking—

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(i) a director of A,

(ii) a subsidiary undertaking of A, or

(iii) a director or employee of such a subsidiary undertaking,

(h) if A has with any other person an agreement or arrangement with respect to the acquisition, holding or disposal of shares or other interests in S or V (whether or not they are interests within the meaning of section 72(3)), that other person, or

(i) if A has with any other person an agreement or arrangement under which they undertake to act together in exercising their voting power in relation to S or V, that person.

(3) In sub-paragraph (2)(c), "settlement" means any disposition or arrangement under which property is held on trust (or subject to a comparable obligation).

(4) For the purposes of this Schedule—

"parent undertaking" and "subsidiary undertaking" have the same meaning as in the Financial Services and Markets Act 2000 (c. 8) (see section 420 of that Act);

"voting power", in relation to a body which does not have general meetings at which matters are decided by the exercise of voting rights, means the right under the constitution of the body to direct the overall policy of the body or alter the terms of its constitution.

Commencement Information
I232 Sch. 13 para. 5 in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(d)**

The approval requirements

6 (1) For the purposes of this Schedule, the approval requirements are met in relation to a person's holding of a restricted interest if—

(a) the person's holding of that interest does not compromise the regulatory objectives,

(b) the person's holding of that interest does not compromise compliance with the duties imposed by section 176 by the licensed body or persons to whom sub-paragraph (2) applies, and

(c) the person is otherwise a fit and proper person to hold that interest.

(2) This sub-paragraph applies to any employee or manager of the licensed body who is an authorised person in relation to an activity which is a reserved legal activity.

(3) In determining whether it is satisfied of the matters mentioned in sub-paragraph (1)(a) to (c), the licensing authority must in particular have regard to—

(a) the person's probity and financial position,

(b) whether the person is disqualified as mentioned in section 100(1), or included in the list kept by the Board under paragraph 51,

(c) the person's associates, and

(d) any other matter which may be specified in licensing rules.

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(4) Licensing rules must make provision about the procedures that will be applied by the licensing authority when determining whether it is satisfied of the matters mentioned in sub-paragraph (1)(a) to (c).

Commencement Information
I233 Sch. 13 para. 6 in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(d)**

Approval of multiple restricted interests

7 (1) This paragraph applies if a person ("P") holds a kind of restricted interest in a body ("B") by virtue of—

(a) holding a particular percentage of the shares in B or a parent undertaking of B, or

(b) an entitlement to exercise, or control the exercise of, a particular percentage of the voting rights in B or a parent undertaking of B.

(2) If the relevant licensing authority approves P's holding of that interest, it is to be treated as also approving P's holding of any lesser restricted interest in B held by P.

(3) A lesser restricted interest is a kind of restricted interest held by P by virtue of—

(a) holding a smaller percentage of the shares mentioned in sub-paragraph (1)(a), or

(b) an entitlement to exercise, or control the exercise of, a smaller percentage of the voting rights mentioned in sub-paragraph (1)(b).

Commencement Information
I234 Sch. 13 para. 7 in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(d)**

Board's power to prescribe rules

8 In this Schedule "prescribed" means prescribed by rules made by the Board for the purposes of this Schedule.

Lord Chancellor's power to modify

9 The Lord Chancellor may, on the recommendation of the Board, by order modify—

(a) paragraph 3 (material interest);

(b) paragraphs 4(2), 5, 6(3)(c), 38(3), 41(3) and 42(3) (associates).

Commencement Information
I235 Sch. 13 para. 9 in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(d)**

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PART 2

APPROVAL OF RESTRICTED INTERESTS ON APPLICATION FOR LICENCE

Requirement to identify non-authorised persons

10 (1) Where a body applies to a licensing authority for a licence, it must identify in its application—

(a) any non-authorised person who holds a restricted interest in the body, or whom the body expects to hold such an interest when the licence is issued, and

(b) the kind of restricted interest held, or expected to be held, by that person.

(2) If, before the licence is issued, there is any change in—

(a) the identity of the non-authorised persons within sub-paragraph (1)(a), or

(b) the kind of restricted interest held, or expected to be held, by a person identified to the licensing authority under that sub-paragraph,

the applicant must inform the relevant licensing authority within such period as may be specified by order made by the Lord Chancellor on the recommendation of the Board.

Commencement Information
I236 Sch. 13 para. 10 in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(d)**

11 (1) It is an offence for a person to fail to comply with a requirement imposed on the person by paragraph 10.

(2) A person who is guilty of an offence under sub-paragraph (1) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(3) It is a defence for a person charged with an offence under sub-paragraph (1) to show that at the time of the alleged offence the person had no knowledge of the facts by virtue of which the duty to notify arose.

Commencement Information
I237 Sch. 13 para. 11 in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(d)**

12 (1) This paragraph applies if a person under a duty to notify imposed by paragraph 10—

(a) had no knowledge of the facts by virtue of which that duty arose, but

(b) subsequently becomes aware of those facts.

(2) The person must give the licensing authority the required notification within such period, after the person becomes so aware, as may be specified by order made by the Lord Chancellor on the recommendation of the Board.

(3) A person who fails to comply with the duty to notify imposed by sub-paragraph (2) is guilty of an offence.

(4) A person who is guilty of an offence under sub-paragraph (3) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

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Commencement Information
I238 Sch. 13 para. 12 in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(d)**

Requirement to notify non-authorised persons

13 (1) Where an applicant for a licence identifies a non-authorised person to a licensing authority in accordance with paragraph 10 or 12, it must give that person a notice—

(a) stating that it has applied for a licence and identified the person to the licensing authority in accordance with paragraph 10 or 12, and

(b) explaining the effect of paragraph 14.

(2) It is an offence for a person to fail to comply with a requirement imposed on it by sub-paragraph (1).

(3) A person who is guilty of an offence under sub-paragraph (2) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Commencement Information
I239 Sch. 13 para. 13 in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(d)**

Licensing authority's power to require information

14 (1) A licensing authority may require a non-authorised person identified to it in accordance with paragraph 10 or 12 to provide it with such documents and information as it may require.

(2) It is an offence for a person who is required to provide information or documents under sub-paragraph (1) knowingly to provide false or misleading information or documents.

(3) A person who is guilty of an offence under sub-paragraph (2) is liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum, and

(b) on conviction on indictment, to a term of imprisonment not exceeding 2 years or a fine (or both).

Commencement Information
I240 Sch. 13 para. 14 in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(d)**

Licence may not be granted unless non-authorised persons approved

15 (1) This paragraph applies where an applicant for a licence ("the applicant") gives the licensing authority notification under paragraph 10 or 12 in relation to one or more non-authorised persons.

(2) The licensing authority may not grant the application for a licence unless, in relation to each non-authorised person in respect of which notification is given ("the investor"), it approves the investor's holding of the restricted interest to which the notification relates ("the notified interest").

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(3) Sub-paragraph (2) does not apply in relation to a non-authorised person who does not hold the notified interest when the licence is issued.

(4) In this Part of this Schedule, "the applicant", "the investor" and "the notified interest" are to be construed in accordance with this paragraph.

Commencement Information
I241 Sch. 13 para. 15 in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(d)**

Unconditional approval of notified interest

16 (1) If the licensing authority is satisfied that the approval requirements are met in relation to the investor's holding of the notified interest, it must approve the investor's holding of that interest without conditions.

(2) If the licensing authority approves the investor's holding of the notified interest without conditions, it must notify the investor and the applicant of its approval as soon as reasonably practicable.

Commencement Information
I242 Sch. 13 para. 16 in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(d)**

Conditional approval of notified interest

17 (1) If the licensing authority is not satisfied that the approval requirements are met in relation to the investor's holding of the notified interest, it may approve the investor's holding of the notified interest subject to conditions.

(2) It may do so only if it considers that, if the conditions are complied with, it will be appropriate for the investor to hold the notified interest without the approval requirements being met.

(3) If the licensing authority proposes to approve the investor's holding of the notified interest subject to conditions it must give the investor and the applicant a warning notice.

(4) The warning notice must—

(a) specify the nature of the conditions proposed and the reasons for their imposition, and

(b) state that representations may be made to the licensing authority within the prescribed period.

(5) The licensing authority must consider any representations made within the prescribed period.

(6) If the licensing authority approves the investor's holding of the notified interest subject to conditions, it must notify the investor and the applicant of its approval as soon as reasonably practicable.

(7) The notice must—

(a) specify the reasons for the imposition of the conditions, and

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(b) explain the effect of Part 5 of this Schedule.

Commencement Information

I243 Sch. 13 para. 17 partly in force; Sch. 13 para. 17 not in force at Royal Assent see s. 211; Sch. 13 para. 17(4)(b)(5) in force for certain purposes at 1.1.2009 by S.I. 2008/3149, **art. 2(d)(iv)**

I244 Sch. 13 para. 17(1)-(3)(4)(a)(6)(7) in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(d)**

I245 Sch. 13 para. 17(4)(b)(5) in force at 1.10.2011 in so far as not already in force by S.I. 2011/2196, **art. 2(1)(d)**

18 (1) The investor and the applicant may before the end of the prescribed period appeal to the relevant appellate body against the imposition of any or all of the conditions.

(2) The relevant appellate body may dismiss the appeal, or allow the appeal and—

(a) order the licensing authority to approve the investor's holding of the notified interest without conditions, or subject to such conditions as may be specified in the order, or

(b) remit the matter to the licensing authority.

(3) A party to the appeal may before the end of the prescribed period appeal to the High Court on a point of law arising from the decision of the relevant appellant body, but only with the permission of the High Court.

(4) The High Court may make such order as it thinks fit.

(5) If the investor's holding of the notified interest is subject to conditions as a result of an order made on an appeal under this paragraph, for the purposes of this Schedule the conditions are to be treated as having been imposed under paragraph 17.

Modifications etc. (not altering text)

C21 Sch. 13 para. 18 modified (with effect in accordance with art. 2 of the amending S.I.) by Legal Services Act 2007 (Appeals from Licensing Authority Decisions) Order 2011 (S.I. 2011/1712), arts. 2(1), 5, **Sch. para. 2(2)**

C22 Sch. 13 para. 18 modified (18.7.2014) by The Legal Services Act 2007 (Appeals from Licensing Authority Decisions) (Chartered Institute of Patent Attorneys and Institute of Trade Mark Attorneys) Order 2014 (S.I. 2014/1897), art. 2(1), Sch. para. 2(1)**(2)** (with art. 2(2))

C23 Sch. 13 para. 18 modified (18.7.2014) by The Legal Services Act 2007 (Appeals from Licensing Authority Decisions) (Institute of Chartered Accountants in England and Wales) Order 2014 (S.I. 2014/1898), art. 2, Sch. para. 2(1)**(2)**

C24 Sch. 13 para. 18 modified (1.10.2018) by The Legal Services Act 2007 (Appeals from Licensing Authority Decisions) (General Council of the Bar) Order 2018 (S.I. 2018/457), art. 1, **Sch. para. 2(2)**

C25 Sch. 13 para. 18 modified (6.4.2020) by The Legal Services Act 2007 (Chartered Institute of Legal Executives) (Appeals from Licensing Authority Decisions) Order 2020 (S.I. 2020/301), art. 1, **Sch. para. 2(2)**

Commencement Information

I246 Sch. 13 para. 18 partly in force; Sch. 13 para. 18 not in force at Royal Assent see s. 211; Sch. 13 para. 18(1)(3) in force for certain purposes at 1.1.2009 by S.I. 2008/3149, **art. 2(d)(iv)**

I247 Sch. 13 para. 18(1)(3) in force at 1.10.2011 in so far as not already in force by S.I. 2011/2196, **art. 2(1)(d)**

I248 Sch. 13 para. 18(2)(4)(5) in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(d)**

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Changes to legislation: *Legal Services Act 2007 is up to date with all changes known to be in force on or before 05 December 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Objection to notified interest

19 (1) If the licensing authority is not satisfied that the approval requirements are met in relation to the investor's holding of the notified interest, it may object to the investor's holding of that interest.

(2) If the licensing authority proposes to object to the investor's holding of the notified interest, it must give the investor and the applicant a warning notice.

(3) The warning notice must—

(a) specify the reasons for the proposed objection, and

(b) state that representations may be made to the licensing authority within the prescribed period.

(4) The licensing authority must consider any representations made within the prescribed period.

(5) If the licensing authority objects to the investor's holding of the notified interest, it must notify the investor and the applicant of its objection as soon as reasonably practicable.

(6) The notice must—

(a) specify the reasons for the objection, and

(b) explain the effect of Part 5 of this Schedule.

Commencement Information

I249 Sch. 13 para. 19 partly in force; Sch. 13 para. 19 not in force at Royal Assent see s. 211; Sch. 13 para. 19(3)(b)(4) in force for certain purposes at 1.1.2009 by S.I. 2008/3149, **art. 2(d)(iv)**

I250 Sch. 13 para. 19(1)(2)(3)(a)(5)(6) in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(d)**

I251 Sch. 13 para. 19(3)(b)(4) in force at 1.10.2011 in so far as not already in force by S.I. 2011/2196, **art. 2(1)(d)**

20 (1) The investor and the applicant may before the end of the prescribed period appeal to the relevant appellate body against the objection.

(2) The relevant appellate body may dismiss the appeal, or allow the appeal and—

(a) order the licensing authority to approve the investor's holding of the notified interest without conditions, or subject to such conditions as may be specified in the order, or

(b) remit the matter to the licensing authority.

(3) A party to the appeal may before the end of the prescribed period appeal to the High Court on a point of law arising from the decision of the relevant appellate body, but only with the permission of the High Court.

(4) The High Court may make such order as it thinks fit.

(5) If the investor's holding of the notified interest is subject to conditions as a result of an order made on an appeal under this paragraph, for the purposes of this Schedule the conditions are to be treated as having been imposed under paragraph 17.

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Modifications etc. (not altering text)

C26 Sch. 13 para. 20 modified (with effect in accordance with art. 2 of the amending S.I.) by Legal Services Act 2007 (Appeals from Licensing Authority Decisions) Order 2011 (S.I. 2011/1712), arts. 2(1), 5, **Sch. para. 2(3)**

C27 Sch. 13 para. 20 modified (18.7.2014) by The Legal Services Act 2007 (Appeals from Licensing Authority Decisions) (Chartered Institute of Patent Attorneys and Institute of Trade Mark Attorneys) Order 2014 (S.I. 2014/1897), art. 2(1), Sch. para. 2(1)**(3)** (with art. 2(2))

C28 Sch. 13 para. 20 modified (18.7.2014) by The Legal Services Act 2007 (Appeals from Licensing Authority Decisions) (Institute of Chartered Accountants in England and Wales) Order 2014 (S.I. 2014/1898), art. 2, Sch. para. 2(1)**(3)**

C29 Sch. 13 para. 20 modified (1.10.2018) by The Legal Services Act 2007 (Appeals from Licensing Authority Decisions) (General Council of the Bar) Order 2018 (S.I. 2018/457), art. 1, **Sch. para. 2(3)**

C30 Sch. 13 para. 20(3) modified (6.4.2020) by The Legal Services Act 2007 (Chartered Institute of Legal Executives) (Appeals from Licensing Authority Decisions) Order 2020 (S.I. 2020/301), art. 1, **Sch. para. 2(3)**

Commencement Information

I252 Sch. 13 para. 20 partly in force; Sch. 13 para. 20 not in force at Royal Assent see s. 211; Sch. 13 para. 20(1)(3) in force at 1.1.2009 by S.I. 2008/3149, **art. 2(d)(iv)**

I253 Sch. 13 para. 20(1)(3) in force at 1.10.2011 in so far as not already in force by S.I. 2011/2196, **art. 2(1)(d)**

I254 Sch. 13 para. 20(2)(4)(5) in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(d)**

PART 3

APPROVAL OF RESTRICTED INTERESTS AFTER LICENCE IS ISSUED

POWERS OF LICENSING AUTHORITY IN RELATION TO CHANGE OF INTERESTS

Continuing notification requirements

21 (1) This paragraph applies where a non-authorised person ("the investor")—

(a) proposes to take a step which would result in the investor acquiring a restricted interest in a licensed body (or, if the investor already has one or more kinds of restricted interest, acquiring an additional kind of restricted interest), or

(b) acquires such an interest in a licensed body without taking such a step.

(2) In a case within sub-paragraph (1)(a) the investor must notify the licensed body and the relevant licensing authority of the proposal.

(3) In a case within sub-paragraph (1)(b) the investor must notify the licensed body and the relevant licensing authority of the acquisition within such period, after the investor becomes aware of it, as may be specified by order made by the Lord Chancellor on the recommendation of the Board.

(4) In this Part of this Schedule—

(a) references to "the investor" are to be construed in accordance with this paragraph, and

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(b) references to a notifiable interest are to the restricted interest which the investor will have as a result of the step the investor proposes to take (or has as a result of the acquisition which has taken place).

Commencement Information
I255 Sch. 13 para. 21 in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(d)**

Offences in connection with paragraph 21

22 (1) It is an offence for a person to fail to comply with a requirement imposed by—
(a) paragraph 21(2), or
(b) paragraph 21(3).

(2) A person who is guilty of an offence under sub-paragraph (1) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(3) It is a defence for a person charged with an offence under sub-paragraph (1)(a) to show that at the time of the alleged offence the person had no knowledge of the facts by virtue of which the duty to notify arose.

Commencement Information
I256 Sch. 13 para. 22 in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(d)**

23 (1) This paragraph applies if a person under the duty to notify imposed by paragraph 21(2)—
(a) had no knowledge of the facts by virtue of which that duty arose, but
(b) subsequently becomes aware of those facts.

(2) The person must give the licensed body and the licensing authority the required notification within such period, after the person becomes so aware, as may be specified by order made by the Lord Chancellor on the recommendation of the Board.

(3) A person who fails to comply with the duty to notify imposed by sub-paragraph (2) is guilty of an offence.

(4) A person who is guilty of an offence under sub-paragraph (3) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Commencement Information
I257 Sch. 13 para. 23 in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(d)**

24 (1) It is an offence for a non-authorised person, who under paragraph 21(2) is required to notify the licensed body and the relevant licensing authority of a proposal to take a step, to take the step, unless the relevant licensing authority has approved the investor's holding of the notifiable interest under paragraph 27 or 28.

(2) If paragraph 22(3) applies, the reference in sub-paragraph (1) to paragraph 21(2) is to be read as a reference to paragraph 23(2).

(3) A person who is guilty of an offence under sub-paragraph (1) is liable—

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(a) on summary conviction, to a fine not exceeding the statutory maximum, and

(b) on conviction on indictment, to a term of imprisonment not exceeding 2 years or a fine (or both).

Commencement Information

I258 Sch. 13 para. 24 in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(d)**

Duty of licensing authority following notification etc.

25 (1) The relevant licensing authority must—

(a) following receipt of a notification under paragraph 21(2) or (3) or 23(2), or

(b) if the licensing authority becomes aware that an investor has failed to comply with a notification requirement imposed by paragraph 21(2) or (3) or 23(2),

determine which of the steps in sub-paragraph (3) to take.

(2) The licensing authority must make the determination within such period as may be prescribed.

(3) The steps are—

(a) to approve the investor's holding of the notifiable interest unconditionally under paragraph 27,

(b) to warn the investor under paragraph 28(3) that it proposes to approve the investor's holding of the notifiable interest subject to conditions,

(c) to approve under paragraph 28(4) the investor's holding of the notifiable interest subject to conditions,

(d) to warn the investor under paragraph 31(2) that it proposes to object to the investor's holding of the notifiable interest, or

(e) to object under paragraph 31(3) to the investor's holding of the notifiable interest.

Commencement Information

I259 Sch. 13 para. 25 partly in force; Sch. 13 para. 25 not in force at Royal Assent see s. 211; Sch. 13 para. 25(2) in force for certain purposes at 1.1.2009 by S.I. 2008/3149, **art. 2(d)(iv)**

I260 Sch. 13 para. 25(1)(3) in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(d)**

I261 Sch. 13 para. 25(2) in force at 1.10.2011 in so far as not already in force by S.I. 2011/2196, **art. 2(1)(d)**

Licensing authority's power to require information

26 (1) A licensing authority may require the investor to provide it with such documents and information as it may require.

(2) It is an offence for a person who is required to provide information or documents under sub-paragraph (1) knowingly to provide false or misleading information or documents.

(3) A person who is guilty of an offence under sub-paragraph (2) is liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum, and

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(b) on conviction on indictment, to a term of imprisonment not exceeding 2 years or a fine (or both).

Commencement Information
I262 Sch. 13 para. 26 in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(d)**

Unconditional approval of notifiable interest

27 (1) If the licensing authority is satisfied that the approval requirements are met in relation to the investor's holding of the notifiable interest, it must approve the investor's holding of that interest without conditions.

(2) If the licensing authority approves the investor's holding of the notifiable interest without conditions, it must notify the investor and the licensed body of its approval as soon as reasonably practicable.

Commencement Information
I263 Sch. 13 para. 27 in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(d)**

Conditional approval of notifiable interest

28 (1) If the licensing authority is not satisfied that the approval requirements are met in relation to the investor's holding of the notifiable interest, it may approve the investor's holding of that interest subject to conditions.

(2) It may do so only if it considers that, if the conditions are complied with, it will be appropriate for the investor to hold the notifiable interest without the approval requirements being met.

(3) If the licensing authority proposes to approve the investor's holding of the notifiable interest subject to conditions it must give the investor and the licensed body a warning notice.

(4) But the licensing authority may approve the investor's holding of the notifiable interest subject to conditions without giving a warning notice if it considers it necessary or desirable to do so for the purpose of protecting any of the regulatory objectives.

(5) The warning notice must—

(a) specify the nature of the conditions proposed and the reasons for their imposition, and

(b) state that representations may be made to the licensing authority within the prescribed period.

(6) The licensing authority must consider any representations made within the prescribed period.

(7) If the licensing authority approves the investor's holding of the notifiable interest subject to conditions, it must notify the investor and the licensed body of its approval as soon as reasonably practicable.

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(8) The notice must—

(a) specify the reasons for the imposition of the conditions and (if the investor already holds the notifiable interest) the time from which they have effect, and

(b) explain the effect of Part 5 of this Schedule.

Commencement Information

I264 Sch. 13 para. 28 partly in force; Sch. 13 para. 28 not in force at Royal Assent see s. 211; Sch. 13 para. 28(5)(b)(6) in force for certain purposes at 1.1.2009 by S.I. 2008/3149, **art. 2(d)(iv)**

I265 Sch. 13 para. 28(1)-(4)(5)(a)(7)(8) in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(d)**

I266 Sch. 13 para. 28(5)(b)(6) in force at 1.10.2011 in so far as not already in force by S.I. 2011/2196, **art. 2(1)(d)**

29 (1) The investor and the licensed body may before the end of the prescribed period appeal to the relevant appellate body against the imposition of any or all the conditions.

(2) The relevant appellate body may dismiss the appeal, or allow the appeal and—

(a) order the licensing authority to approve the investor's holding of the notifiable interest without conditions, or subject to such conditions as may be specified in the order, or

(b) remit the matter to the licensing authority.

(3) A party to the appeal may before the end of the prescribed period appeal to the High Court on a point of law arising from the decision of the relevant appellate body, but only with the permission of the High Court.

(4) The High Court may make such order as it thinks fit.

(5) If the investor's holding of the notifiable interest is subject to conditions as a result of an order made on an appeal under this paragraph, for the purposes of this Schedule the conditions are to be treated as having been imposed under paragraph 28.

Modifications etc. (not altering text)

C31 Sch. 13 para. 29 modified (with effect in accordance with art. 2 of the amending S.I.) by Legal Services Act 2007 (Appeals from Licensing Authority Decisions) Order 2011 (S.I. 2011/1712), arts. 2(1), 5, **Sch. para. 2(4)**

C32 Sch. 13 para. 29 modified (18.7.2014) by The Legal Services Act 2007 (Appeals from Licensing Authority Decisions) (Institute of Chartered Accountants in England and Wales) Order 2014 (S.I. 2014/1898), art. 2, Sch. para. 2(1)**(4)**

C33 Sch. 13 para. 29 modified (18.7.2014) by The Legal Services Act 2007 (Appeals from Licensing Authority Decisions) (Chartered Institute of Patent Attorneys and Institute of Trade Mark Attorneys) Order 2014 (S.I. 2014/1897), art. 2(1), Sch. para. 2(1)**(4)** (with art. 2(2))

C34 Sch. 13 para. 29 modified (1.10.2018) by The Legal Services Act 2007 (Appeals from Licensing Authority Decisions) (General Council of the Bar) Order 2018 (S.I. 2018/457), art. 1, **Sch. para. 2(4)**

C35 Sch. 13 para. 29 modified (6.4.2020) by The Legal Services Act 2007 (Chartered Institute of Legal Executives) (Appeals from Licensing Authority Decisions) Order 2020 (S.I. 2020/301), art. 1, **Sch. para. 2(4)**

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Commencement Information

I267 Sch. 13 para. 29 partly in force; Sch. 13 para. 29 not in force at Royal Assent see s. 211; Sch. 13 para. 29(1)(3) in force for certain purposes at 1.1.2009 by S.I. 2008/3149, **art. 2(d)(iv)**

I268 Sch. 13 para. 29(1)(3) in force at 1.10.2011 in so far as not already in force by S.I. 2011/2196, **art. 2(1)(d)**

I269 Sch. 13 para. 29(2)(4)(5) in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(d)**

Duration of unconditional or conditional approval

30 In a case within paragraph 21(1)(a), the licensing authority's approval under paragraph 27 or 28 remains effective only if the investor acquires the notifiable interest—

(a) before the end of such period as may be specified in the notice under paragraph 27(2) or 28(7), or

(b) if no such period is specified, before the end of the period of one year beginning with the date of that notice.

Commencement Information

I270 Sch. 13 para. 30 in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(d)**

Objection to acquisition of notifiable interest

31 (1) If the licensing authority is not satisfied that the approval requirements are met in relation to the investor's holding of the notifiable interest, it may object to the investor's holding of that interest.

(2) If the licensing authority proposes to object to the investor's holding of the notifiable interest, it must give the investor and the licensed body a warning notice.

(3) But the licensing authority may object to the investor's holding of the notifiable interest without giving a warning notice if it considers it necessary or desirable to do so for the purpose of protecting any of the regulatory objectives.

(4) The warning notice must—

(a) specify the reasons for the proposed objection, and

(b) state that representations may be made to the licensing authority within the prescribed period.

(5) The licensing authority must consider any representations made within the prescribed period.

(6) If the licensing authority objects to the investor's holding of the notifiable interest, it must notify the investor and the licensed body of its objection as soon as reasonably practicable.

(7) The notice must—

(a) specify the reasons for the objection, and

(b) explain the effect of Part 5 of this Schedule.

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Commencement Information

I271 Sch. 13 para. 31 partly in force; Sch. 13 para. 31 not in force at Royal Assent see s. 211; Sch. 13 para. 31(4)(b)(5) in force for certain purposes at 1.1.2009 by S.I. 2008/3149, **art. 2(d)(iv)**

I272 Sch. 13 para. 31(1)-(3)(4)(a)(6)(7) in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(d)**

I273 Sch. 13 para. 31(4)(b)(5) in force at 1.10.2011 in so far as not already in force by S.I. 2011/2196, **art. 2(1)(d)**

32 (1) The investor and the licensed body may before the end of the prescribed period appeal to the relevant appellate body against the objection.

(2) The relevant appellate body may dismiss the appeal, or allow the appeal and—

(a) order the licensing authority to approve the investor's holding of the notifiable interest without conditions, or subject to such conditions as may be specified in the order, or

(b) remit the matter to the licensing authority.

(3) A party to the appeal may before the end of the prescribed period appeal to the High Court on a point of law arising from the decision of the relevant appellant body, but only with the permission of the High Court.

(4) The High Court may make such order as it thinks fit.

(5) If the investor's holding of the notifiable interest is subject to conditions as a result of an order made on an appeal under this paragraph, for the purposes of this Schedule the conditions are to be treated as having been imposed under paragraph 28.

Modifications etc. (not altering text)

C36 Sch. 13 para. 32 modified (with effect in accordance with art. 2 of the amending S.I.) by Legal Services Act 2007 (Appeals from Licensing Authority Decisions) Order 2011 (S.I. 2011/1712), arts. 2(1), 5, **Sch. para. 2(5)**

C37 Sch. 13 para. 32 modified (18.7.2014) by The Legal Services Act 2007 (Appeals from Licensing Authority Decisions) (Chartered Institute of Patent Attorneys and Institute of Trade Mark Attorneys) Order 2014 (S.I. 2014/1897), art. 2(1), Sch. para. 2(1)**(5)** (with art. 2(2))

C38 Sch. 13 para. 32 modified (18.7.2014) by The Legal Services Act 2007 (Appeals from Licensing Authority Decisions) (Institute of Chartered Accountants in England and Wales) Order 2014 (S.I. 2014/1898), art. 2, Sch. para. 2(1)**(5)**

C39 Sch. 13 para. 32 modified (1.10.2018) by The Legal Services Act 2007 (Appeals from Licensing Authority Decisions) (General Council of the Bar) Order 2018 (S.I. 2018/457), art. 1, **Sch. para. 2(5)**

C40 Sch. 13 para. 32 modified (6.4.2020) by The Legal Services Act 2007 (Chartered Institute of Legal Executives) (Appeals from Licensing Authority Decisions) Order 2020 (S.I. 2020/301), art. 1, **Sch. para. 2(5)**

Commencement Information

I274 Sch. 13 para. 32 partly in force; Sch. 13 para. 32 not in force at Royal Assent see s. 211; Sch. 13 para. 32(1)(3) in force for certain purposes at 1.1.2009 by S.I. 2008/3149, **art. 2(d)(iv)**

I275 Sch. 13 para. 32(1)(3) in force at 1.10.2011 in so far as not already in force by S.I. 2011/2196, **art. 2(1)(d)**

I276 Sch. 13 para. 32(2)(4)(5) in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(d)**

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POWERS OF LICENSING AUTHORITY WHERE NO CHANGE OF INTERESTS

Imposition of conditions (or further conditions) on existing restricted interest

33 (1) The relevant licensing authority may impose conditions (or further conditions) on a person's holding of a restricted interest in a licensed body (or a restricted interest of a particular kind) if—

(a) it is not satisfied that the approval requirements are met in relation to the person's holding of that interest, or

(b) it is satisfied that a condition imposed under paragraph 17 or 28 or this paragraph on the person's holding of that interest has not been, or is not being, complied with.

(2) The licensing authority may act under sub-paragraph (1) only—

(a) if it considers that, if the conditions are complied with, it will be appropriate for the investor to hold the restricted interest without the approval requirements being met, and

(b) before the end of such period (beginning with the time when the licensing authority becomes aware of the matters in question) as may be prescribed.

(3) If the licensing authority proposes to impose conditions (or further conditions) on the person's holding of the restricted interest, it must give the person and the licensed body a warning notice.

(4) But the licensing authority may impose conditions (or further conditions) on the person's holding of the restricted interest without giving a warning notice if it considers it necessary or desirable to do so for the purpose of protecting any of the regulatory objectives.

(5) The warning notice must—

(a) specify the nature of the conditions proposed and the reasons for their imposition, and

(b) state that representations may be made to the licensing authority within the prescribed period.

(6) The licensing authority must consider any representations made within the prescribed period.

(7) If the licensing authority imposes conditions (or further conditions) on the person's holding of the restricted interest, it must notify the person and the licensed body as soon as reasonably practicable.

(8) The notice must—

(a) specify the reasons for the imposition of the conditions, and the time from which they are to take effect, and

(b) explain the effect of Part 5 of this Schedule.

Commencement Information

I277 Sch. 13 para. 33 partly in force; Sch. 13 para. 33 not in force at Royal Assent see s. 211; Sch. 13 para. 33(2)(b)(5)(b)(6) in force for certain purposes at 1.1.2009 by S.I. 2008/3149, **art. 2(d)(iv)**

I278 Sch. 13 para. 33(1)(2)(a)(3)(4)(5)(a)(7)(8) in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(d)**

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I279 Sch. 13 para. 33(2)(b)(5)(b)(6) in force at 1.10.2011 in so far as not already in force by S.I. 2011/2196, **art. 2(1)(d)**

34 (1) The person and the licensed body may before the end of the prescribed period appeal to the relevant appellate body against any or all of the conditions (or further conditions).

(2) The relevant appellate body may dismiss the appeal, or allow the appeal and—

(a) modify or quash the conditions imposed by the licensing authority under paragraph 33, or

(b) remit the matter to the licensing authority.

(3) A party to the appeal may before the end of the prescribed period appeal to the High Court on a point of law arising from the decision of the relevant appellate body, but only with the permission of the High Court.

(4) The High Court may make such order as it thinks fit.

(5) If the person's holding of the restricted interest is subject to any conditions as a result of an order made on an appeal under this paragraph, for the purposes of this Schedule those conditions are to be treated as having been imposed under paragraph 33.

Modifications etc. (not altering text)

C41 Sch. 13 para. 34 modified (with effect in accordance with art. 2 of the amending S.I.) by Legal Services Act 2007 (Appeals from Licensing Authority Decisions) Order 2011 (S.I. 2011/1712), arts. 2(1), 5, **Sch. para. 2(6)**

C42 Sch. 13 para. 34 modified (18.7.2014) by The Legal Services Act 2007 (Appeals from Licensing Authority Decisions) (Chartered Institute of Patent Attorneys and Institute of Trade Mark Attorneys) Order 2014 (S.I. 2014/1897), art. 2(1), Sch. para. 2(1)**(6)** (with art. 2(2))

C43 Sch. 13 para. 34 modified (18.7.2014) by The Legal Services Act 2007 (Appeals from Licensing Authority Decisions) (Institute of Chartered Accountants in England and Wales) Order 2014 (S.I. 2014/1898), art. 2, Sch. para. 2(1)**(6)**

C44 Sch. 13 para. 34 modified (1.10.2018) by The Legal Services Act 2007 (Appeals from Licensing Authority Decisions) (General Council of the Bar) Order 2018 (S.I. 2018/457), art. 1, **Sch. para. 2(6)**

C45 Sch. 13 para. 34 modified (6.4.2020) by The Legal Services Act 2007 (Chartered Institute of Legal Executives) (Appeals from Licensing Authority Decisions) Order 2020 (S.I. 2020/301), art. 1, **Sch. para. 2(6)**

Commencement Information

I280 Sch. 13 para. 34 partly in force; Sch. 13 para. 34 not in force at Royal Assent see s. 211; Sch. 13 para. 34(1)(3) in force for certain purposes at 1.1.2009 by S.I. 2008/3149, **art. 2(d)(iv)**

I281 Sch. 13 para. 34(1)(3) in force at 1.10.2011 in so far as not already in force by S.I. 2011/2196, **art. 2(1)(d)**

I282 Sch. 13 para. 34(2)(4)(5) in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(d)**

Variation and cancellation of conditions

35 (1) A person whose holding of a restricted interest in a licensed body is subject to a condition imposed under paragraph 17, 28 or 33 may apply to the relevant licensing authority—

(a) for the condition to be varied, or

(b) for the condition to be cancelled.

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(2) The licensing authority may, on its own initiative, cancel a condition imposed under one of those paragraphs.

(3) If the licensing authority varies or cancels a condition under this paragraph, it must notify the person and the licensed body as soon as reasonably practicable.

Commencement Information

I283 Sch. 13 para. 35 in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(d)**

Objection to existing restricted interest

36 (1) The relevant licensing authority may object to a person's holding of a restricted interest in a licensed body (or a restricted interest of a particular kind) if—

(a) it is not satisfied that the approval requirements are met in relation to the person's holding of that interest, or

(b) it is satisfied that a condition imposed under paragraph 17, 28 or 33 on the person's holding of the interest has not been, or is not being, complied with.

(2) The licensing authority may act under sub-paragraph (1) only before the end of such period (beginning with the time when the licensing authority becomes aware of the matters in question) as may be prescribed.

(3) If the licensing authority proposes to object to a person's holding of the restricted interest, it must give the person and the licensed body a warning notice.

(4) But the licensing authority may object to the person's holding of the restricted interest without giving a warning notice if it considers it necessary or desirable to do so for the purpose of protecting any of the regulatory objectives.

(5) The warning notice must—

(a) specify the reasons for the proposed objection, and

(b) state that representations may be made to the licensing authority within the prescribed period.

(6) The licensing authority must consider any representations made within the prescribed period.

(7) If the licensing authority objects to the person's holding of the restricted interest, it must notify the person and the licensed body of its objection as soon as reasonably practicable.

(8) The notice must—

(a) specify the reasons for the objection, and

(b) explain the effect of Part 5 of this Schedule.

Commencement Information

I284 Sch. 13 para. 36 partly in force; Sch. 13 para. 36 not in force at Royal Assent see s. 211; Sch. 13 para. 36(2)(5)(b)(6) in force for certain purposes at 1.1.2009 by S.I. 2008/3149, **art. 2(d)(iv)**

I285 Sch. 13 para. 36(1)(3)(4)(5)(a)(7)(8) in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(d)**

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I286 Sch. 13 para. 36(2)(5)(b)(6) in force at 1.10.2011 in so far as not already in force by S.I. 2011/2196, **art. 2(1)(d)**

37 (1) The person and the licensed body may before the end of the prescribed period appeal to the relevant appellate body against the objection.

(2) The relevant appellate body may dismiss or allow the appeal.

(3) If the relevant appellate body allows the appeal it may also—

(a) order the licensing authority to impose under paragraph 33 such conditions on the person's holding of the restricted interest as may be specified in the order, or

(b) remit the matter to the licensing authority.

(4) A party to the appeal may before the end of the prescribed period appeal to the High Court on a point of law arising from the decision of the relevant appellant body, but only with the permission of the High Court.

(5) The High Court may make such order as it thinks fit.

(6) If the person's holding of the restricted interest is subject to conditions as a result of an order made on an appeal under this paragraph, for the purposes of this Schedule the conditions are to be treated as having been imposed under paragraph 33.

Modifications etc. (not altering text)

C46 Sch. 13 para. 37 modified (with effect in accordance with art. 2 of the amending S.I.) by Legal Services Act 2007 (Appeals from Licensing Authority Decisions) Order 2011 (S.I. 2011/1712), arts. 2(1), 5, **Sch. para. 2(7)**

C47 Sch. 13 para. 37 modified (18.7.2014) by The Legal Services Act 2007 (Appeals from Licensing Authority Decisions) (Chartered Institute of Patent Attorneys and Institute of Trade Mark Attorneys) Order 2014 (S.I. 2014/1897), art. 2(1), Sch. para. 2(1)**(7)** (with art. 2(2))

C48 Sch. 13 para. 37 modified (18.7.2014) by The Legal Services Act 2007 (Appeals from Licensing Authority Decisions) (Institute of Chartered Accountants in England and Wales) Order 2014 (S.I. 2014/1898), art. 2, Sch. para. 2(1)**(7)**

C49 Sch. 13 para. 37 modified (1.10.2018) by The Legal Services Act 2007 (Appeals from Licensing Authority Decisions) (General Council of the Bar) Order 2018 (S.I. 2018/457), art. 1, **Sch. para. 2(7)**

C50 Sch. 13 para. 37 modified (6.4.2020) by The Legal Services Act 2007 (Chartered Institute of Legal Executives) (Appeals from Licensing Authority Decisions) Order 2020 (S.I. 2020/301), art. 1, **Sch. para. 2(7)**

Commencement Information

I287 Sch. 13 para. 37 partly in force; Sch. 13 para. 37 not in force at Royal Assent see s. 211; Sch. 13 para. 37(1)(4) in force for certain purposes at 1.1.2009 by S.I. 2008/3149, **art. 2(d)(iv)**

I288 Sch. 13 para. 37(1)(4) in force at 1.10.2011 in so far as not already in force by S.I. 2011/2196, **art. 2(1)(d)**

I289 Sch. 13 para. 37(2)(3)(5)(6) in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(d)**

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PART 4

ADDITIONAL RESTRICTIONS

Power to impose share limit, voting limit etc

38 (1) Licensing rules may provide that—

(a) a non-authorised person may not have a shareholding in a licensed body, or in a parent undertaking of a licensed body, which exceeds a limit specified in the rules ("the share limit");

(b) a non-authorised person may not have an entitlement to exercise, or control the exercise of, voting rights in a licensable body, or a parent undertaking of a licensable body, which exceeds a limit specified in the rules ("the voting limit");

(c) the total proportion of shares in a licensed body, or a parent undertaking of a licensed body, held by non-authorised persons may not exceed a limit specified in the rules;

(d) the total proportion of voting rights in a licensed body, or a parent undertaking of a licensed body, which non-authorised persons are entitled to exercise or control the exercise of, may not exceed a limit specified in the rules.

(2) Rules made under any paragraph of sub-paragraph (1) in relation to a licensed body and a parent undertaking may specify different limits in relation to the licensed body and the parent undertaking.

(3) Licensing rules made under sub-paragraph (1)(a) or (b) may provide that references in those rules to a person, in relation to a person's shareholding or entitlement to exercise or control the exercise of voting rights, are to—

(a) the person,

(b) any of the person's associates, or

(c) the person and any of the person's associates taken together.

(4) In relation to a licensed body which is a partnership, for the purposes of section 34 of the Partnership Act 1890 (c. 39) (dissolution by illegality) a breach of licensing rules made under sub-paragraph (1) does not make it unlawful for the business of the partnership to be carried on, or for the partners to carry it on in partnership.

Commencement Information
I290 Sch. 13 para. 38 in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(d)**

Obligation to notify where share limit or voting limit exceeded

39 (1) This paragraph applies in relation to a licensed body, or a parent undertaking of a licensed body, if licensing rules made by the relevant licensing authority make the provision mentioned in paragraph 38(1)(a) or (b) in relation to the body.

(2) Any non-authorised person who acquires—

(a) a shareholding in the body which exceeds the share limit, or

(b) an entitlement to exercise, or control the exercise of, voting rights in the body which exceeds the voting limit,

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must notify the body (and, if the body is a parent undertaking of a licensed body, the licensed body) and the licensing authority of the acquisition within such period, after the person becomes aware of it, as may be specified by order made by the Lord Chancellor on the recommendation of the Board.

(3) It is an offence for a person to fail to comply with a requirement imposed by sub-paragraph (2).

(4) A person who is guilty of an offence under sub-paragraph (3) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(5) It is a defence for a person charged with an offence under sub-paragraph (3) to show that at the time of the alleged offence the person had no knowledge of the facts by virtue of which the duty to notify arose.

Commencement Information
I291 Sch. 13 para. 39 in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(d)**

40 (1) This paragraph applies if a person under the duty to notify imposed by paragraph 39(2)—

(a) had no knowledge of the facts by virtue of which that duty arose, but

(b) subsequently becomes aware of those facts.

(2) The person must give the body (and, if the body is a parent undertaking of a licensed body, the licensed body) and the licensing authority the required notification within such period, after the person becomes so aware, as may be specified by order made by the Lord Chancellor on the recommendation of the Board.

(3) A person who fails to comply with the duty to notify imposed by sub-paragraph (2) is guilty of an offence.

(4) A person who is guilty of an offence under sub-paragraph (3) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Commencement Information
I292 Sch. 13 para. 40 in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(d)**

PART 5

ENFORCEMENT

DIVESTITURE

The divestiture condition

41 (1) The divestiture condition is satisfied in relation to a non-authorised person and a licensed body if—

(a) the person holds a restricted interest in the licensed body in the circumstances mentioned in sub-paragraph (2), and

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(b) the person holds that interest, in whole or in part, by virtue of the person's shareholding in a body corporate with a share capital (in this Part of this Schedule referred to as "the relevant shares").

(2) The circumstances are that the person holds the restricted interest—

(a) as a result of the person taking a step in circumstances in which that constitutes an offence under paragraph 24(1) (whether or not the person is charged with or convicted of an offence under that paragraph),

(b) in breach of conditions imposed under paragraph 17, 28, or 33, or

(c) in contravention of an objection by the licensing authority under paragraph 31 or 36.

(3) In sub-paragraph (1)(b), references to a person's shareholding are to be read in accordance with paragraph 3(3) or 4(2) (as the case may be).

Commencement Information
I293 Sch. 13 para. 41 in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(d)**

42 (1) If the relevant licensing rules make the provision mentioned in paragraph 38(1)(a) or (b), the divestiture condition is also satisfied in relation to a non-authorised person and a licensed body if—

(a) the person's shareholding in the body, or a parent undertaking of the body, exceeds the share limit, and the body or parent undertaking (as the case may be) is a body corporate with a share capital, or

(b) the person's entitlement to exercise or control the exercise of voting rights in the body, or a parent undertaking of the body, exceeds the voting limit by virtue of the person holding shares in a body corporate with a share capital.

(2) In this Part of this Schedule, "excess shares" means

(a) in a case within sub-paragraph (1)(a), the number of shares by which the person's shareholding exceeds the share limit, and

(b) in a case within sub-paragraph (1)(b), the number of shares held by the person in excess of the number of shares the person could hold without the person's entitlement to exercise, or control the exercise of, voting rights exceeding the voting limit.

(3) References in this paragraph to a person's shareholding (or holding of shares) or entitlement are to be read in accordance with any applicable licensing rules made under paragraph 38(3).

Commencement Information
I294 Sch. 13 para. 42 in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(d)**

Application for divestiture

43 (1) If the divestiture condition is satisfied in relation to a non-authorised person and a licensed body, the licensing authority may give the person a restriction notice under paragraph 44 and apply to the High Court for an order under paragraph 45.

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(2) The licensing authority may not make an application to the High Court for an order under paragraph 45 unless—

(a) it has notified the person that it intends to do so if the divestiture condition is satisfied in relation to the person and the body at the end of the relevant period, and

(b) the relevant period has expired.

(3) The relevant period is such period (not less than the prescribed period) as may be specified in the notice.

Commencement Information

I295 Sch. 13 para. 43 partly in force; Sch. 13 para. 43 not in force at Royal Assent see s. 211; Sch. 13 para. 43(3) in force for certain purposes at 1.1.2009 by S.I. 2008/3149, **art. 2(d)(iv)**

I296 Sch. 13 para. 43(1)(2) in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(d)**

I297 Sch. 13 para. 43(3) in force at 1.10.2011 in so far as not already in force by S.I. 2011/2196, **art. 2(1)(d)**

Restriction notice

44 (1) A restriction notice is a notice directing that such of the relevant shares or excess shares (as the case may be) as are specified in the notice are, until further notice, subject to one or more of the following restrictions.

(2) The restrictions are—

(a) a transfer of (or agreement to transfer) those shares, or in the case of unissued shares a transfer of (or agreement to transfer) the right to be issued with them, is void;

(b) no voting rights are to be exercisable in respect of the shares;

(c) no further shares are to be issued in right of them or in pursuance of any offer made to their holder;

(d) except in a liquidation, no payment is to be made of any sums due from the company on the shares, whether in respect of capital or otherwise.

(3) A copy of the restriction notice must be given to the body to whose shares it relates.

(4) A restriction notice ceases to have effect—

(a) in accordance with an order of the High Court under paragraph 45(4);

(b) if no application has been made to the High Court for an order under paragraph 45 before the end of such period as may be prescribed, at the end of that period;

(c) if the licensed body ceases to be licensed by the licensing authority.

Commencement Information

I298 Sch. 13 para. 44 partly in force; Sch. 13 para. 44 not in force at Royal Assent see s. 211; Sch. 13 para. 44(4)(b) in force for certain purposes at 1.1.2009 by S.I. 2008/3149, **art. 2(d)(iv)**

I299 Sch. 13 para. 44(1)-(3)(4)(a)(c) in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(d)**

I300 Sch. 13 para. 44(4)(b) in force at 1.10.2011 in so far as not already in force by S.I. 2011/2196, **art. 2(1)(d)**

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Divestiture by High Court

45 (1) If the divestiture condition is satisfied by virtue of paragraph 41 the High Court may, on the application of the licensing authority, order the sale of the appropriate number of the relevant shares.

(2) The appropriate number of the relevant shares is the number of those shares, the sale of which will result in the non-authorised person no longer holding—

(a) a restricted interest in the licensed body, or

(b) if the non-authorised person holds more than one kind of restricted interest, a restricted interest the person's holding of which is within paragraph 41(2).

(3) If the divestiture condition is satisfied by virtue of paragraph 42 the High Court may, on the application of the licensing authority, order the sale of the excess shares.

(4) If shares are for the time being subject to any restriction under paragraph 44, the court may order that they are to cease to be subject to that restriction.

(5) If the divestiture condition is satisfied by virtue of paragraph 41(2)(b) or (c), no order may be made under sub-paragraph (1) or (4)—

(a) until the end of the period within which an appeal may be made against the imposition of the conditions or the objection, or

(b) if an appeal is made, until the appeal has been determined or withdrawn.

(6) If an order has been made under sub-paragraph (1) or (3) the court may, on the application of the licensing authority, make such further order relating to the sale or transfer of the shares as it thinks fit.

(7) If shares are sold in pursuance of an order under this paragraph, the proceeds of sale, less the costs of sale, must be paid into court for the benefit of the persons beneficially interested in them.

(8) Any such person may apply to the court for the whole or part of the proceeds to be paid to the person.

Commencement Information
I301 Sch. 13 para. 45 in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(d)**

CONDITIONS

Enforcement of conditions

46 (1) If a person holds a restricted interest in a licensed body in breach of conditions imposed under paragraph 17, 28 or 33, the licensing authority may make an application to the High Court for an order under this paragraph.

(2) The licensing authority may not make such an application unless—

(a) it has notified the person that it intends to do so if the conditions are not complied with before the end of the relevant period, and

(b) the relevant period has expired.

(3) The relevant period is such period (not less than the prescribed period) as may be specified in the notice.

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(4) The High Court may, on the application of the licensing authority, make such order as the court thinks fit to secure compliance with the conditions to which the person's holding of the restricted interest is subject.

(5) No order may be made under this paragraph—

(a) until the end of the period within which an appeal may be made against the imposition of the conditions, or

(b) if an appeal is made, until the appeal has been determined or withdrawn.

Commencement Information

I302 Sch. 13 para. 46 partly in force; Sch. 13 para. 46 not in force at Royal Assent see s. 211; Sch. 13 para. 46(3) in force for certain purposes at 1.1.2009 by S.I. 2008/3149, **art. 2(d)(iv)**

I303 Sch. 13 para. 46(1)(2)(4)(5) in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(d)**

I304 Sch. 13 para. 46(3) in force at 1.10.2011 in so far as not already in force by S.I. 2011/2196, **art. 2(1)(d)**

RECORDS OF DECISIONS

Duty to notify Board of decisions under this Schedule

47 (1) The relevant licensing authority must notify the Board where—

(a) it has objected under paragraph 19, 31, or 36 to a person's holding of a restricted interest, or

(b) it has imposed conditions under paragraph 17, 28, or 33 on a person's holding of a restricted interest.

(2) The notification must state—

(a) the reasons for the objection or imposition of conditions, and

(b) the kind of restricted interest to which the objection or conditions related.

(3) If the licensing authority takes any action under paragraph 43 in relation to a person notified to the Board under sub-paragraph (1), it must notify the Board of that fact.

(4) If there is an appeal to the relevant appellate body against the objection or imposition of conditions, the licensing authority must notify the Board of the outcome of that appeal (and any subsequent appeal to the High Court).

(5) If the licensing authority has imposed conditions on a person's holding of a restricted interest, it must notify the Board of any decision taken by it under paragraph 35 (variation and cancellation of conditions).

(6) The licensing authority must give the person and the licensed body concerned a copy of any notification it gives the Board under this paragraph.

Modifications etc. (not altering text)

C51 Sch. 13 para. 47 modified (with effect in accordance with art. 2 of the amending S.I.) by Legal Services Act 2007 (Appeals from Licensing Authority Decisions) Order 2011 (S.I. 2011/1712), arts. 2(1), 5, **Sch. para. 2(8)**

C52 Sch. 13 para. 47 modified (18.7.2014) by The Legal Services Act 2007 (Appeals from Licensing Authority Decisions) (Chartered Institute of Patent Attorneys and Institute of Trade Mark Attorneys) Order 2014 (S.I. 2014/1897), art. 2(1), Sch. para. 2(1)**(8)** (with art. 2(2))

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C53 Sch. 13 para. 47 modified (18.7.2014) by The Legal Services Act 2007 (Appeals from Licensing Authority Decisions) (Institute of Chartered Accountants in England and Wales) Order 2014 (S.I. 2014/1898), art. 2, Sch. para. 2(1)**(8)**

C54 Sch. 13 para. 47 modified (6.4.2020) by The Legal Services Act 2007 (Chartered Institute of Legal Executives) (Appeals from Licensing Authority Decisions) Order 2020 (S.I. 2020/301), art. 1, **Sch. para. 2(8)**

C55 Sch. 13 para. 47(4) modified (1.10.2018) by The Legal Services Act 2007 (Appeals from Licensing Authority Decisions) (General Council of the Bar) Order 2018 (S.I. 2018/457), art. 1, **Sch. para. 2(8)**

Commencement Information

I305 Sch. 13 para. 47 in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(d)**

48 (1) A licensing authority must notify the Board where under paragraph 16, 17, 27 or 28 it approves the holding of a restricted interest in a licensed body by a person included in the list kept by the Board under paragraph 51.

(2) The notification must state—

(a) if the approval was under paragraph 17 or 28, the conditions to which the approval was subject, and

(b) the reasons for the licensing authority's decision to approve the person's holding of the interest.

(3) If the approval was under paragraph 17 or 28 and there is an appeal to the relevant appellate body against the imposition of conditions, the licensing authority must notify the Board of the outcome of that appeal (and any subsequent appeal to the High Court).

(4) If the approval was under paragraph 17 or 28, the licensing authority must notify the Board of any decision taken by it under paragraph 35 (variation and cancellation of conditions).

(5) The licensing authority must give the person and the licensed body concerned a copy of any notification it gives the Board under this paragraph.

Modifications etc. (not altering text)

C56 Sch. 13 para. 48 modified (with effect in accordance with art. 2 of the amending S.I.) by Legal Services Act 2007 (Appeals from Licensing Authority Decisions) Order 2011 (S.I. 2011/1712), arts. 2(1), 5, **Sch. para. 2(9)**

C57 Sch. 13 para. 48 modified (18.7.2014) by The Legal Services Act 2007 (Appeals from Licensing Authority Decisions) (Institute of Chartered Accountants in England and Wales) Order 2014 (S.I. 2014/1898), art. 2, Sch. para. 2(1)**(9)**

C58 Sch. 13 para. 48 modified (18.7.2014) by The Legal Services Act 2007 (Appeals from Licensing Authority Decisions) (Chartered Institute of Patent Attorneys and Institute of Trade Mark Attorneys) Order 2014 (S.I. 2014/1897), art. 2(1), Sch. para. 2(1)**(9)** (with art. 2(2))

C59 Sch. 13 para. 48 modified (6.4.2020) by The Legal Services Act 2007 (Chartered Institute of Legal Executives) (Appeals from Licensing Authority Decisions) Order 2020 (S.I. 2020/301), art. 1, **Sch. para. 2(9)**

C60 Sch. 13 para. 48(3) modified (1.10.2018) by The Legal Services Act 2007 (Appeals from Licensing Authority Decisions) (General Council of the Bar) Order 2018 (S.I. 2018/457), art. 1, **Sch. para. 2(9)**

Commencement Information

I306 Sch. 13 para. 48 in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(d)**

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Power to notify Board where share limit or voting limit breached

49 (1) This paragraph applies if the relevant licensing rules make the provision mentioned in paragraph 38(1)(a) or (b).

(2) The licensing authority may, if it considers it appropriate to do so in all the circumstances of the case, notify the Board where a non-authorised person acquires—

(a) a shareholding in a licensed body or parent undertaking of a licensed body which exceeds the share limit, or

(b) an entitlement to exercise, or control the exercise of, voting rights in a licensed body or parent undertaking of a licensed body which exceeds the voting limit.

(3) If the licensing authority proposes to make a notification under sub-paragraph (2), it must give the person and the licensed body a warning notice.

(4) The warning notice must—

(a) specify the reasons for the proposed notification, and

(b) state that representations may be made to the licensing authority within the prescribed period.

(5) The licensing authority must consider any representations made within the prescribed period.

(6) If the licensing authority notifies the Board under sub-paragraph (2), it must give the person concerned and the licensed body a copy of the notification and a notice stating the reasons for the notification.

(7) If the share limit or voting limit is breached in relation to a parent undertaking of a licensed body, references in sub-paragraphs (3) and (6) to the licensed body include the parent undertaking.

Commencement Information

I307 Sch. 13 para. 49 partly in force; Sch. 13 para. 49 not in force at Royal Assent see s. 211; Sch. 13 para. 49(4)(b)(5) in force for certain purposes at 1.1.2009 by S.I. 2008/3149, **art. 2(d)(iv)**

I308 Sch. 13 para. 49(1)-(3)(4)(a) (6) (7) in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(d)**

I309 Sch. 13 para. 49(4)(b)(5) in force at 1.10.2011 in so far as not already in force by S.I. 2011/2196, **art. 2(1)(d)**

50 (1) The person concerned and the licensed body may before the end of the prescribed period appeal to the relevant appellate body against the notification.

(2) The relevant appellate body may—

(a) dismiss the appeal, or

(b) allow the appeal and order the person's name to be removed from the list kept by the Board under paragraph 51.

(3) A party to the appeal may before the end of the prescribed period appeal to the High Court on a point of law arising from the decision of the relevant appellant body, but only with the permission of the High Court.

(4) The High Court may make such order as it thinks fit.

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(5) The licensing authority must notify the Board of the outcome of any appeal under this paragraph, and give the person concerned and the licensed body a copy of the notification.

(6) If the share limit or voting limit is breached in relation to a parent undertaking of a licensed body, references in sub-paragraphs (1) and (5) to the licensed body include the parent undertaking.

Modifications etc. (not altering text)

C61 Sch. 13 para. 50 modified (with effect in accordance with art. 2 of the amending S.I.) by Legal Services Act 2007 (Appeals from Licensing Authority Decisions) Order 2011 (S.I. 2011/1712), arts. 2(1), 5, **Sch. para. 2(10)**

C62 Sch. 13 para. 50 modified (18.7.2014) by The Legal Services Act 2007 (Appeals from Licensing Authority Decisions) (Chartered Institute of Patent Attorneys and Institute of Trade Mark Attorneys) Order 2014 (S.I. 2014/1897), art. 2(1), Sch. para. 2(1)**(10)** (with art. 2(2))

C63 Sch. 13 para. 50 modified (18.7.2014) by The Legal Services Act 2007 (Appeals from Licensing Authority Decisions) (Institute of Chartered Accountants in England and Wales) Order 2014 (S.I. 2014/1898), art. 2, Sch. para. 2(1)**(10)**

C64 Sch. 13 para. 50 modified (1.10.2018) by The Legal Services Act 2007 (Appeals from Licensing Authority Decisions) (General Council of the Bar) Order 2018 (S.I. 2018/457), art. 1, **Sch. para. 2(10)**

C65 Sch. 13 para. 50 modified (6.4.2020) by The Legal Services Act 2007 (Chartered Institute of Legal Executives) (Appeals from Licensing Authority Decisions) Order 2020 (S.I. 2020/301), art. 1, **Sch. para. 2(10)**

Commencement Information

I310 Sch. 13 para. 50 partly in force; Sch. 13 para. 50 not in force at Royal Assent see s. 211; Sch. 13 para. 50(1)(3) in force for certain purposes at 1.1.2009 by S.I. 2008/3149, **art. 2(d)(iv)**

I311 Sch. 13 para. 50(1)(3) in force at 1.10.2011 in so far as not already in force by S.I. 2011/2196, **art. 2(1)(d)**

I312 Sch. 13 para. 50(2)(4) in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(d)**

Board's list of persons subject to objections and conditions

51 (1) The Board must keep a list of the persons in respect of which it receives a notification under paragraph 47(1) or 49(2).

(2) The list must record—

(a) in relation to a person notified to the Board under paragraph 47(1), the information included in the notification by virtue of paragraph 47(2) and any notification under paragraph 47(3), and

(b) in relation to any person included in the list, the information included in any notification relating to that person under paragraph 48.

(3) If the Board receives a notification under paragraph 47(4) or (5), 48(3) or (4) or 50(5) it must make such alterations to the list as it considers appropriate having regard to the decision of the licensing authority or the outcome of the appeal (which may include removing a person from the list).

(4) The Board must make the list kept by it under this paragraph available to every licensing authority.

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Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Legal Services Act 2007 is up to date with all changes known to be in force on or before 05 December 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Commencement Information

I313 Sch. 13 para. 51 in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(d)**

SCHEDULE 14

Section 102

LICENSING AUTHORITY'S POWERS OF INTERVENTION

Modifications etc. (not altering text)

C66 Sch. 14 applied (with modifications) (9.12.2014) by The Legal Services Act 2007 (Chartered Institute of Legal Executives) (Modification of Functions) Order 2014 (S.I. 2014/3234), arts. 1(1), **5**

C67 Sch. 14 applied (with modifications) (9.12.2014) by The Legal Services Act 2007 (The Institute of Chartered Accountants in England and Wales) (Modification of Functions) Order 2014 (S.I. 2014/3236), **arts. 1(2)**, 3

C68 Sch. 14 applied (with modifications) (9.12.2014) by The Legal Services Act 2007 (the Chartered Institute of Patent Attorneys and the Institute of Trade Mark Attorneys) (Modification of Functions) Order 2014 (S.I. 2014/3238), art. 2(1), Sch. 2 para. 12, **Sch. 4 para. 12** (as amended (6.4.2017) by The Deregulation Act 2015 and Small Business, Enterprise and Employment Act 2015 (Consequential Amendments) (Savings) Regulations 2017 (S.I. 2017/540), reg. 1, **Sch. 2 para. 13** (with reg. 4))

C69 Sch. 14 applied (with modifications) (1.10.2018) by The Legal Services Act 2007 (General Council of the Bar) (Modification of Functions) Order 2018 (S.I. 2018/448), arts. 1, **4**

Introductory

1 (1) This Schedule applies—

(a) where, in relation to a licensed body and the relevant licensing authority, one or more of the intervention conditions is satisfied;

(b) where a licence granted to a body has expired (and has not been renewed or replaced by the relevant licensing authority).

(2) The intervention conditions are—

(a) that the licensing authority is satisfied that one or more of the terms of the licensed body's licence have not been complied with;

(b) that a person has been appointed receiver or manager of property of the licensed body;

(c) that a relevant insolvency event has occurred in relation to the licensed body;

(d) that the licensing authority has reason to suspect dishonesty on the part of any manager or employee of the licensed body in connection with—

(i) that body's business,

(ii) any trust of which that body is or was a trustee,

(iii) any trust of which the manager or employee of the body is or was a trustee in that person's capacity as such a manager or employee, or

(iv) the business of another body in which the manager or employee is or was a manager or employee, or the practice (or former practice) of the manager or employee;

(e) that the licensing authority is satisfied that there has been undue delay—

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(i) on the part of the licensed body in connection with any matter in which it is or was acting for a client or with any trust of which it is or was a trustee, or

(ii) on the part of a person who is or was a manager or employee of the licensed body in connection with any trust of which that person is or was a trustee in that person's capacity as such a manager or employee,

and the notice conditions are satisfied;

(f) that the licensing authority is satisfied that it is necessary to exercise the powers conferred by this Schedule (or any of them) in relation to a licensed body to protect—

(i) the interests of clients (or former or potential clients) of the licensed body,

(ii) the interests of the beneficiaries of any trust of which the licensed body is or was a trustee, or

(iii) the interests of the beneficiaries of any trust of which a person who is or was a manager or employee of the licensed body is or was a trustee in that person's capacity as such a manager or employee.

(3) For the purposes of sub-paragraph (2) a relevant insolvency event occurs in relation to a licensed body if—

(a) a resolution for a voluntary winding-up of the body is passed without a declaration of solvency under section 89 of the Insolvency Act 1986 (c. 45);

(b) the body enters administration within the meaning of paragraph 1(2)(b) of Schedule B1 to that Act;

(c) an administrative receiver within the meaning of section 251 of that Act is appointed;

[[F151](d) a winding up becomes a creditors' voluntary winding up under section 96 of that Act (conversion to creditors' voluntary winding up);**]**

(e) an order for the winding up of the body is made.

(4) The notice conditions referred to in sub-paragraph (2)(e) are—

(a) that the licensing authority has given the licensed body a notice inviting it to give an explanation within such period (of not less than 8 days) following the giving of the notice as may be specified in it;

(b) that the licensed body has failed within that period to give an explanation which the licensing authority regards as satisfactory; and

(c) that the licensing authority gives notice of the failure to the licensed body and (at the same time or later) notice that this Schedule applies in its case by virtue of sub-paragraph (2)(e).

(5) Where this Schedule applies in relation to a licensed body by virtue of sub-paragraph (1)(a) it continues to apply after the body's licence has been revoked or has otherwise ceased to have effect.

(6) For the purposes of this Schedule "licensed body" includes—

(a) a body whose licence is suspended;

(b) a body to whom this Schedule continues to apply by virtue of sub-paragraph (5);

(c) except in this paragraph, a body whose licence has ceased to have effect as mentioned in sub-paragraph (1)(b).

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Textual Amendments

F151 Sch. 14 para. 1(3)(d) substituted (6.4.2017) by The Deregulation Act 2015 and Small Business, Enterprise and Employment Act 2015 (Consequential Amendments) (Savings) Regulations 2017 (S.I. 2017/540), reg. 1, **Sch. 1 para. 5(2)** (with reg. 4)

Commencement Information

I314 Sch. 14 para. 1 in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(e)**

Money: prohibition on payment

2 (1) The licensing authority may apply to the High Court for an order under sub-paragraph (2), and the High Court may make the order if it thinks fit.

(2) The order is that a person holding money on behalf of the licensed body may not make any payment of the money, except with the leave of the court.

(3) An order under sub-paragraph (2) may take effect in relation to a person—

(a) whether or not the person is named in the order;

(b) however the money is held;

(c) whether the money was received before or after the order was made.

(4) But an order under sub-paragraph (2) does not take effect in relation to a person until the licensing authority—

(a) has given the person a copy of the order, and

(b) (in the case of a bank or other financial institution) has indicated the branches at which it believes money to which the order relates is held.

(5) A person is not to be treated as having disobeyed an order under sub-paragraph (2) by making a payment of money if the court is satisfied that the person—

(a) exercised due diligence to ascertain whether it was money to which the order related, and

(b) failed to ascertain that the order related to it.

Commencement Information

I315 Sch. 14 para. 2 in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(e)**

Money etc: vesting in licensing authority

3 (1) The sums of money to which this paragraph applies, and the right to recover or receive them, vest in the licensing authority if the licensing authority decides that they should do so.

(2) This paragraph applies to all sums of money held by or on behalf of the licensed body in connection with—

(a) its activities as a licensed body,

(b) any trust of which it is or was a trustee, or

(c) any trust of which a person who is or was a manager or employee of the licensed body is or was a trustee in that person's capacity as such a manager or employee.

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(3) Sub-paragraph (1) applies whether the sums were received by the person holding them before or after the licensing authority's decision.

(4) Those sums and that right are held by the licensing authority—

(a) on trust to exercise the powers conferred by this Schedule in relation to them, and

(b) subject to that and to rules under paragraph 6, on trust for the persons beneficially entitled.

(5) The licensing authority must give the licensed body, and any other person in possession of sums of money to which this paragraph applies—

(a) a copy of the licensing authority's decision, and

(b) a notice prohibiting the payment out of those sums.

(6) A person to whom a notice under sub-paragraph (5) is given may apply to the High Court for an order directing the licensing authority to withdraw the notice.

(7) An application under sub-paragraph (6) must be made within 8 days of the licensing authority giving the person notice under sub-paragraph (5).

(8) The person must give not less than 48 hours notice of any application under sub-paragraph (6)—

(a) to the licensing authority, and

(b) if the notice under sub-paragraph (5) gives the name of a solicitor instructed by the licensing authority, to that solicitor.

(9) If the court makes the order, it may make any other order it thinks fit with respect to the matter.

(10) It is an offence for a person to whom a notice has been given under sub-paragraph (5) to pay out sums of money at a time when such payment is prohibited by the notice.

(11) A person who is guilty of an offence under sub-paragraph (10) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Commencement Information

I316 Sch. 14 para. 3 in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(e)**

4 (1) Any rights to which this paragraph applies shall vest in the licensing authority if the licensing authority decides that they should do so.

(2) This paragraph applies to any right to recover or receive debts due to the licensed body in connection with its business.

(3) Any sums recovered by the licensing authority by virtue of the exercise of rights vested under sub-paragraph (1) vest in the licensing authority and are held by it—

(a) on trust to exercise the powers conferred by this Schedule in relation to them, and

(b) subject to that and to rules under paragraph 6, on trust for the persons beneficially entitled.

(4) The licensing authority must give the licensed body, and any other person who owes a debt to which the order applies a copy of the licensing authority's decision.

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Commencement Information
I317 Sch. 14 para. 4 in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(e)**

5 (1) If the licensing authority takes possession of any sum of money to which paragraph 3 applies or by virtue of paragraph 4, it must pay it into a special account in the name of the licensing authority or a person nominated on its behalf.

(2) A person nominated under sub-paragraph (1) holds that sum—

(a) on trust to permit the licensing authority to exercise the powers conferred by this Schedule in relation to it, and

(b) subject to that and rules under paragraph 6, on trust for the persons beneficially entitled.

(3) A bank or other financial institution at which a special account is kept is under no obligation to ascertain whether it is being dealt with properly.

Commencement Information
I318 Sch. 14 para. 5 in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(e)**

6 (1) The licensing authority may make rules governing its treatment of sums vested in it under paragraph 3 or 4(3).

(2) The rules may, in particular, make provision in respect of cases where the licensing authority, having taken such steps to do so as are reasonable in all the circumstances of the case, is unable to trace the person or persons beneficially entitled to any sum vested in the licensing authority under paragraph 3 or 4(3) (including provision which requires amounts to be paid into or out of any fund maintained by the licensing authority in connection with its compensation arrangements).

Commencement Information
I319 Sch. 14 para. 6 in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(e)**

Money: information

7 (1) The licensing authority may apply to the High Court for an order requiring a person to give the licensing authority—

(a) information about any money held by the person on behalf of the licensed body, and the accounts in which it is held, or

(b) information relevant to identifying any money held by the licensed body or by another person on its behalf.

(2) The High Court may make the order if it is satisfied that there is reason to suspect—

(a) in a case within sub-paragraph (1)(a), that the person holds money on behalf of the licensed body, and

(b) in a case within sub-paragraph (1)(b), that the person has the information in question.

(3) This paragraph is without prejudice to paragraphs 2 to 6.

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Commencement Information
I320 Sch. 14 para. 7 in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(e)**

Notice to produce or deliver documents

8 (1) The licensing authority may give notice to the licensed body requiring it to produce or deliver all documents in its possession or under its control in connection with—

(a) its activities as a licensed body,

(b) any trust of which it is or was a trustee, or

(c) any trust of which a person who is or was a manager or employee of the licensed body is or was a trustee in that person's capacity as such a manager or employee.

(2) The notice may require the documents to be produced—

(a) to any person appointed by the licensing authority;

(b) at a time and place to be fixed by the licensing authority.

(3) The person appointed by the licensing authority may take possession of any such documents on behalf of the licensing authority.

(4) It is an offence for a person having possession of such documents to refuse, neglect or otherwise fail to comply with a notice under sub-paragraph (1).

(5) Sub-paragraph (4) does not apply where an application has been made to the High Court under paragraph 9(1)(a).

(6) A person who is guilty of an offence under sub-paragraph (4) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Commencement Information
I321 Sch. 14 para. 8 in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(e)**

Order to produce or deliver documents

9 (1) The High Court may, on the application of the licensing authority, make an order for production or delivery—

(a) in relation to a person required to produce documents under paragraph 8 and the documents the person was required to produce;

(b) if it is satisfied that there is reason to suspect that documents in relation to which the powers in paragraph 8 are exercisable have come into the possession or under the control of some person other than the licensed body, in relation to that person and those documents.

(2) An order for production or delivery is an order—

(a) requiring a person to produce or deliver documents to any person appointed by the licensing authority, at a time and place specified in the order, and

(b) authorising the appointed person to take possession of the documents on behalf of the licensing authority.

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(3) The court may, on the application of the licensing authority, authorise a person appointed by the licensing authority to enter any premises (using such force as is reasonably necessary) to search for and take possession of—

(a) any documents to which an order for production or delivery relates;

(b) any property—

(i) in the possession of or under the control of the licensed body, or

(ii) in the case of an order under sub-paragraph (1)(b), which was in the possession or under the control of that body and has come into the possession or under the control of the person in respect of whom the order is made,

which the licensing authority reasonably requires for the purpose of accessing information contained in any such documents,

and to use property obtained under paragraph (b) for that purpose.

(4) It may do so on making the order for production or delivery, or at any later time.

Commencement Information

I322 Sch. 14 para. 9 in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(e)**

Taking possession of documents etc under notice or order

10 (1) This paragraph applies where the licensing authority takes possession of documents or any other property under paragraph 8 or 9.

(2) On taking possession, it must give a notice to—

(a) the licensed body, and

(b) any other person from whom the documents or property were received or from whose possession they were taken.

(3) The notice must state that possession has been taken and specify the date on which possession was taken.

(4) A person to whom a notice under sub-paragraph (2) is given may apply to the High Court for an order directing the licensing authority to deliver the documents or other property to such person as the applicant requires.

(5) An application under sub-paragraph (4) must be made within 8 days of the licensing authority giving the person notice under sub-paragraph (2).

(6) The person must give not less than 48 hours notice of the application—

(a) to the licensing authority, and

(b) if the notice under sub-paragraph (2) gives the name of a solicitor instructed by the licensing authority, to that solicitor.

(7) The court may make any order it thinks fit.

Modifications etc. (not altering text)

C70 Sch. 14 para. 10 applied (with modifications) (12.9.2011) by The Legal Services Act 2007 (Designation as a Licensing Authority) Order 2011 (S.I. 2011/2038), art. 1, **Sch. para. 1(5)**

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C71 Sch. 14 para. 10 applied (23.12.2011) by The Legal Services Act 2007 (Designation as a Licensing Authority) (No. 2) Order 2011 (S.I. 2011/2866), arts. 1(2), **5(5)**

Commencement Information

I323 Sch. 14 para. 10 in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(e)**

Mail and other forms of communication

11 (1) The High Court, on the application of the licensing authority, may from time to time make a communications redirection order.

(2) A communications redirection order is an order that specified communications to the licensed body are to be directed, in accordance with the order, to the licensing authority or any person appointed by the licensing authority.

(3) For the purposes of this paragraph—

(a) "specified communications" means communications of such description as are specified in the order;

(b) the descriptions of communications which may be so specified include—

(i) communications in the form of a postal packet;

(ii) electronic communications;

(iii) communications by telephone.

(4) A communications redirection order has effect for such time not exceeding 18 months as is specified in the order.

(5) Where a communications redirection order has effect, the licensing authority or the person appointed by the licensing authority may take possession or receipt of the communications redirected in accordance with the order.

(6) Where a communications redirection order is made the licensing authority must pay to the designated payee the like charges (if any) as would have been payable for the redirection of the communications to which the order relates if the addressee—

(a) had permanently ceased to occupy or use the premises or other destination of the communications, and

(b) had applied to the designated payee to redirect the communications as mentioned in the order.

(7) For this purpose "the designated payee" means—

(a) in the case of an order relating to postal packets, the postal operator concerned, and

(b) in any other case, the person specified in the order as the designated payee.

(8) The High Court may, on the application of the licensing authority, authorise the licensing authority, or a person appointed by it, to take such steps as may be specified in the order in relation to any website purporting to be or have been maintained by or on behalf of the licensed body, if the High Court is satisfied that the taking of those steps is necessary to protect the public interest or the interests of clients (or potential or former clients) of the licensed body.

(9) In this paragraph "postal operator" and "postal packet" have the meaning given by **[**[F152]section 27 of the Postal Services Act 2011**]**.

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(10) This paragraph does not apply where the powers conferred by this Part of this Schedule are exercisable by virtue of paragraph 1(2)(e).

Textual Amendments

F152 Words in Sch. 14 para. 11(9) substituted (1.10.2011) by Postal Services Act 2011 (c. 5), s. 93(2)(3), **Sch. 12 para. 189**; S.I. 2011/2329, art. 3

Commencement Information

I324 Sch. 14 para. 11 in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(e)**

Use of documents in licensing authority's possession

12 (1) The licensing authority may apply to the High Court for an order as to the disposal or destruction of any document or other property in its possession by virtue of paragraph 8, 9 or 11.

(2) The court may make any order it thinks fit.

Modifications etc. (not altering text)

C72 Sch. 14 para. 12 applied (with modifications) (12.9.2011) by The Legal Services Act 2007 (Designation as a Licensing Authority) Order 2011 (S.I. 2011/2038), art. 1, **Sch. para. 1(5)**

C73 Sch. 14 para. 12 applied (23.12.2011) by The Legal Services Act 2007 (Designation as a Licensing Authority) (No. 2) Order 2011 (S.I. 2011/2866), arts. 1(2), **5(5)**

Commencement Information

I325 Sch. 14 para. 12 in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(e)**

13 (1) The licensing authority may take copies of or extracts from any documents in its possession by virtue of paragraph 8, 9 or 11.

(2) If the licensing authority proposes to deliver such documents to any person, it may make the delivery conditional on the person giving a reasonable undertaking to supply copies or extracts to the licensing authority.

(3) Sub-paragraphs (1) and (2) are subject to any order made by the court under paragraph 10 or 12.

Modifications etc. (not altering text)

C74 Sch. 14 para. 13 applied (with modifications) (12.9.2011) by The Legal Services Act 2007 (Designation as a Licensing Authority) Order 2011 (S.I. 2011/2038), art. 1, **Sch. para. 1(5)**

C75 Sch. 14 para. 13 applied (23.12.2011) by The Legal Services Act 2007 (Designation as a Licensing Authority) (No. 2) Order 2011 (S.I. 2011/2866), arts. 1(2), **5(5)**

Commencement Information

I326 Sch. 14 para. 13 in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(e)**

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Trusts

14 (1) If the licensed body is a trustee of any trust, the licensing authority may apply to the High Court for an order for the appointment of a new trustee in substitution for it.

(2) If a person who is a manager or employee of the licensed body is a trustee of any trust in that person's capacity as such a manager or employee, the licensing authority may apply to the High Court for an order for the appointment of a new trustee in substitution for that person.

(3) The Trustee Act 1925 (c. 19) has effect in relation to an appointment of a new trustee under this paragraph as it has effect in relation to an appointment under section 41 of that Act.

Commencement Information
I327 Sch. 14 para. 14 in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(e)**

General powers of licensing authority

15 The powers conferred by this Schedule in relation to sums of money, documents or other property may be exercised despite any lien on them or right to their possession.

Modifications etc. (not altering text)
C76 Sch. 14 paras. 15-17 applied (with modifications) (12.9.2011) by The Legal Services Act 2007 (Designation as a Licensing Authority) Order 2011 (S.I. 2011/2038), art. 1, **Sch. para. 1(5)**
C77 Sch. 14 paras. 15-17 applied (23.12.2011) by The Legal Services Act 2007 (Designation as a Licensing Authority) (No. 2) Order 2011 (S.I. 2011/2866), arts. 1(2), **5(5)**

Commencement Information
I328 Sch. 14 para. 15 in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(e)**

16 The licensing authority may do all things which are reasonably necessary to facilitate the exercise of its powers under this Schedule.

Modifications etc. (not altering text)
C76 Sch. 14 paras. 15-17 applied (with modifications) (12.9.2011) by The Legal Services Act 2007 (Designation as a Licensing Authority) Order 2011 (S.I. 2011/2038), art. 1, **Sch. para. 1(5)**
C77 Sch. 14 paras. 15-17 applied (23.12.2011) by The Legal Services Act 2007 (Designation as a Licensing Authority) (No. 2) Order 2011 (S.I. 2011/2866), arts. 1(2), **5(5)**

Commencement Information
I329 Sch. 14 para. 16 in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(e)**

Licensing authority's costs

17 (1) Any costs incurred by the licensing authority for the purposes of this Schedule (including the costs of any person exercising powers under this Schedule on behalf of the licensing authority)—

(a) are to be paid by the licensed body, and

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(b) may be recovered from the licensed body as a debt owing to the licensing authority.

(2) Sub-paragraph (1) is subject to any order for payment of costs that may be made on an application to the court under this Schedule.

Modifications etc. (not altering text)

C76 Sch. 14 paras. 15-17 applied (with modifications) (12.9.2011) by The Legal Services Act 2007 (Designation as a Licensing Authority) Order 2011 (S.I. 2011/2038), art. 1, **Sch. para. 1(5)**

C77 Sch. 14 paras. 15-17 applied (23.12.2011) by The Legal Services Act 2007 (Designation as a Licensing Authority) (No. 2) Order 2011 (S.I. 2011/2866), arts. 1(2), **5(5)**

Commencement Information

I330 Sch. 14 para. 17 in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(e)**

18 (1) The High Court, on the application of the licensing authority, may order a liable party to pay a specified proportion of the costs mentioned in paragraph 17.

(2) For this purpose a "liable party" means—

(a) if the licensed body is a partnership, any former partner in the licensed body,

(b) in any other case, any manager or former manager of the licensed body.

(3) The High Court may make an order under this paragraph in respect of a liable party only if it is satisfied that the conduct (or any part of the conduct) by reason of which this Schedule applies was conduct carried on with the consent or connivance of, or was attributable to any neglect on the part of, the liable party.

(4) In this paragraph "specified" means specified in the order made by the High Court.

Commencement Information

I331 Sch. 14 para. 18 in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(e)**

SCHEDULE 15

Section 114

THE OFFICE FOR LEGAL COMPLAINTS

Membership

1 (1) The OLC is to consist of the following members—

(a) a chairman appointed by the Board with the approval of the Lord Chancellor, and

(b) at least 6, but not more than 8, other persons appointed by the Board after consultation with the chairman.

(2) The Lord Chancellor may by order amend sub-paragraph (1) by substituting, for the limit on the maximum number of persons for the time being specified in paragraph (b) of that sub-paragraph, a different limit.

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2 (1) In appointing members of the OLC, the Board must ensure that a majority of the members of the OLC are lay persons.

(2) The chairman must be a lay person.

(3) In this Schedule a reference to a "lay person" is a reference to a person who has never been—

(a) an authorised person in relation to an activity which is a reserved legal activity,

[F153(aa) an authorised person (within the meaning given in section 31 of the Financial Services and Markets Act 2000 (authorised persons)) in relation to regulated claims management activity (within the meaning given by section 417(1) of that Act (definitions)),**]**

(b) an advocate in Scotland,

(c) a solicitor in Scotland,

(d) a member of the Bar of Northern Ireland, or

(e) a solicitor of the Court of Judicature of Northern Ireland.

(4) For the purposes of sub-paragraph (3), a person is deemed to have been an authorised person in relation to an activity which is a reserved legal activity if that person has before the appointed day been—

(a) a barrister,

(b) a solicitor,

(c) a public notary,

(d) a licensed conveyancer,

(e) granted a certificate issued by the Institute of Legal Executives authorising the person to practise as a legal executive,

(f) a registered patent attorney, within the meaning given by section 275(1) of the Copyright, Designs and Patents Act 1988 (c. 48),

(g) a registered trade mark attorney, within the meaning of the Trade Marks Act 1994 (c. 26), or

(h) granted a right of audience or right to conduct litigation in relation to any proceedings by virtue of section 27(2)(a) or section 28(2)(a) of the Courts and Legal Services Act 1990 (c. 41) (rights of audience and rights to conduct litigation).

(5) For the purpose of sub-paragraph (4)—

"appointed day" means the day appointed for the coming into force of section 13;

"licensed conveyancer" has the meaning given by section 11(2) of the Administration of Justice Act 1985 (c. 61).

Textual Amendments

F153 Sch. 15 para. 2(3)(aa) inserted (29.11.2018 for specified purposes, 1.4.2019 in so far as not already in force) by The Financial Services and Markets Act 2000 (Claims Management Activity) Order 2018 (S.I. 2018/1253), arts. 1(2)(3), **95(10)(a)**

3 (1) An ombudsman may be a member (but not chairman) of the OLC.

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(2) In appointing members of the OLC, the Board must ensure that a majority of the members of the OLC are not ombudsmen.

4 In appointing members of the OLC, the Board must have regard to the desirability of securing that the OLC includes members who (between them) have experience in or knowledge of—

(a) the handling of complaints,
(b) the provision of legal services,
(c) legal education and legal training,
(d) consumer affairs,
(e) civil or criminal proceedings and the working of the courts,
(f) the maintenance of the professional standards of persons who provide legal services,
(g) non-commercial legal services,
(h) the differing needs of consumers, and
(i) the provision of claims management services (within the meaning of **[**F154section 419A of the Financial Services and Markets Act 2000 (c. 8)**]**).

Textual Amendments

F154 Words in Sch. 15 para. 4(i) substituted (29.11.2018 for specified purposes, 1.4.2019 in so far as not already in force) by The Financial Services and Markets Act 2000 (Claims Management Activity) Order 2018 (S.I. 2018/1253), arts. 1(2)(3), **95(10)(b)**

Terms of appointment and tenure of members

5 A member of the OLC is to hold and vacate office in accordance with the terms and conditions of the member's appointment (subject to this Schedule).

6 (1) A member of the OLC must be appointed for a fixed period.

(2) The period for which a member is appointed must not exceed 5 years.

(3) A person who has held office as a member may be re-appointed once only, for a further period (whether consecutive or not) not exceeding 5 years.

PROSPECTIVE

7 If a member of the OLC who is a lay person becomes a person within paragraph (a) to (e) of paragraph 2(3), that person ceases to be a member of the OLC.

8 (1) A member may at any time—

(a) resign from office by giving notice to the Board;
(b) be removed from office by the Board.

(2) The Board may not under sub-paragraph (1)(b) remove a member (including the chairman) from office unless the Board is satisfied that the member—

(a) has failed without reasonable excuse to discharge the functions of the office for a continuous period of at least 6 months,
(b) has been convicted of an offence,

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(c) is an undischarged bankrupt **[**[F155]or is a person in relation to whom a moratorium period under a debt relief order applies (under Part 7A of the Insolvency Act 1986)**]**, or

(d) is otherwise unfit to hold the office or unable to discharge its functions.

(3) The chairman may be removed from office under sub-paragraph (1)(b) only with the consent of the Lord Chancellor.

(4) The Board must consult the chairman before removing a member (other than the chairman) under sub-paragraph (1)(b).

(5) The Board may not remove an ordinary member on the ground mentioned in paragraph (a) of sub-paragraph (2) more than 3 months after the end of the period mentioned in that paragraph.

Textual Amendments

F155 Words in Sch. 15 para. 8(2)(c) inserted (1.10.2012) by The Tribunals, Courts and Enforcement Act 2007 (Consequential Amendments) Order 2012 (S.I. 2012/2404), art. 1, **Sch. 2 para. 61(3)** (with art. 5)

9 The chairman ceases to be chairman upon ceasing to be a member of the OLC.

Remuneration etc of members

10 The chairman and other members of the OLC are to be paid by the Board in accordance with provision made by or under their terms of appointment.

Modifications etc. (not altering text)

C78 Sch. 15 para. 10 modified (temp.) (7.3.2008) by The Legal Services Act 2007 (Commencement No.1 and Transitory Provisions) Order 2008 (S.I. 2008/222), **art. 8**

11 The terms of appointment of the chairman or any other member may provide for the Board to pay, or make payments towards the provision of, a pension, allowance or gratuity to or in respect of that person.

12 If the Board thinks there are circumstances that make it right for a person ceasing to hold office as chairman or another member to receive compensation, the OLC may pay that person such compensation as the Board may determine.

Staff

13 The OLC may appoint such staff as it considers appropriate to assist in the performance of its functions.

14 Staff appointed under paragraph 13 are to be—

(a) appointed on terms and conditions determined by the OLC, and

(b) paid by the OLC in accordance with provision made by or under the terms of appointment.

15 A member of staff appointed under paragraph 13 may be a member (but not chairman) of the OLC.

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16 The terms and conditions on which an ombudsman, or any member of staff appointed under paragraph 13, is appointed may provide for the OLC to pay, or make payments towards the provision of, a pension, allowance or gratuity to or in respect of that person.

17 The OLC may pay compensation for loss of employment to or in respect of an ombudsman (or former ombudsman), or a member (or former member) of staff appointed under paragraph 13.

Arrangements for assistance

18 (1) The OLC may make arrangements with such persons as it considers appropriate for assistance to be provided to it or to an ombudsman.

(2) Arrangements may include the paying of fees to such persons.

(3) The persons with whom the OLC may make arrangements include approved regulators; and the arrangements it may make include arrangements for assistance to be provided to an ombudsman in relation to the investigation and consideration of a complaint.

Committees

19 (1) The OLC may establish committees.

(2) Any committee so established may establish sub-committees.

(3) Only members of the OLC may be members of a committee or sub-committee.

(4) A majority of the members of a committee or sub-committee must be lay persons.

Proceedings

20 (1) The OLC may regulate its own procedure, and the procedure of its committees and sub-committees, including quorum.

(2) But the quorum of a committee or sub-committee must not be less than 3.

(3) The OLC must publish any rules of procedure made under this paragraph.

(4) This paragraph is without prejudice to any other power the OLC has under this Act to make rules.

21 The validity of any act of the OLC is not affected—

(a) by a vacancy in the office of chairman or amongst the other members, or

(b) by a defect in the appointment or any disqualification of a person as chairman or another member of the OLC.

Delegation of functions

22 (1) The OLC may authorise—

(a) the chairman or any other member of the OLC,

(b) a committee or sub-committee of the OLC,

(c) an ombudsman, or

(d) a member of the OLC's staff appointed under paragraph 13,

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to exercise, on behalf of the OLC, such of its functions, in such circumstances, as it may determine.

(2) Sub-paragraph (1) does not apply to—

(a) the OLC's functions under section 118(1) (annual report),

(b) the OLC's functions under section 122 (appointment of Chief Ombudsman and assistant ombudsmen),

(c) the OLC's functions under paragraph 20 or 23 of this Schedule, or

(d) any power or duty the OLC has to make rules under this Part of this Act.

(3) A committee may delegate functions (including functions delegated to the committee) to—

(a) a sub-committee,

(b) the chairman or any other member of the OLC,

(c) an ombudsman, or

(d) a member of the OLC's staff appointed under paragraph 13.

Budget

23 (1) The OLC must, before the start of each financial year, adopt an annual budget which has been approved by the Board.

(2) The OLC may, with the approval of the Board, vary the budget for a financial year at any time after its adoption.

(3) The annual budget must include an indication of—

(a) the distribution of resources deployed in the operation of the ombudsman scheme, and

(b) the amounts of income of the OLC arising or expected to arise from the operation of the scheme.

Land

24 (1) During the initial 5 year period, the OLC must not acquire or dispose of an interest in land, except with the approval of the Lord Chancellor.

(2) The initial 5 year period is the period of 5 years beginning with the day on which the appointment of the first Interim Chief Executive under paragraph 10 of Schedule 22 takes effect or the day on which the first appointment of a member of the OLC takes effect, whichever first occurs.

Borrowing

25 (1) The OLC must not borrow money, except—

(a) with the consent of the Board, or

(b) in accordance with a general authorisation given by the Board.

(2) The Board may not consent or give a general authorisation for the purposes of sub-paragraph (1), except with the consent of the Lord Chancellor.

Accounts

26 (1) The OLC must—

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(a) keep proper accounts and proper records in relation to the accounts, and

(b) prepare in respect of each financial year a statement of accounts.

(2) Each statement of accounts must comply with any directions given by the Lord Chancellor, with the approval of the Treasury, as to—

(a) the information to be contained in it and the manner in which it is to be presented;

(b) the methods and principles according to which the statement is to be prepared;

(c) the additional information (if any) which is to be provided for the information of Parliament.

(3) The OLC must give a copy of each statement of accounts to the Board before the end of the month of August next following the financial year to which the statement relates.

(4) The Board must give a copy of each statement received under sub-paragraph (3)—

(a) to the Lord Chancellor, and

(b) to the Comptroller and Auditor General.

(5) The Comptroller and Auditor General must—

(a) examine, certify and report on each statement of accounts which is received under sub-paragraph (4), and

(b) give a copy of the Comptroller and Auditor General's report to the Lord Chancellor.

(6) In respect of each financial year, the Lord Chancellor must lay before Parliament a document consisting of—

(a) a copy of the statement of accounts for that year, and

(b) a copy of the Comptroller and Auditor General's report on that statement.

(7) "Financial year" means—

(a) the period beginning with the day on which the OLC is established and ending with the next following 31 March, and

(b) each successive period of 12 months.

Status

27 (1) The OLC is not to be regarded—

(a) as the servant or agent of the Crown, or

(b) as enjoying any status, immunity or privilege of the Crown.

(2) Accordingly—

(a) the OLC's property is not to be regarded as property of or held on behalf of the Crown, and

(b) the staff appointed under paragraph 13 are not to be regarded as servants or agents of the Crown or as enjoying any status, immunity or privilege of the Crown.

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Application of seal and proof of instruments

28 The application of the seal of the OLC is to be authenticated by the signature of any member of the OLC, or of its staff, who has been authorised (whether generally or specifically) by the OLC for the purpose.

29 Any contract or instrument which, if entered into or executed by an individual, would not need to be under seal, may be entered into or executed on behalf of the OLC by any person who has been authorised (whether generally or specifically) by the OLC for the purpose.

30 A document purporting to be duly executed under the seal of the OLC, or signed on its behalf—

(a) is to be received in evidence, and

(b) is to be taken to be executed or signed in that way, unless the contrary is proved.

Disqualification

31 (1) In Part 2 of Schedule 1 to the House of Commons Disqualification Act 1975 (c. 24) (bodies of which all members are disqualified) at the appropriate place insert— " The Office for Legal Complaints. "

(2) In Part 3 of that Schedule (other disqualifying offices) at the appropriate place insert — " The Chief Ombudsman or an assistant ombudsman appointed under section 122 of the Legal Services Act 2007 (Chief Ombudsman and assistant ombudsmen appointed for the purposes of the ombudsman scheme). "

(3) In Part 2 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (c. 25) (bodies of which all members are disqualified) at the appropriate place insert — " The Office for Legal Complaints. "

(4) In Part 3 of that Schedule (other disqualifying offices) at the appropriate place insert — " The Chief Ombudsman or an assistant ombudsman appointed under section 122 of the Legal Services Act 2007 (Chief Ombudsman and assistant ombudsmen appointed for the purposes of the ombudsman scheme). "

Freedom of information

32 In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (c. 36) (other public bodies and offices which are public authorities) at the appropriate place insert— " The Office for Legal Complaints. "

Public records

33 In Schedule 1 to the Public Records Act 1958 (c. 51) (definition of public records) at the appropriate place in Part 2 of the Table at the end of paragraph 3 insert— " The Office for Legal Complaints. "

Exemption from liability in damages

34 (1) This paragraph applies to—

(a) the OLC,

(b) a member of the OLC,

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(c) an ombudsman, and

(d) a member of the OLC's staff appointed under paragraph 13.

(2) A person to whom this paragraph applies is not liable in damages for anything done or omitted in the exercise or purported exercise of the functions conferred on the person concerned by or by virtue of this or any other enactment.

(3) But sub-paragraph (2) does not apply—

(a) if it is shown that the act or omission was in bad faith, or

(b) so as to prevent an award of damages made in respect of an act or omission on the ground that the act or omission was unlawful as a result of section 6(1) of the Human Rights Act 1998 (c. 42).

SCHEDULE 16

Section 177

THE LAW SOCIETY, SOLICITORS, RECOGNISED BODIES AND FOREIGN LAWYERS

PART 1

THE SOLICITORS ACT 1974 (C. 47)

1 The Solicitors Act 1974 is amended in accordance with this Part of this Schedule.

Commencement Information

I332 Sch. 16 para. 1 in force at 7.3.2008 by S.I. 2008/222, **art. 2(j)(i)**

2 In section 1A (practising certificates: employed solicitors)—

(a) omit "or" at the end of paragraph (b),

(b) in paragraph (c) omit "by the Council of the Law Society", and

(c) at the end of that paragraph insert "or

(d) by any other person who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to an activity which is a reserved legal activity (within the meaning of that Act)."

Commencement Information

I333 Sch. 16 para. 2(b) in force at 7.3.2008 by S.I. 2008/222, **art. 2(j)(i)**; Sch. 16 para. 2(a)(c) in force at 1.1.2010 by S.I. 2009/3250, **art. 2(f)(ii)** (with art. 9)

F156 3 . . . . . .

Textual Amendments

F156 Sch. 16 para. 3 repealed (1.11.2015) by The Legal Services Act 2007 (The Law Society) (Modification of Functions) Order 2015 (S.I. 2015/401), arts. 1(3), **3(3)**

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4 In section 2 (training regulations)—

(a) in subsection (1) omit ", with the concurrence of the Secretary of State, the Lord Chief Justice and the Master of the Rolls,",

(b) in subsection (3)(a)—

(i) in sub-paragraph (i) omit ", whether by service under articles or otherwise,",

(ii) in sub-paragraph (v) omit "articles may be discharged or", and

(iii) in that sub-paragraph after "be" (in the second place) insert " started or ", and

(c) omit subsections (4) and (5).

Commencement Information

I334 Sch. 16 para. 4(b) in force at 7.3.2008 by S.I. 2008/222, **art. 2(j)(i)**; Sch. 16 para. 4(a)(c) in force at 1.1.2010 by S.I. 2009/3250, **art. 2(f)(ii)** (with art. 9)

5 In section 3 (admission as solicitor), in subsection (2)—

(a) for "Master of the Rolls" (in each place) substitute " Society ", and

(b) for "his" substitute " its ".

Commencement Information

I335 Sch. 16 para. 5 in force at 1.7.2009 by S.I. 2009/1365, **art. 2(a)(i)**

6 In section 6 (keeping of the roll) omit subsections (2) to (4).

Commencement Information

I336 Sch. 16 para. 6 in force at 1.7.2009 by S.I. 2009/1365, **art. 2(a)(i)**

7 In section 7 (entry of name and restoration of name struck off)—

(a) for paragraph (a) substitute—

"(a) of written evidence of admission of any person as a solicitor by the Society,", and

(b) for "Council" substitute " Society ".

Commencement Information

I337 Sch. 16 para. 7(b) in force at 7.3.2008 by S.I. 2008/222, **art. 2(j)(i)**; Sch. 16 para. 7(a) in force at 1.7.2009 by S.I. 2009/1365, **art. 2(a)(i)**

8 (1) Section 8 (removal or restoration of name at solicitor's request) is amended as follows.

(2) In subsection (2) for "Council" substitute " Society ".

(3) In subsection (4) for "Master of the Rolls" substitute " High Court ".

(4) After that subsection insert—

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"(4A) In relation to an appeal under subsection (4) the High Court may make such order as it thinks fit as to payment of costs.

(4B) The decision of the High Court on an appeal under subsection (4) shall be final."

(5) Omit subsection (5).

Commencement Information

I338 Sch. 16 para. 8(1)(2) in force at 7.3.2008 by S.I. 2008/222, **art. 2(j)(i)**; Sch. 16 para. 8(3)-(5) in force at 1.7.2009 by S.I. 2009/1365, **art. 2(a)(iii)** (subject to art. 4)

9 For sections 9 and 10 (applications for and issue of practising certificates) substitute—

"**9 Applications for practising certificates**

(1) A person whose name is on the roll may apply to the Society to be issued with a practising certificate.

(2) An application under this section may include an application for a sole solicitor endorsement.

(3) An application under this section must be—

(a) made in accordance with regulations under section 28, and

(b) accompanied by the appropriate fee.

(4) "The appropriate fee", in relation to an application, means—

(a) any fee payable under subsection (1) of section 11 in respect of the practising certificate applied for, and

(b) any additional fee payable under subsection (4) of that section in respect of the application.

10 The issue of practising certificates

(1) Subject to the following provisions of this section, where an application is made in accordance with section 9, the Society must issue a practising certificate to the applicant if it is satisfied that the applicant—

(a) is not suspended from practice, and

(b) is complying with any prescribed requirements imposed on the applicant.

(2) A practising certificate issued to an applicant of a prescribed description must be issued subject to any conditions prescribed in relation to applicants of that description.

(3) In such circumstances as may be prescribed, the Society must, if it considers it is in the public interest to do so—

(a) refuse to issue a practising certificate under this section, or

(b) where it decides to issue a practising certificate, issue it subject to one or more conditions.

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(4) The conditions which may be imposed include—

(a) conditions requiring the person to whom the certificate is issued to take specified steps that will, in the opinion of the Society, be conducive to the carrying on by that person of an efficient practice as a solicitor (including, if the certificate has a sole solicitor endorsement, an efficient practice as a sole solicitor);

(b) conditions which prohibit that person from taking any specified steps, except with the approval of the Society.

(5) In this section —

"prescribed" means prescribed by regulations under section 28;

"specified", in relation to a condition imposed on a practising certificate, means specified in the condition."

Commencement Information

I339 Sch. 16 para. 9 in force at 1.7.2009 by S.I. 2009/1365, **art. 2(a)(i)**

10 After section 10 (as inserted by paragraph 9) insert—

"**10A Register of holders of practising certificates**

(1) The Society must keep a register of all solicitors who hold practising certificates.

(2) The register must contain—

(a) the full name of each solicitor who holds a practising certificate,

(b) in relation to each solicitor who holds a practising certificate, a statement as to whether there is in force a sole solicitor endorsement, and

(c) such other information as may be specified in regulations under section 28(1)(d)."

Commencement Information

I340 Sch. 16 para. 10 in force at 1.7.2009 by S.I. 2009/1365, **art. 2(a)(i)**

11 For section 11 (fee payable on issue of practising certificate) substitute—

"**11 Fee payable on issue of practising certificates**

(1) Before a practising certificate is issued, there must be paid to the Society in respect of the certificate a fee of such amount as the Society may from time to time determine.

(2) Different fees may be specified for different categories of applicant and in respect of different circumstances.

(3) Subsection (4) applies where a solicitor makes an application for a practising certificate if—

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(a) the solicitor has failed to deliver an accountant's report required by rules under section 34(1) by such time or in such circumstances as may be prescribed by those rules, and

(b) a practising certificate has not been issued by the Society to the solicitor since the Society became aware of the failure.

(4) Where this subsection applies, the solicitor's application must be accompanied by an additional fee of such amount as the Society from time to time determines."

Commencement Information
I341 Sch. 16 para. 11 wholly in force at 1.7.2009, see s. 211 and S.I. 2009/1365, **art. 2(a)(ii)** (subject to art. 3)

12 Omit section 12 (discretion of Society with respect to issue of practising certificates in special cases).

Commencement Information
I342 Sch. 16 para. 12 in force at 1.7.2009 by S.I. 2009/1365, **art. 2(a)(i)**

13 Omit section 12A (additional fee payable by certain solicitors on applying for practising certificates).

Commencement Information
I343 Sch. 16 para. 13 in force at 1.7.2009 by S.I. 2009/1365, **art. 2(a)(i)**

14 For section 13 (appeals in connection with issue of practising certificates) substitute—

"**13 Appeals etc in connection with the issue of practising certificates**

(1) A person who makes an application under section 9 may appeal to the High Court against—

(a) a decision to refuse the application for a practising certificate,

(b) if the application included an application for a sole solicitor endorsement, a decision to refuse the application for the endorsement, or

(c) a decision to impose a condition on a practising certificate issued in consequence of the application.

(2) A person who holds a practising certificate subject to a condition within section 10(4)(b) may appeal to the High Court against any decision by the Society to refuse to approve the taking of any step for the purposes of that condition.

(3) The Society may make rules which provide, as respects any application under section 9 that is neither granted nor refused by the Society within such period as may be specified in the rules, for enabling an appeal to be brought under this section in relation to the application as if it had been refused by the Society.

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(4) On an appeal under subsection (1), the High Court may—

(a) affirm the decision of the Society,

(b) direct the Society to make a sole solicitor endorsement on the applicant's practising certificate and to issue that certificate subject to such conditions (if any) as the High Court may think fit,

(c) direct the Society to issue a certificate to the applicant free from conditions or subject to such conditions as the High Court may think fit,

(d) direct the Society not to issue a certificate,

(e) if a certificate has been issued, by order suspend it,

(f) if the certificate has been endorsed with a sole solicitor endorsement, by order suspend the endorsement, or

(g) make such other order as the High Court thinks fit.

(5) On an appeal under subsection (2), the High Court may—

(a) affirm the decision of the Society,

(b) direct the Society to approve the taking of one or more steps for the purposes of a condition within section 10(4)(b), or

(c) make such other order as the High Court thinks fit.

(6) In relation to an appeal under this section the High Court may make such order as it thinks fit as to payment of costs.

(7) The decision of the High Court on an appeal under subsection (1) or (2) shall be final."

Commencement Information

I344 Sch. 16 para. 14 wholly in force at 1.7.2009 see s. 211 and S.I. 2009/1365, **art. 2(a)(iii)** (subject to art. 4)

F157 15 . . . . . .

Textual Amendments

F157 Sch. 16 para. 15 repealed (1.11.2015) by The Legal Services Act 2007 (The Law Society) (Modification of Functions) Order 2015 (S.I. 2015/401), arts. 1(3), **3(3)**

16 (1) Section 13A (imposition of conditions while practising certificates are in force) is amended as follows.

(2) For subsections (2) to (5) substitute—

"(2) The power conferred by subsection (1) is exercisable in relation to a solicitor at any time during the period for which the solicitor's current certificate is in force if—

(a) under section 13ZA the Society grants a sole solicitor endorsement, or

(b) it appears to the Society that the case is of a prescribed description.

(3) "Prescribed" means prescribed by regulations under section 28."

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(3) In subsection (6) for "Master" to the end substitute " High Court against the decision of the Society. "

(4) In subsection (7)—

(a) for "Master of the Rolls" (in both places) substitute " High Court ", and

(b) for "he" substitute " it ".

(5) After that subsection insert—

"(7A) The decision of the High Court on an appeal under subsection (6) shall be final."

(6) For subsection (8) substitute—

"(8) Subsections (4) and (5) of section 10 apply for the purposes of subsection (1) of this section as they apply for the purposes of that section."

(7) After that subsection insert—

"(9) A solicitor who holds a practising certificate subject to a condition imposed under subsection (1) which prohibits that solicitor from taking any steps specified in the condition, except with the approval of the Society, may appeal to the High Court against any decision by the Society to refuse to approve the taking of any step for the purposes of that condition.

(10) On an appeal under subsection (9), the High Court may—

(a) affirm the decision of the Society,

(b) direct the Society to approve the taking of one or more steps for the purposes of the condition, or

(c) make such other order as the High Court thinks fit.

(11) The decision of the High Court on an appeal under subsection (9) shall be final.

(12) In relation to an appeal under this section the High Court may make such order as it thinks fit as to payment of costs."

Commencement Information

I345 Sch. 16 para. 16 wholly in force at 1.7.2009 see s. 211 and S.I. 2009/1365, **art. 2(a)(iii)** (subject to art. 4)

17 In section 13B (suspension of practising certificates where solicitors convicted of fraud or serious crime)—

F158(a) . . . . . .

F158(b) . . . . . .

(c) in subsection (7) for "Master of the Rolls" substitute " High Court ",

(d) in subsection (8)—

(i) for "Master of the Rolls" (in both places) substitute " High Court ",

F159(ii) . . . . . .

(iii) in paragraph (d) for "he" substitute " it ", and

(e) after that subsection insert—

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"(9) In relation to an appeal under subsection (7) the High Court may make such order as it thinks fit as to payment of costs.

(10) The decision of the High Court on an appeal under subsection (7) shall be final."

Textual Amendments

F158 Sch. 16 para. 17(a)(b) repealed (1.11.2015) by The Legal Services Act 2007 (The Law Society) (Modification of Functions) Order 2015 (S.I. 2015/401), arts. 1(3), **3(3)**

F159 Sch. 16 para. 17(d)(ii) repealed (1.11.2015) by The Legal Services Act 2007 (The Law Society) (Modification of Functions) Order 2015 (S.I. 2015/401), arts. 1(3), **3(3)**

Commencement Information

I346 Sch. 16 para. 17 wholly in force at 1.7.2009 see s. 211 and S.I. 2009/1365, **art. 2(a)(iii)** (subject to art. 4)

18 Omit section 14 (commencement, expiry and replacement of practising certificates).

Commencement Information

I347 Sch. 16 para. 18 in force at 1.7.2009 by S.I. 2009/1365, **art. 2(a)(i)**

19 In section 15 (suspension of practising certificates), in subsection (1A)—

(a) after "6(1)" insert " , 6A(1) ",

(b) after "1(1)(a)(i)," insert " (aa), ", and

(c) after "section" insert " 31 or ".

Commencement Information

I348 Sch. 16 para. 19 in force at 1.7.2009 by S.I. 2009/1365, **art. 2(a)(i)**

20 (1) Section 16 (duration of suspension of practising certificates) is amended as follows.

(2) For subsection (1) substitute—

"(1) Where a practising certificate is suspended, it expires on such date as may be prescribed by regulations under section 28."

(3) In subsection (3)(c) for "the replacement date of the certificate" substitute " the date on which his certificate will expire ".

(4) In subsection (5)—

(a) for "Master of the Rolls, who" substitute " High Court, which ", and

(b) in paragraph (b) for "he" substitute " it ".

(5) After that subsection insert—

"(6) In relation to an appeal under subsection (5) the High Court may make such order as it thinks fit as to payment of costs.

(7) The decision of the High Court on an appeal under subsection (5) shall be final."

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Commencement Information
I349 Sch. 16 para. 20 wholly in force at 1.7.2009 see s. 211 and S.I. 2009/1365, **art. 2(a)(iii)** (subject to art. 4)

21 In section 17 (publicity in relation to suspension of practising certificates), in subsections (1) and (2) omit "in the London Gazette".

Commencement Information
I350 Sch. 16 para. 21 in force at 7.3.2008 by S.I. 2008/222, **art. 2(j)(i)**

F160 22 . . . . . .

Textual Amendments
F160 Sch. 16 para. 22 repealed (1.11.2015) by The Legal Services Act 2007 (The Law Society) (Modification of Functions) Order 2015 (S.I. 2015/401), arts. 1(3), **3(3)**

23 For section 18 (evidence as to holding of practising certificates) substitute—

"**18 Extracts from the roll or register etc as evidence**

(1) An extract from the roll, or an extract from the register kept under section 10A, which is certified as correct by the Society is evidence of the matters mentioned in it.

(2) A certificate from the Society stating that—

(a) a person's name is or was on the roll, or

(b) a person is or was registered in the register kept under section 10A,

is evidence of the matters stated."

Commencement Information
I351 Sch. 16 para. 23 in force at 1.7.2009 by S.I. 2009/1365, **art. 2(a)(i)**

24 Omit section 19 (rights of practising and rights of audience).

Commencement Information
I352 Sch. 16 para. 24 in force at 1.1.2010 by S.I. 2009/3250, **art.2(f)(ii)**

25 For section 20 (unqualified person not to act as solicitor) substitute—

"**20 Unqualified person not to act as solicitor**

(1) No unqualified person is to act as a solicitor.

(2) Any person who contravenes subsection (1) is guilty of an offence and liable on conviction on indictment to imprisonment for not more than 2 years or to a fine, or to both."

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Commencement Information
I353 Sch. 16 para. 25 in force at 1.1.2010 by S.I. 2009/3250, **art.2(f)(ii)**

26 Omit—

(a) sections 22 and 22A (unqualified person not to prepare certain instruments etc), and

(b) section 23 (unqualified person not to prepare papers for probate etc).

Commencement Information
I354 Sch. 16 para. 26 wholly in force at 1.1.2010, see s. 211 and S.I. 2009/3250, **art. 2(f)(ii)** (subject to art. 5 and with art. 9)

27 In section 24 (application of penal provisions to body corporate), in subsection (2) from "sections" to the end substitute " section 20 the reference to an unqualified person and the reference to a person both include a reference to a body corporate. "

Commencement Information
I355 Sch. 16 para. 27 wholly in force at 1.1.2010, see s. 211 and S.I. 2009/3250, **art. 2(f)(ii)** (subject to art. 5 and with art. 9)

28 In section 26 (time limit for commencement of certain proceedings) omit ", 22 or 23".

Commencement Information
I356 Sch. 16 para. 28 wholly in force at 1.1.2010, see s. 211 and S.I. 2009/3250, **art. 2(f)(ii)** (subject to art. 5 and with art. 9)

29 Omit section 27 (saving for persons authorised to conduct legal proceedings).

Commencement Information
I357 Sch. 16 para. 29 in force at 1.1.2010 by S.I. 2009/3250, **art.2(f)(ii)**

30 (1) Section 28 (regulations) is amended as follows.

(2) In subsection (1)—

(a) for "Master of the Rolls" substitute " Society ",

(b) omit ", with the concurrence of the Secretary of State and the Lord Chief Justice,",

(c) in paragraph (c) omit "and applications for them",

F161(d) . . . . . .

(e) in paragraph (d) for "section 9" substitute " section 10A ".

(3) Omit subsections (2) and (3).

(4) In subsection (3A)—

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(a) for "may—" insert "may (among other things)—

(za) make provision about the form in which the roll is to be kept and the manner in which entries are to be made, altered and removed;",

(b) omit "and" at the end of paragraph (b), and

(c) after paragraph (d) insert—

"(e) require the information on the roll to be made available to the public;

(f) specify the manner in which information is to be made so available and require it to be made so available during office hours and without charge."

(5) After that subsection insert—

"(3B) Regulations about practising certificates or sole solicitor endorsements may (among other things)—

(a) prescribe the form and manner in which applications for, or relating to, practising certificates or sole solicitor endorsements are to be made;

(b) prescribe information which must be included in or accompany such applications;

(c) make provision about time limits for dealing with such applications, and confer on a person power to extend or bring forward such a time limit in prescribed circumstances;

(d) prescribe the requirements which applicants for practising certificates must satisfy before they may be issued with a practising certificate;

(e) prescribe descriptions of applicants, and conditions in relation to them, for the purposes of section 10(2) (circumstances in which practising certificates must be issued subject to prescribed conditions);

(f) prescribe descriptions of applicants, and conditions in relation to them, for the purposes of section 13ZA(5) (circumstances in which a practising certificate endorsed with a sole solicitor endorsement after it was issued must be made subject to prescribed conditions);

(g) prescribe circumstances for the purposes of section 10(3) (circumstances in which application may be refused etc in the public interest);

(h) make provision about when conditions imposed on practising certificates take effect (including provision conferring power on the Society to direct that a condition is not to have effect until the conclusion of any appeal in relation to it);

(i) make provision for the commencement, duration, replacement, withdrawal and expiry of practising certificates or sole solicitor endorsements;

(j) prescribe circumstances for the purposes of section 13A(2) (circumstances in which conditions can be imposed during period of practising certificate);

(k) require solicitors who hold practising certificates to notify the Society of such matters as may be prescribed, at such times, or in such circumstances as may be prescribed.

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(3C) Regulations about the keeping of the register under section 10A may (among other things)—

(a) make provision about the form in which the register is to be kept and the manner in which entries are to be made, altered and removed;

(b) require information of a specified kind to be included in entries in the register;

(c) require information (or information of a specified description) on the register to be made available to the public;

(d) specify the manner in which it is to be made so available and require it to be made so available during office hours and without charge.

(3D) Regulations under this section may make provision for appeals to the High Court against decisions made by the Society under the regulations.

(3E) In relation to an appeal under regulations made by virtue of subsection (3D), the High Court may make such order as it thinks fit as to payment of costs.

(3F) The decision of the High Court on such an appeal shall be final.

(3G) Regulations under this section may—

(a) provide for a person to exercise a discretion in dealing with any matter;

(b) include incidental, supplementary and consequential provision;

(c) make transitory or transitional provision and savings;

(d) make provision generally or only in relation to specified cases or subject to specified exceptions;

(e) make different provision for different cases."

(6) Omit subsections (4) and (5).

Textual Amendments

F161 Sch. 16 para. 30(2)(d) repealed (1.11.2015) by The Legal Services Act 2007 (The Law Society) (Modification of Functions) Order 2015 (S.I. 2015/401), arts. 1(3), **3(3)**

Commencement Information

I358 Sch. 16 para. 30 wholly in force at 1.7.2009 see s. 211 and S.I. 2009/1365, **art. 2(a)(iv)** (subject to arts. 3, 4)

31 (1) Section 31 (rules as to professional practice, conduct and discipline) is amended as follows.

(2) In subsection (1)—

(a) for "Council may, if they think fit," substitute " Society may ",

(b) omit ", with the concurrence of the Master of the Rolls,",

(c) after "conduct" insert " , fitness to practise ",

(d) for "Council" (in the second place) substitute " Society ", and

(e) after "being" insert " , or have been, ".

(3) After that subsection insert—

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"(1A) The powers conferred on the Society by subsection (1) include power to make, in relation to solicitors, provision of a kind which the Society would be prohibited from making but for section 157(5)(c) of the Legal Services Act 2007 (exception from prohibition on approved regulators making provision for redress)."

(4) Omit subsections (3) and (4).

Commencement Information

I359 Sch. 16 para. 31(1)(2)(a)(d) in force at 7.3.2008 by S.I. 2008/222, **art. 2(j)(i)**; Sch. 16 para. 31(2)(c)(e) in force at 31.3.2009 by S.I. 2009/503, **art. 2(b)(i)**; Sch. 16 para. 31(2)(b)(3)(4) in force at 1.1.2010 by S.I. 2009/3250, **art. 2(f)(ii)** (with art. 9)

32 (1) Section 32 (accounts rules and trust accounts rules) is amended as follows.

(2) In subsection (1)—

(a) for "Council" (in the first place) substitute " Society ",

(b) omit ", with the concurrence of the Master of the Rolls",

(c) for paragraphs (a) and (b) substitute—

"(a) as to the opening and keeping by solicitors of accounts at banks or with building societies for money within subsection (1A);

(aa) as to the operation by solicitors of accounts kept by their clients or other persons at banks or with building societies or other financial institutions;

(b) as to the keeping by solicitors of accounts containing information as to money received, held or paid by them for or on account of their clients or other persons (including money received, held or paid under a trust); and",

(d) in paragraph (c) of that subsection—

(i) for "Council" substitute " Society ",

(ii) for "them" substitute " it ", and

(iii) after "being" insert " , or have been, ", and

(e) omit from "and the rules" to the end.

(3) After that subsection insert—

"(1A) The money referred to in subsection (1) is money (including money held on trust) which is received, held or dealt with for clients or other persons."

(4) Omit subsection (2).

(5) In subsection (4)—

(a) for "Council" substitute " Society ",

(b) omit "or (2)", and

(c) after "solicitor" (in both places) insert " or any of his employees ".

(6) In subsection (5) for "by virtue" to the end substitute " or a part of the rules. "

(7) Omit subsection (6).

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Commencement Information

I360 Sch. 16 para. 32(1)(2)(a)(c)-(e)(3)-(7) in force at 31.3.2009 by S.I. 2009/503, **art. 2(b)(i)**; Sch. 16 para. 32(2)(b) in force at 1.1.2010 by S.I. 2009/3250, **art. 2(f)(ii)** (with art. 9)

33 (1) Section 33 (interest on clients' money) is amended as follows.

(2) For subsection (1) substitute—

"(1) Rules under section 32 may require a solicitor to pay interest, or sums in lieu of and equivalent to interest, to a client, any other person or any trust, for whom the solicitor holds money."

(3) In subsection (2), omit from "and the rules" to the end.

(4) For subsection (3) substitute—

"(3) Except as provided by the rules, a solicitor is not liable to account to any client, other person or trust for interest received by the solicitor on money held at a bank or building society in an account which is for money received or held for, or on account of—

(a) the solicitor's clients, other persons or trusts, generally, or

(b) that client, person or trust, separately."

(5) For subsection (4) substitute—

"(4) Rules under section 32 may—

(a) prescribe the circumstances in which a solicitor may make arrangements to limit or exclude an obligation imposed on the solicitor by rules made by virtue of this section, and

(b) prescribe the requirements to be met by and in relation to those arrangements."

Commencement Information

I361 Sch. 16 para. 33 in force at 31.3.2009 by S.I 2009/503, art. 2(b)(i)

34 (1) Section 33A (inspection of practice bank accounts etc) is amended as follows.

(2) In subsection (1)—

(a) for "Council" (in each place) substitute " Society ", and

(b) omit ", with the concurrence of the Master of the Rolls,".

(3) In subsection (2) for "Council" substitute " Society ".

Commencement Information

I362 Sch. 16 para. 34(1)(2)(a)(3) in force at 7.3.2008 by S.I. 2008/222, **art. 2(j)(i)**; Sch. 16 para. 34(2)(b) in force at 1.1.2010 by S.I. 2009/3250, **art. 2(f)(ii)** (with art. 9)

35 (1) Section 34 (accountants' reports) is amended as follows.

(2) For subsections (1) to (5A) substitute—

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"(1) The Society may make rules requiring solicitors to provide the Society with reports signed by an accountant (in this section referred to as an "accountant's report") at such times or in such circumstances as may be prescribed by the rules.

(2) The rules may specify requirements to be met by, or in relation to, an accountant's report (including requirements relating to the accountant who signs the report)."

(3) In subsection (6) for "this section or of any rules made under it" substitute " any rules made under this section ".

(4) Omit subsections (7) and (8).

(5) At the end insert—

"(9) Where an accountant, during the course of preparing an accountant's report—

(a) discovers evidence of fraud or theft in relation to money held by a solicitor for a client or any other person (including money held on trust) or money held in an account of a client of a solicitor, or an account of another person, which is operated by the solicitor, or

(b) obtains information which the accountant has reasonable cause to believe is likely to be of material significance in determining whether a solicitor is a fit and proper person to hold money for clients or other persons (including money held on trust) or to operate an account of a client of the solicitor or an account of another person,

the accountant must immediately give a report of the matter to the Society.

(10) No duty to which an accountant is subject is to be regarded as contravened merely because of any information or opinion contained in a report under subsection (9)."

Commencement Information
I363 Sch. 16 para. 35 in force at 31.3.2009 by S.I 2009/503, art. 2(b)(i)

36 After section 34 insert—

"Sole solicitors

34A Employees of solicitors

(1) Rules made by the Society may provide for any rules made under section 31, 32, 33A or 34 to have effect in relation to employees of solicitors with such additions, omissions or other modifications as appear to the Society to be necessary or expedient.

(2) If any employee of a solicitor fails to comply with rules made under section 31 or 32, as they have effect in relation to the employee by virtue of subsection (1), any person may make a complaint in respect of that failure to the Tribunal.

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(3) If any employee of a solicitor fails to comply with rules made under section 34, as they have effect in relation to the employee by virtue of subsection (1), a complaint in respect of that failure may be made to the Tribunal by or on behalf of the Society.

34B Employees of solicitors: accounts rules etc

(1) Where rules made under section 32(1) have effect in relation to employees of solicitors by virtue of section 34A(1), section 85 applies in relation to an employee to whom the rules have effect who keeps an account with a bank or building society in pursuance of such rules as it applies in relation to a solicitor who keeps such an account in pursuance of rules under section 32.

(2) Subsection (3) applies where rules made under section 32—

(a) contain any such provision as is referred to in section 33(1), and

(b) have effect in relation to employees of solicitors by virtue of section 34A(1).

(3) Except as provided by the rules, an employee to whom the rules are applied is not liable to account to any client, other person or trust for interest received by the employee on money held at a bank or building society in an account which is for money received or held for, or on account of—

(a) clients of the solicitor, other persons or trusts, generally, or

(b) that client, person or trust, separately.

(4) Subsection (5) applies where rules made under section 33A(1) have effect in relation to employees of solicitors by virtue of section 34A(1).

(5) The Society may disclose a report on or information about the accounts of any employee of a solicitor obtained in pursuance of such rules for use—

(a) in investigating the possible commission of an offence by the solicitor or any employees of the solicitor, and

(b) in connection with any prosecution of the solicitor or any employees of the solicitor consequent on the investigation.

(6) Where rules made under section 34 have effect in relation to employees of solicitors by virtue of section 34A(1), section 34(9) and (10) apply in relation to such an employee as they apply in relation to a solicitor."

Commencement Information
I364 Sch. 16 para. 36 in force at 31.3.2009 by S.I 2009/503, art. 2(b)(i)

37 For section 36 (compensation fund) substitute—

"**36 Compensation grants**

(1) The Society may make rules concerning the grant of compensation by the Society in respect of loss that a person has suffered, or is likely to suffer, as a result of—

(a) an act or omission of a solicitor or former solicitor;

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(b) an act or omission of an employee or former employee of a solicitor or former solicitor;

(c) the exercise by the Society of any of its powers under Part 2 of Schedule 1.

(2) The rules may (among other things) make provision—

(a) as to the circumstances in which such grants may and may not be made;

(b) as to the form and manner in which a compensation claim is to be made;

(c) as to the procedure for determining compensation claims;

(d) for the making of grants in respect of a compensation claim before it is finally determined;

(e) for a grant to be made by way of loan in such circumstances and on such terms as may be prescribed in, or determined in accordance with, the rules;

(f) for a grant to be made by way of making good a deficiency in monies held in trust by the Society under paragraph 6 or 6A of Schedule 1;

(g) as to the minimum and maximum grants payable in respect of a compensation claim (or a claim of a prescribed description);

(h) for the Society to be subrogated, to such extent as may be prescribed, to any rights and remedies of a person to whom a grant is made in relation to the loss in respect of which the grant is made.

(3) The circumstances which may be prescribed by virtue of subsection (2)(a) include in particular—

(a) the nature of the loss;

(b) in a case within subsection (1)(a) or (b), the nature of the act or omission.

(4) For the purposes of subsection (2)(f), there is a deficiency if the monies mentioned in that subsection are insufficient to satisfy the claims of all persons with a beneficial interest in the monies.

(5) The Society may prepare and publish guidance as to the criteria it will apply in deciding whether to make a grant in respect of a compensation claim, or any part of a compensation claim.

(6) Where the Society decides—

(a) not to make a grant in respect of a compensation claim or any part of a compensation claim, or

(b) to make a grant of less than the amount claimed,

it must give reasons for its decision.

(7) Rules under subsection (1) which are not regulatory arrangements within the meaning of the Legal Services Act 2007 are to be treated as such arrangements for the purposes of that Act.

(8) In this section—

"compensation claim" means a claim for the Society to make a grant of the kind mentioned in subsection (1);

"prescribed" means prescribed in rules under subsection (1).

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Changes to legislation: *Legal Services Act 2007 is up to date with all changes known to be in force on or before 05 December 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

36A Compensation funds

(1) Compensation rules may require or authorise the Society to establish or maintain a fund or funds ("compensation funds") for the purpose of making grants in respect of compensation claims.

(2) Compensation rules may require solicitors, or solicitors of a description prescribed in the rules, to make contributions to compensation funds of such amounts, at such times and in such circumstances, as may be prescribed in or determined in accordance with the rules.

(3) Any amount payable by virtue of such a requirement may be recovered as a debt due to the Society.

(4) Subsection (2) does not apply to a solicitor who is a Crown Prosecutor.

(5) The Society may invest any money which forms part of a compensation fund in any investments in which trustees may invest under the general power of investment in section 3 of the Trustee Act 2000 (as restricted by sections 4 and 5 of that Act).

(6) The Society may insure with authorised insurers, in relation to compensation funds, for such purposes and on such terms as it considers appropriate.

(7) The Society may, in such circumstances and subject to such conditions as may be prescribed in or determined in accordance with compensation rules—

(a) borrow for the purposes of a compensation fund;

(b) charge investments which form part of a compensation fund as security for borrowing by the Society for the purposes of that fund.

(8) A compensation fund may be applied by the Society for the purposes mentioned in subsection (9) (in addition to the making of grants in respect of compensation claims).

(9) The purposes are—

(a) payment of premiums on insurance policies effected under subsection (6);

(b) repayment of money borrowed by the Society for the purposes of the fund and payment of interest on any money so borrowed;

(c) payment of any other costs, charges or expenses incurred by the Society in establishing, maintaining, protecting administering or applying the fund;

(d) payment of any costs, charges or expenses incurred by the Society in exercising its powers under Part 2 of Schedule 1;

(e) payment of any costs or damages incurred by the Society, its employees or agents as a result of proceedings against it or them for any act or omission of its or theirs in good faith and in the exercise or purported exercise of such powers.

(10) In this section—

"compensation claim" has the same meaning as in section 36;

"compensation fund" has the meaning given by subsection (1);

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"compensation rules" means rules under section 36(1)."

Commencement Information

I365 Sch. 16 para. 37 wholly in force at 31.3.2009, see s. 211 and S.I. 2009/503, **art. 2(b)(i)** (subject to arts. 4, 5)

38 In section 37 (professional indemnity)—

(a) in subsection (1) for "Council, with the concurrence of the Master of the Rolls," substitute " Society ", and

(b) in subsection (3)(h)—

(i) for "Council" substitute " Society ",

(ii) for "they consider" substitute " it considers ", and

(iii) after "being" insert " , or have been, ".

Commencement Information

I366 Sch. 16 para. 38(a) in force for certain purposes and Sch. 16 para. 38(b)(i)(ii) in force at 7.3.2008 by S.I. 2008/222, **art. 2(j)(i)**; Sch. 16 para. 38(b)(iii) in force at 30.6.2008 by S.I. 2008/1436, **art. 2(d)(i)**; Sch. 16 para. 38(a) in force at 1.1.2010 by S.I. 2009/3250, **art. 2(f)(ii)**

39 Omit section 37A (redress for inadequate professional services).

Commencement Information

I367 Sch. 16 para. 39 in force at 6.10.2010 by S.I. 2010/2089, **art. 2(b)** (with art. 6)

40 Omit section 40 (solicitor not to commence or defend actions while in prison).

Commencement Information

I368 Sch. 16 para. 40 in force at 1.7.2009 by S.I. 2009/1365, **art. 2(a)(i)**

41 (1) Section 41 (employment by solicitor of person struck off or suspended) is amended as follows.

(2) After subsection (1A) insert—

"(1B) Where—

(a) a solicitor ("the employed solicitor") is employed by another solicitor in accordance with a written permission granted under this section, and

(b) the employed solicitor is disqualified from practising as a solicitor by reason of a fact mentioned in subsection (1)(b) or (c),

section 20(1) does not apply in relation to anything done by the employed solicitor in the course of that employment."

(3) In subsection (3)—

(a) for "Master of the Rolls who" substitute " High Court which ", and

(b) in paragraph (b) for "he" substitute " it ".

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(4) In subsection (4) for "shall" to the end substitute "may—

(a) order that his name be struck off the roll,

(b) order that he be suspended from practice for such period as the Tribunal or court thinks fit, or

(c) make such other order in the matter as it thinks fit."

(5) After that subsection insert—

"(4A) In relation to an appeal under subsection (3) the High Court may make such order as it thinks fit as to payment of costs.

(4B) The decision of the High Court on an appeal under subsection (3) shall be final."

(6) Omit subsection (5).

Commencement Information

I369 Sch. 16 para. 41(1)(2) in force at 31.3.2009 by S.I. 2009/503, **art. 2(b)(i)**; Sch. 16 para. 41(3)-(6) in force at 1.7.2009 by S.I. 2009/1365, **art. 2(a)(iii)** (subject to art. 4)

42 (1) Section 43 (control of solicitors' employees and consultants) is amended as follows.

(2) For subsections (1), (1A) and (2) substitute—

"(1) Where a person who is or was involved in a legal practice but is not a solicitor—

(a) has been convicted of a criminal offence which is such that in the opinion of the Society it would be undesirable for the person to be involved in a legal practice in one or more of the ways mentioned in subsection (1A), or

(b) has, in the opinion of the Society, occasioned or been a party to, with or without the connivance of a solicitor, an act or default in relation to a legal practice which involved conduct on his part of such a nature that in the opinion of the Society it would be undesirable for him to be involved in a legal practice in one or more of the ways mentioned in subsection (1A),

the Society may either make, or make an application to the Tribunal for it to make, an order under subsection (2) with respect to that person.

(1A) A person is involved in a legal practice for the purposes of this section if the person—

(a) is employed or remunerated by a solicitor in connection with the solicitor's practice;

(b) is undertaking work in the name of, or under the direction or supervision of, a solicitor;

(c) is employed or remunerated by a recognised body;

(d) is employed or remunerated by a manager or employee of a recognised body in connection with that body's business;

(e) is a manager of a recognised body;

(f) has or intends to acquire an interest in such a body.

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(2) An order made by the Society or the Tribunal under this subsection is an order which states one or more of the following—

(a) that as from the specified date—

(i) no solicitor shall employ or remunerate, in connection with his practice as a solicitor, the person with respect to whom the order is made,

(ii) no employee of a solicitor shall employ or remunerate, in connection with the solicitor's practice, the person with respect to whom the order is made,

(iii) no recognised body shall employ or remunerate that person, and

(iv) no manager or employee of a recognised body shall employ or remunerate that person in connection with the business of that body,

except in accordance with a Society permission;

(b) that as from the specified date no recognised body or manager or employee of such a body shall, except in accordance with a Society permission, permit the person with respect to whom the order is made to be a manager of the body;

(c) that as from the specified date no recognised body or manager or employee of such a body shall, except in accordance with a Society permission, permit the person with respect to whom the order is made to have an interest in the body.

(2A) The Society may make regulations prescribing charges to be paid to the Society by persons who are the subject of an investigation by the Society as to whether there are grounds for the Society—

(a) to make an order under subsection (2), or

(b) to make an application to the Tribunal for it to make such an order.

(2B) Regulations under subsection (2A) may—

(a) make different provision for different cases or purposes;

(b) provide for the whole or part of a charge payable under the regulations to be repaid in such circumstances as may be prescribed by the regulations.

(2C) Any charge which a person is required to pay under regulations under subsection (2A) is recoverable by the Society as a debt due to the Society from the person."

(3) In subsection (5) omit—

(a) "by any solicitor", and

(b) the words from "but" to the end.

(4) After that subsection insert—

"(5A) In this section—

"manager", in relation to a recognised body, has the same meaning as it has in relation to a body in the Legal Services Act 2007 (see section 207 of that Act);

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"recognised body" means a body recognised under section 9 of the Administration of Justice Act 1985;

"specified date" means such date as may be specified in the order;

"Society permission" means permission in writing granted by the Society for such period and subject to such conditions as the Society may think fit to specify in the permission.

(5B) A person has an interest in a recognised body for the purposes of this section if the person has an interest in that body within the meaning of Part 5 of the Legal Services Act 2007 (see sections 72 and 109 of that Act)."

Commencement Information

I370 Sch. 16 para. 42 wholly in force at 31.3.2009, see s. 211 and S.I. 2009/503, **art. 2(b)(i)** (subject to art. 4)

43 In section 44 (offences in connection with orders under section 43(2))—

(a) for subsection (1) substitute—

"(1) It is an offence for a person in respect of whom there is in force an order under section 43(2) which contains provision within section 43(2)(a)—

(a) to seek or accept any employment or remuneration from a solicitor, or an employee of a solicitor, in connection with the practice carried on by that solicitor without previously informing the solicitor or employee of the order;

(b) to seek or accept any employment or remuneration from a recognised body, or a manager or employee of a recognised body, in connection with that body's business, without previously informing the body, or manager or employee, of the order.

(1A) It is an offence for a person in respect of whom there is in force an order under section 43(2) which contains provision within section 43(2)(b) to seek or accept a position as a manager of a recognised body, without previously informing that body of the order.

(1B) It is an offence for a person in respect of whom there is in force an order under section 43(2) which contains provision within section 43(2)(c) to seek or accept an interest in a recognised body from any person, without previously informing that person and (if different) the recognised body of the order.

(1C) A person guilty of an offence under subsection (1), (1A) or (1B) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.",

(b) in subsection (2) for "the employment of that person" substitute " the taking of any action ", and

(c) after subsection (4) insert—

"(5) In this section—

"manager" has the same meaning as in section 43;

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"recognised body" means a body recognised under section 9 of the Administration of Justice Act 1985;

and for the purposes of subsection (1B) a person seeks or accepts an interest in a recognised body if the person seeks or accepts an interest which if it were obtained by the person would result in the person having an interest in that body within the meaning of Part 5 of the Legal Services Act 2007 (see sections 72 and 109 of that Act)."

Commencement Information
I371 Sch. 16 para. 43 in force at 31.3.2009 by S.I 2009/503, art. 2(b)(i)

44 For section 44B (examination of files) substitute—

"**44B Provision of information and documents by solicitors etc**

(1) The Society may by notice require a person to whom this section applies—

(a) to provide information, or information of a description, specified in the notice, or

(b) produce documents, or documents of a description, specified in the notice.

(2) This section applies to—

(a) a solicitor;

(b) an employee of a solicitor;

(c) a recognised body;

(d) an employee or manager of, or a person with an interest in, a recognised body.

(3) The Society may give a notice under this section only if it is satisfied that it is necessary to do so for the purpose of investigating—

(a) whether there has been professional misconduct by a solicitor;

(b) whether a solicitor, or an employee of a solicitor, has failed to comply with any requirements imposed by or by virtue of this Act or any rules made by the Society;

(c) whether a recognised body, or any of its managers or employees has failed to comply with any requirement imposed by or by virtue of the Administration of Justice Act 1985 or any rules made by the Society and applicable to the body, manager or employee by virtue of section 9 of that Act;

(d) whether there are grounds for making, or making an application to the Tribunal for it to make, an order under section 43(2) with respect to a person who is or was involved in a legal practice (within the meaning of section 43(1A)).

(4) A notice under this section—

(a) may specify the time and place at which, and manner and form in which, the information is to be provided or document is to be produced;

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(b) must specify the period within which the information is to be provided or the document produced;

(c) may require the information to be provided or document to be produced to the Society or to a person specified in the notice.

(5) The Society may pay to any person such reasonable costs as may be incurred by that person in connection with the provision of any information, or production of any document, by that person pursuant to a notice under this section.

(6) Paragraphs 9(3) and (4) and 13, 15 and 16 of Schedule 1 apply in relation to the powers to obtain information conferred by this section, but for this purpose—

(a) paragraph 9 of that Schedule has effect as if—

(i) in sub-paragraph (3) for "such documents" there were substituted " information to which a notice given to him under section 44B applies ",

(ii) in that sub-paragraph for "sub-paragraph (1)" there were substituted " the notice ", and

(iii) in sub-paragraph (4) for "produce" (in the first place) to the end there were substituted " provide information pursuant to a notice under section 44B to provide the information to any person appointed by the Society at such time and place as may be specified in the order. ", and

(b) the reference to the solicitor or his personal representative in paragraph 13 of that Schedule is to be construed as a reference to the person to whom the notice was given under this section.

(7) Paragraphs 9 (other than sub-paragraphs (1) and (3)), 12, 13, 15 and 16 of Schedule 1 apply in relation to the powers to obtain documents conferred by this section as they apply in relation to the powers conferred by paragraph 9(1) of that Schedule, except that for this purpose—

(a) any reference in paragraph 9 of that Schedule to a person appointed, or to a requirement, under sub-paragraph (1) of that paragraph is to be construed as a reference to a person appointed, or to a requirement to produce documents, under this section,

(b) any reference in that paragraph to any such documents as are mentioned in paragraph 9(1) of that Schedule is to be construed as a reference to any documents to which a notice under this section applies,

(c) the references to the solicitor or his firm in paragraph 9(5) and (6) of that Schedule, and the reference to the solicitor or personal representative in paragraph 9(7) of that Schedule, are to be construed as references to the person to whom the notice was given under this section, and

(d) the reference in paragraph 9(12) of that Schedule to the Society is to be construed as including a reference to a person specified under subsection (4)(c).

(8) Where powers conferred by Part 2 of Schedule 1 to the 1974 Act are exercisable in relation to a person within paragraph (a), (b), (c) or (d) of

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subsection (2), they continue to be so exercisable after the person has ceased to be a person within the paragraph in question.

(9) In this section—

"manager" has the same meaning as in the Legal Services Act 2007 (see section 207 of that Act);

"recognised body" means a body recognised under section 9 of the Administration of Justice Act 1985;

and the reference to a person who has an interest in a recognised body is to be construed in accordance with sections 72 and 109 of the Legal Services Act 2007.

44BA Power to require explanation of document or information

(1) The Society may, by notice, require a person to whom a notice is given under section 44B (or a representative of the person) to attend at a time and place specified in the notice to provide an explanation of any information provided or document produced pursuant to the notice.

(2) The Society may pay to any person such reasonable costs as may be incurred by that person in connection with that person's compliance with a requirement imposed under subsection (1).

(3) Paragraphs 9(3) and (4) and 13, 15 and 16 of Schedule 1 apply in relation to a notice under this section, except that for this purpose—

(a) paragraph 9 of that Schedule has effect as if—

(i) in sub-paragraph (3) for "having" to "sub-paragraph (1)" there were substituted " refuses, neglects or otherwise fails to comply with a requirement under section 44BA(1) ", and

(ii) in sub-paragraph (4) for "produce" (in the first place) to the end there were substituted " provide an explanation of any information provided or document produced pursuant to a notice under section 44B (or a representative of such a person) to attend at a time and place specified in the order to provide an explanation of any information so provided or document so produced. ", and

(b) the reference to the solicitor or his personal representative in paragraph 13 of that Schedule is to be construed as a reference to the person to whom the notice was given under this section.

44BB Provision of information and documents by other persons

(1) The High Court, on the application of the Society, may order a person to whom section 44B does not apply—

(a) to provide information, or information of a description, specified in the notice, or

(b) to produce documents, or documents of a description, specified in the notice.

(2) The High Court may make an order under this section only if it is satisfied—

(a) that it is likely that the information or document is in the possession or custody of, or under the control of, the person, and

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(b) that there is reasonable cause to believe that the information or document is likely to be of material significance to an investigation into any of the matters mentioned in section 44B(3)(a) to (d).

(3) An order under this section may direct the Society to pay to a person specified in the order such reasonable costs as may be incurred by that person in connection with the provision of any information, or production of any document, by that person pursuant to the order.

(4) Section 44B(4) applies in relation to an order under this section as it applies in relation to a notice under section 44B.

(5) Paragraphs 9(5A) and (7) to (12), 12, 13, 15 and 16 of Schedule 1 apply in relation to an order under this section as they apply in relation to an order under paragraph 9(4) of that Schedule, except that for this purpose—

(a) the reference to the solicitor or personal representative in paragraph 9(7) of that Schedule is to be construed as a reference to the person in respect of whom the order under this section is made,

(b) the reference in paragraph 9(12) of that Schedule to the Society is to be read as including a reference to a person specified under section 44B(4)(c) (as applied by subsection (4) of this section), and

(c) the reference to the solicitor or his personal representative in paragraph 13 of that Schedule is to be construed as a reference to the person to whom the notice was given under this section.

44BC Information offences

(1) It is an offence for a person who knows or suspects an investigation into any of the matters mentioned in section 44B(3)(a) to (d) is being or is likely to be conducted—

(a) to falsify, conceal, destroy or otherwise dispose of a document which the person knows or suspects is or would be relevant to the investigation, or

(b) to cause or permit the falsification, concealment, destruction or disposal of such a document.

(2) In proceedings for an offence under subsection (1) it is a defence for the accused to show that the accused had no intention of concealing facts disclosed by the documents from the person conducting the investigation.

(3) It is an offence for a person, in purported compliance with a requirement imposed on the person under section 44B, 44BA or 44BB—

(a) to provide information which the person knows to be false or misleading in a material particular, or

(b) recklessly to provide information which is false or misleading in a material particular.

(4) A person who is guilty of an offence under subsection (1) or (3) is liable—

(a) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum, or both;

(b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine, or both.

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(5) In relation to an offence under subsection (1) or (3) committed before the commencement of section 154(1) of the Criminal Justice Act 2003 the reference in subsection (4)(a) to 12 months is to be read as a reference to 6 months."

Commencement Information
I372 Sch. 16 para. 44 wholly in force at 31.3.2009, see s. 211 and S.I. 2009/503, **art. 2(b)(i)** (subject to art. 4)

45 For section 44C (payment of costs of investigations) substitute—

"**44C Power to charge for costs of investigations**

(1) The Society may make regulations prescribing charges to be paid to the Society by solicitors who are the subject of a discipline investigation.

(2) A "discipline investigation" is an investigation carried out by the Society into—

(a) possible professional misconduct by a solicitor, or

(b) a failure or apprehended failure by a solicitor to comply with any requirement imposed by or by virtue of this Act or any rules made by the Society.

(3) Regulations under this section may—

(a) make different provision for different cases or purposes;

(b) provide for the whole or part of a charge payable under the regulations to be repaid in such circumstances as may be prescribed by the regulations.

(4) Any charge which a solicitor is required to pay under regulations under this section is recoverable by the Society as a debt due to the Society from the solicitor.

(5) This section (other than subsection (2)(a)) applies in relation to an employee of a solicitor as it applies in relation to a solicitor."

Commencement Information
I373 Sch. 16 para. 45 wholly in force at 31.3.2009, see s. 211 and S.I. 2009/503, **art. 2(b)(i)** (subject to art. 4)

46 After that section insert—

"Disciplinary powers of the Society

44D Disciplinary powers of the Society

(1) This section applies where the Society is satisfied—

(a) that a solicitor or an employee of a solicitor has failed to comply with a requirement imposed by or by virtue of this Act or any rules made by the Society, or

(b) that there has been professional misconduct by a solicitor.

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(2) The Society may do one or both of the following—

(a) give the person a written rebuke;

(b) direct the person to pay a penalty not exceeding £2,000.

(3) The Society may publish details of any action it has taken under subsection (2)(a) or (b), if it considers it to be in the public interest to do so.

(4) Where the Society takes action against a person under subsection (2)(b), or decides to publish under subsection (3) details of any action taken under subsection (2)(a) or (b), it must notify the person in writing that it has done so.

(5) A penalty imposed under subsection (2)(b) does not become payable until—

(a) the end of the period during which an appeal against the decision to impose the penalty, or the amount of the penalty, may be made under section 44E, or

(b) if such an appeal is made, such time as it is determined or withdrawn.

(6) The Society may not publish under subsection (3) details of any action under subsection (2)(a) or (b)—

(a) during the period within which an appeal against—

(i) the decision to take the action,

(ii) in the case of action under subsection (2)(b), the amount of the penalty, or

(iii) the decision to publish the details,

may be made under section 44E, or

(b) if such an appeal has been made, until such time as it is determined or withdrawn.

(7) The Society must make rules—

(a) prescribing the circumstances in which the Society may decide to take action under subsection (2)(a) or (b);

(b) about the practice and procedure to be followed by the Society in relation to such action;

(c) governing the publication under subsection (3) of details of action taken under subsection (2)(a) or (b);

and the Society may make such other rules in connection with the exercise of its powers under this section as it considers appropriate.

(8) Before making rules under subsection (7), the Society must consult the Tribunal.

(9) A penalty payable under this section may be recovered as a debt due to the Society, and is to be forfeited to Her Majesty.

(10) The Lord Chancellor may, by order, amend paragraph (b) of subsection (2) so as to substitute for the amount for the time being specified in that paragraph such other amount as may be specified in the order.

(11) Before making an order under subsection (10), the Lord Chancellor must consult the Society.

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(12) An order under subsection (10) is to be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

(13) This section is without prejudice to any power conferred on the Society or any other person to make an application or complaint to the Tribunal.

44E Appeals against disciplinary action under section 44D

(1) A person may appeal against—

(a) a decision by the Society to rebuke that person under section 44D(2)(a) if a decision is also made to publish details of the rebuke;

(b) a decision by the Society to impose a penalty on that person under section 44D(2)(b) or the amount of that penalty;

(c) a decision by the Society to publish under section 44D(3) details of any action taken against that person under section 44D(2)(a) or (b).

(2) Subsections (9)(b), (10)(a) and (b), (11) and (12) of section 46 (Tribunal rules about procedure for hearings etc) apply in relation to appeals under this section as they apply in relation to applications or complaints, except that subsection (11) of that section is to be read as if for "the applicant" to "application)" there were substituted " any party to the appeal ".

(3) Rules under section 46(9)(b) may, in particular, make provision about the period during which an appeal under this section may be made.

(4) On an appeal under this section, the Tribunal has power to make such order as it thinks fit, and such an order may in particular—

(a) affirm the decision of the Society;

(b) revoke the decision of the Society;

(c) in the case of a penalty imposed under section 44D(2)(b), vary the amount of the penalty;

(d) in the case of a solicitor, contain provision for any of the matters mentioned in paragraphs (a) to (d) of section 47(2);

(e) in the case of an employee of a solicitor, contain provision for any of the matters mentioned in section 47(2E);

(f) make such provision as the Tribunal thinks fit as to payment of costs.

(5) Where by virtue of subsection (4)(e) an order contains provision for any of the matters mentioned in section 47(2E)(c), section 47(2F) and (2G) apply as if the order had been made under section 47(2E)(c).

(6) An appeal from the Tribunal shall lie to the High Court, at the instance of the Society or the person in respect of whom the order of the Tribunal was made.

(7) The High Court shall have power to make such order on an appeal under this section as it may think fit.

(8) Any decision of the High Court on an appeal under this section shall be final.

(9) This section is without prejudice to any power conferred on the Tribunal in connection with an application or complaint made to it."

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Commencement Information
I374 Sch. 16 para. 46 wholly in force at 31.3.2009, see s. 211 and S.I. 2009/503, **art. 2(b)(i)** (subject to art. 4)

47 (1) Section 46 (solicitors disciplinary tribunal) is amended as follows.

(2) For subsection (5) substitute—

"(5) The Tribunal may pay its members such remuneration, fees or allowances as it may determine with the approval of the Legal Services Board."

(3) After that subsection insert—

"(5A) The Tribunal may do anything calculated to facilitate, or incidental or conducive to, the carrying out of any of its functions."

(4) Omit subsections (6) to (8).

(5) In subsection (9)—

(a) for "Subject to subsections (6) to (8), the" substitute " The ",

(b) omit ", with the concurrence of the Master of the Rolls,", and

(c) in paragraph (b) after "complaints" insert " (including provision about the composition of the Tribunal) ".

Commencement Information
I375 Sch. 16 para. 47 wholly in force at 30.6.2008, see s. 211 and S.I. 2008/1436, **art. 2(d)** (subject to art. 4)

48 After that section insert—

"**46A Funding of the Tribunal**

(1) The Tribunal must submit to the Society in respect of each year a budget for the year approved by the Legal Services Board.

(2) A budget for a year is a statement of the amount of money which the Tribunal estimates is required to enable it to meet all of its expenditure in that year (having regard to any amounts received but not spent in previous years).

(3) Before approving a statement for the purposes of subsection (1) the Legal Services Board must consult the Society.

(4) The budget for a year must be submitted to the Society under subsection (1) no later than the date in the preceding year specified by the Society for the purposes of this subsection.

(5) Before specifying a date for this purpose the Society must consult the Tribunal.

(6) The amount specified in a budget submitted under subsection (1) must be paid by the Society to the Tribunal—

(a) in such instalments and at such times as may be agreed between the Society and the Tribunal, or

(b) in the absence of such agreement, before the beginning of the year to which the budget relates.

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(7) The Society may pay the Tribunal such other amounts as the Society considers appropriate.

(8) In this section "year" means a calendar year."

Commencement Information

I376 Sch. 16 para. 48 wholly in force at 30.6.2008, see s. 211 and S.I. 2008/1436, **art. 2(d)(i)** (subject to art. 4)

49 In section 47 (jurisdiction and powers of Tribunal)—

F162(a) . . . . . .

(b) in subsection (2) for "subsection" (where it first occurs) substitute " subsections (2E) and ",

F163(c) . . . . . .

(d) in subsection (2)(c) omit "not exceeding £5,000",

F164(e) . . . . . .

(f) after subsection (2D) insert—

"(2E) On the hearing of any complaint made to the Tribunal by virtue of section 34A(2) or (3), the Tribunal shall have power to make one or more of the following—

(a) an order directing the payment by the employee to whom the complaint relates of a penalty to be forfeited to Her Majesty;

(b) an order requiring the Society to consider taking such steps as the Tribunal may specify in relation to that employee;

(c) if that employee is not a solicitor, an order which states one or more of the matters mentioned in paragraphs (a) to (c) of section 43(2);

(d) an order requiring the Society to refer to an appropriate regulator any matter relating to the conduct of that employee.

(2F) Subsections (1) to (1C), (3) and (4) of section 44 apply in relation to an order under subsection (2E)(c) as they apply in relation to an order under section 43(2).

(2G) Section 44(2), paragraph 16(1)(d) and (1A)(d) of Schedule 2 to the Administration of Justice Act 1985 and paragraph 15(3A) of Schedule 14 to the Courts and Legal Services Act 1990 apply in relation to an order under subsection (2E)(c) as they apply in relation to an order under section 43(2).

(2H) For the purposes of subsection (2E)(d) an "appropriate regulator" in relation to an employee means—

(a) if the employee is an authorised person in relation to a reserved legal activity (within the meaning of the Legal Services Act 2007), any relevant approved regulator (within the meaning of that Act) in relation to that employee, and

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(b) if the employee carries on activities which are not reserved legal activities (within the meaning of that Act), any body which regulates the carrying on of such activities by the employee.",

(g) after subsection (3A) insert—

"(3B) For the avoidance of doubt, nothing in this section permits the Tribunal to make an order requiring redress to be made in respect of any act or omission of any person.", and

(h) omit subsections (4) and (5).

Textual Amendments

F162 Sch. 16 para. 49(a) repealed (1.11.2015) by The Legal Services Act 2007 (The Law Society) (Modification of Functions) Order 2015 (S.I. 2015/401), arts. 1(3), **3(3)**

F163 Sch. 16 para. 49(c) repealed (1.11.2015) by The Legal Services Act 2007 (The Law Society) (Modification of Functions) Order 2015 (S.I. 2015/401), arts. 1(3), **3(3)**

F164 Sch. 16 para. 49(e) repealed (1.11.2015) by The Legal Services Act 2007 (The Law Society) (Modification of Functions) Order 2015 (S.I. 2015/401), arts. 1(3), **3(3)**

Commencement Information

I377 Sch. 16 para. 49(b)(d)(f)(h) in force at 31.3.2009 by S.I. 2009/503, **art. 2(b)(i)** (subject to art. 4); Sch. 16 para. 49(a)(c)(e) in force at 1.7.2009 by S.I. 2009/1365, **art. 2(a)(i)**

I378 Sch. 16 para. 49(g) in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(f)**

50 In section 48 (orders of Tribunal)—

(a) in subsection (2)(b)—

(i) after "(e)," insert " (ea), ", and

(ii) omit "in the London Gazette",

(b) in subsection (3) for "Subject to section 43(5), any" substitute " Any ", and

(c) after subsection (4) insert—

"(5) In the case of orders of the Tribunal under section 44E, the reference in subsection (2)(a) to the application or complaint is to be read as a reference to the Tribunal's order."

Commencement Information

I379 Sch. 16 para. 50(a)(ii) in force at 7.3.2008 by S.I. 2008/222, **art. 2(j)(i)**; Sch. 16 para. 50(b)(c) in force at 31.3.2009 by S.I. 2009/503, **art. 2(b)(i)**; Sch. 16 para. 50(a)(i) in force at 1.7.2009 by S.I. 2009/1365, **art. 2(a)(i)**

51 (1) Section 49 (appeals from Tribunal) is amended as follows.

(2) In subsection (1) for "lie—" to the end substitute " lie to the High Court ".

(3) In subsection (2), after "(3)" insert " and to section 43(5) of the Administration of Justice Act 1985 ".

F165(4) . . . . . .

(5) In subsection (4)—

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(a) omit "and the Master of the Rolls", and
(b) for "they" substitute " it ".

(6) For subsection (6) substitute—

"(6) Any decision of the High Court—
(a) on an application under section 43(3) or 47(1)(d), (e), (ea) or (f), or
(b) against an order under section 43(3A),
shall be final."

(7) Omit subsection (7).

Textual Amendments

F165 Sch. 16 para. 51(4) repealed (1.4.2013) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 5 Pt. 2**; S.I. 2013/453, art. 3(h) (with savings and transitional provisions in S.I. 2013/534, art. 6)

Commencement Information

I380 Sch. 16 para. 51 wholly in force at 1.7.2009 see s. 211 and S.I. 2009/1365, **art. 2(a)(iii)** (subject to art. 4)

52 After that section insert—

"**49A Appeals to the Tribunal instead of the High Court**

(1) The Society may, with the approval of the Tribunal, make rules which provide that in such circumstances as may be prescribed by the rules an appeal under any of the provisions listed in subsection (2) lies to the Tribunal and not to the High Court.

(2) Those provisions are—
(a) section 8(4);
(b) section 13A(6);
(c) section 16(5);
(d) section 28(3D);
(e) section 41(3);
(f) paragraph 14 of Schedule 14 to the Courts and Legal Services Act 1990 (foreign lawyers: appeals against conditions or refusals).

(3) Any decision of the Tribunal on an appeal by virtue of rules made under this section shall be final."

Commencement Information

I381 Sch. 16 para. 52 in force at 1.7.2009 by S.I. 2009/1365, **art. 2(a)(i)**

53 In section 54 (restrictions on powers to strike names off roll)—
(a) in subsection (1) for "service under articles" substitute " persons seeking admission as solicitors ", and
(b) in subsection (2) for paragraphs (a) and (b) substitute—

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"(a) that a solicitor who undertook a training responsibility for him under training regulations neglected or omitted to take out a practising certificate; or

(b) that the name of a solicitor who undertook such a responsibility for a period has been removed from or struck off the roll after the end of that period."

Commencement Information

I382 Sch. 16 para. 53 in force at 7.3.2008 by S.I. 2008/222, **art. 2(j)(i)**

54 (1) Section 56 (orders as to remuneration for non-contentious business) is amended as follows.

(2) In subsection (1)—

(a) in paragraph (a) for "Secretary of State" substitute " Lord Chancellor ",

(b) after paragraph (d) insert—

"(da) a member of the Legal Services Board nominated by that Board;", and

(c) in paragraph (e) for "Secretary of State" substitute " Lord Chancellor ".

(3) In subsection (2) for "(the Secretary of State" to "think fit" substitute " (the Lord Chancellor being one), may make general orders prescribing the general principles to be applied when determining ".

(4) In subsection (3)—

(a) for "Secretary of State" substitute " Lord Chancellor ", and

(b) for "Council" (in both places) substitute " Society ".

(5) In subsection (4) for "An order" to the end of paragraph (a) substitute— " The principles prescribed by an order under this section may provide that solicitors should be remunerated— ".

(6) In subsection (5)—

(a) for "An order" to "reference" substitute— " The general principles prescribed by an order under this section may provide that the amount of such remuneration is to be determined by having regard ", and

(b) in paragraph (d) after "solicitor" insert " , or any employee of his who is an authorised person, ".

(7) After that subsection insert—

"(5A) In subsection (5) "authorised person" means a person who is an authorised person in relation to an activity which is a reserved legal activity, within the meaning of the Legal Services Act 2007 (see section 18 of that Act)."

(8) In subsection (6)(a) for "taxation" substitute " assessment ".

(9) In subsection (7)—

(a) for "taxation" substitute " assessment ", and

(b) for "regulated by" substitute " subject to ".

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Commencement Information

I383 Sch. 16 para. 54(1)(4)(b) in force for certain purposes at 7.3.2008 by S.I. 2008/222, **art. 2(j)(i)**; Sch. 16 para. 54(2)(a)(c)(3)(4)(a)(5)(6)(a)(9)(b) in force at 30.6.2008 by S.I. 2008/1436, **art. 2(d)(i)**; Sch. 16 para. 54(6)(b)(7) in force at 31.3.2009 by S.I. 2009/503, **art. 2(b)(i)** (subject to art. 4); Sch. 16 para. 54(2)(b) in force at 1.7.2009 by S.I. 2009/1365, **art. 2(a)(i)**; Sch. 16 para. 54(8)(9)(a) in force at 1.1.2010 by S.I. 2009/3250, **art. 2(f)(ii)**

55 In section 57 (non-contentious business agreements)—

(a) in subsection (2) for "stamps" substitute " taxes ",

(b) in subsection (5)—

(i) for "taxation" substitute " assessment ", and

(ii) for "taxing officer" substitute " costs officer ", and

(c) in subsection (7)—

(i) for "taxation" substitute " assessment ", and

(ii) for "taxing officer" substitute " costs officer ".

Commencement Information

I384 Sch. 16 para. 55 in force at 1.1.2010 by S.I. 2009/3250, **art.2(f)(ii)**

56 In section 60 (effect of contentious business agreements)—

(a) in subsection (1) for "taxation" substitute " assessment ",

(b) in subsection (2)—

(i) for "taxed" substitute " assessed ", and

(ii) for "taxation" substitute " assessment ", and

(c) for subsection (5) substitute—

"(5) A provision in a contentious business agreement that the solicitor shall not be liable for his negligence, or that of any employee of his, shall be void if the client is a natural person who, in entering that agreement, is acting for purposes which are outside his trade, business or profession.

(6) A provision in a contentious business agreement that the solicitor shall be relieved from any responsibility to which he would otherwise be subject as a solicitor shall be void."

Commencement Information

I385 Sch. 16 para. 56(c) in force at 30.6.2008 by S.I. 2008/1436, **art. 2(d)(i)**; Sch. 16 para. 56(a)(b) in force at 1.1.2010 by S.I. 2009/3250, **art. 2(f)(ii)** (with art. 9)

57 In section 61 (enforcement of contentious business agreements)—

(a) in subsection (2)(b) for "taxed" substitute " assessed ",

(b) in subsection (3) for "taxing officer" substitute " costs officer ",

(c) in subsection (4)—

(i) for "taxing officer" substitute " costs officer ", and

(ii) for "taxed" substitute " assessed ",

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(d) in subsection (4B)—
(i) for "taxation" substitute " assessment ", and
(ii) for "taxing officer" substitute " costs officer ", and
(e) in subsection (5) for "taxed" substitute " assessed ".

Commencement Information
I386 Sch. 16 para. 57 in force at 1.1.2010 by S.I. 2009/3250, **art.2(f)(ii)**

58 In section 62 (contentious business agreements by certain representatives)—
(a) in subsection (1) for "taxing officer" substitute " costs officer ", and
(b) in subsection (2)—
(i) for "taxing officer" substitute " costs officer ", and
(ii) for "taxed" substitute " assessed ".

Commencement Information
I387 Sch. 16 para. 58 in force at 1.1.2010 by S.I. 2009/3250, **art.2(f)(ii)**

59 In section 63 (effect on contentious business agreement of death etc)—
(a) in subsection (2)—
(i) for "taxation" substitute " assessment ", and
(ii) for "taxing officer" substitute " costs officer ", and
(b) in subsection (3)—
(i) for "taxation" substitute " assessment ",
(ii) for "taxing officer" (in both places) substitute " costs officer ", and
(iii) after "solicitor" (in the third place) insert " , or any of his employees, ".

Commencement Information
I388 Sch. 16 para. 59(b)(iii) in force at 31.3.2009 by S.I. 2009/503, **art. 2(b)(i)**; Sch. 16 para. 59(a)(b)(i)(ii) in force at 1.1.2010 by S.I. 2009/3250, **art. 2(f)(ii)** (with art. 9)

60 In section 64 (form of bill of costs for contentious business)—
(a) in subsection (3) for "taxed" substitute " assessed ", and
(b) in subsection (4)—
(i) for "taxed" substitute " assessed ",
(ii) for "taxation" substitute " assessment ", and
(iii) for "taxing officer" (in both places) substitute " costs officer ".

Commencement Information
I389 Sch. 16 para. 60 in force at 1.1.2010 by S.I. 2009/3250, **art.2(f)(ii)**

61 In section 65 (security for costs and termination of retainer), in subsection (1) for "taxation" substitute " assessment ".

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Commencement Information
I390 Sch. 16 para. 61 in force at 1.1.2010 by S.I. 2009/3250, **art.2(f)(ii)**

62 In section 66 (taxations with respect to contentious business)—

(a) in the section heading for "Taxations" substitute " Assessments ",

(b) for "taxation" substitute " assessment ",

(c) for "taxing officer" substitute " costs officer ",

(d) in paragraph (a), after "solicitor" (in the second place) insert " or an employee of the solicitor ", and

(e) in paragraph (b), after "him" insert " or by any employee of his who is an authorised person (within the meaning of section 56(5A)) ".

Commencement Information
I391 Sch. 16 para. 62(d)(e) in force at 31.3.2009 by S.I. 2009/503, **art. 2(b)(i)** (subject to art. 4); Sch. 16 para. 62(a)-(c) in force at 1.1.2010 by S.I. 2009/3250, **art. 2(f)(ii)** (with art. 9)

63 In section 67 (inclusion of disbursements in bill of costs), in paragraph (b)—

(a) for "taxed" substitute " assessed ",

(b) for "taxing officer" substitute " costs officer ", and

(c) for "taxation" substitute " assessment ".

Commencement Information
I392 Sch. 16 para. 63 in force at 1.1.2010 by S.I. 2009/3250, **art.2(f)(ii)**

64 (1) Section 69 (action to recover solicitor's costs) is amended as follows.

(2) In subsection (1) for "taxed" substitute " assessed ".

(3) For subsection (2) substitute—

"(2) The requirements referred to in subsection (1) are that the bill must be—

(a) signed in accordance with subsection (2A), and

(b) delivered in accordance with subsection (2C).

(2A) A bill is signed in accordance with this subsection if it is—

(a) signed by the solicitor or on his behalf by an employee of the solicitor authorised by him to sign, or

(b) enclosed in, or accompanied by, a letter which is signed as mentioned in paragraph (a) and refers to the bill.

(2B) For the purposes of subsection (2A) the signature may be an electronic signature.

(2C) A bill is delivered in accordance with this subsection if—

(a) it is delivered to the party to be charged with the bill personally,

(b) it is delivered to that party by being sent to him by post to, or left for him at, his place of business, dwelling-house or last known place of abode, or

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(c) it is delivered to that party—

(i) by means of an electronic communications network, or

(ii) by other means but in a form that nevertheless requires the use of apparatus by the recipient to render it intelligible,

and that party has indicated to the person making the delivery his willingness to accept delivery of a bill sent in the form and manner used.

(2D) An indication to any person for the purposes of subsection (2C)(c)—

(a) must state the address to be used and must be accompanied by such other information as that person requires for the making of the delivery;

(b) may be modified or withdrawn at any time by a notice given to that person.

(2E) Where a bill is proved to have been delivered in compliance with the requirements of subsections (2A) and (2C), it is not necessary in the first instance for the solicitor to prove the contents of the bill and it is to be presumed, until the contrary is shown, to be a bill bona fide complying with this Act.

(2F) A bill which is delivered as mentioned in subsection (2C)(c) is to be treated as having been delivered on the first working day after the day on which it was sent (unless the contrary is proved)."

(4) At the end insert—

"(5) In this section references to an electronic signature are to be read in accordance with section 7(2) of the Electronic Communications Act 2000 (c. 7).

(6) In this section—

"electronic communications network" has the same meaning as in the Communications Act 2003 (c. 21);

"working day" means a day other than a Saturday, a Sunday, Christmas Day, Good Friday or a bank holiday in England and Wales under the Banking and Financial Dealings Act 1971 (c. 80)."

Commencement Information

I393 Sch. 16 para. 64(1)(3)(4) in force at 7.3.2008 by S.I. 2008/222, **art. 2(j)(i)**; Sch. 16 para. 64(2) in force at 1.1.2010 by S.I. 2009/3250, **art. 2(f)(ii)** (with art. 9)

65 In section 70 (taxation on application of party chargeable or solicitor)—

(a) in the section heading for "Taxation" substitute " Assessment ",

(b) in subsection (1)—

(i) for "taxed" substitute " assessed ", and

(ii) for "taxation" substitute " assessment ",

(c) in subsection (2)—

(i) for "taxation" (in both places) substitute " assessment ", and

(ii) for "taxed" substitute " assessed ",

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(d) in subsections (3) to (5) for "taxation" (in each place) substitute " assessment ",

(e) in subsection (6)—

(i) for "taxation" substitute " assessment ", and

(ii) for "taxed" substitute " assessed ",

(f) in subsection (7)—

(i) for "taxation" (in each place) substitute " assessment ",

(ii) for "taxing officer" substitute " costs officer ", and

(iii) for "tax" substitute " assess ",

(g) in subsection (8) for "taxation" (in each place) substitute " assessment ",

(h) in subsection (9)—

(i) for "for taxation" (in both places) substitute " for assessment ",

(ii) for "the taxation" (in both places) substitute " the assessment ",

(iii) for "a taxation" substitute " an assessment ", and

(iv) for "one fifth of the amount of the bill is taxed off" substitute " the amount of the bill is reduced by one fifth ",

(i) in subsection (10)—

(i) for "taxing officer" substitute " costs officer ", and

(ii) for "taxation" (in both places) substitute " assessment ",

(j) omit subsection (11), and

(k) in subsection (12)—

(i) for "of the bill taxed off" substitute " of the reduction in the bill ",

(ii) for "taxation" substitute " assessment ", and

(iii) for "taxed" (in the second place) substitute " assessed ".

Commencement Information

I394 Sch. 16 para. 65 in force at 1.1.2010 by S.I. 2009/3250, **art.2(f)(ii)**

66 In section 71 (taxation on application of third parties)—

(a) in the section heading for "Taxation" substitute " Assessment ",

(b) in subsection (1) for "taxation" substitute " assessment ",

(c) in subsection (3) —

(i) for "taxed" substitute " assessed ", and

(ii) for "taxation" substitute " assessment ",

(d) in subsection (4) for "taxation" substitute " assessment ",

(e) in subsection (6)—

(i) for "taxation" substitute " assessment ", and

(ii) for "taxed" substitute " assessed ", and

(f) in subsection (7) for "taxed" substitute " assessed ".

Commencement Information

I395 Sch. 16 para. 66 in force at 1.1.2010 by S.I. 2009/3250, **art.2(f)(ii)**

67 In section 72 (supplementary provisions as to taxations)—

(a) in the section heading for "taxations" substitute " assessments ",

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(b) in subsection (1) for "taxation" substitute " assessment ",
(c) in subsection (2)—
(i) for "taxing officer" (in each place) substitute " costs officer ",
(ii) for second and fourth "taxing" substitute " assessing ", and
(iii) for "tax" substitute " assess ",
(d) in subsection (3)—
(i) for "taxing officer" (in both places) substitute " costs officer ",
(ii) for "tax" substitute " assess ", and
(iii) for "taxing" (in second place) substitute " assessing ", and
(e) in subsection (4)—
(i) for "taxing officer" substitute " costs officer ", and
(ii) for "taxed" substitute " assessed ".

Commencement Information
I396 Sch. 16 para. 67 in force at 1.1.2010 by S.I. 2009/3250, **art.2(f)(ii)**

68 In section 73 (charging orders), in subsection (1)—
(a) for "taxed" substitute " assessed ", and
(b) for "taxation" substitute " assessment ".

Commencement Information
I397 Sch. 16 para. 68 in force at 1.1.2010 by S.I. 2009/3250, **art.2(f)(ii)**

69 In section 74 (special provisions as to contentious business done in county courts)—
F166(a) . . . . . .
(b) in subsection (3) for "taxation" substitute " assessment ".

Textual Amendments
F166 Sch. 16 para. 69(a) repealed (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 9 para. 141**; S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

Commencement Information
I398 Sch. 16 para. 69 in force at 1.1.2010 by S.I. 2009/3250, **art.2(f)(ii)**

70 Omit the following provisions—
section 76 (non-practising solicitors eligible for membership of Society),
section 77 (annual subscription to Society), and
section 78 (cessation and suspension of membership of Society).

Commencement Information
I399 Sch. 16 para. 70 in force at 31.3.2009 by S.I 2009/503, art. 2(b)(i)

71 For section 79 (committees and sub-committees of the Council) substitute—

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"**79 Discharge of the Council's functions**

(1) The Council may arrange for any function of the Council (including any function exercisable by the Council by virtue of section 80) to be exercised by—

(a) a committee of the Council,

(b) a sub-committee of such a committee,

(c) a body corporate which is established for the purpose of providing services to the Council (or any committee of the Council) and is a wholly-owned subsidiary of the Society, or

(d) an individual (whether or not a member of the Society's staff).

(2) Where by virtue of subsection (1) any function may be discharged by a committee, the committee may arrange for the discharge of the function by—

(a) a sub-committee of that committee,

(b) a body corporate which is established for the purpose of providing services to the Council (or any committee of the Council) and is a wholly-owned subsidiary of the Society, or

(c) an individual (whether or not a member of the Society's staff).

(3) Where, by virtue of subsection (1) or (2), any function may be discharged by a sub-committee, that sub-committee may arrange for the discharge of the function by an individual (whether or not a member of the Society's staff).

(4) Arrangements made under this section in respect of a function may provide that the function is to be exercised in accordance with the arrangements only (and not by the delegating body).

(5) In subsection (4) "the delegating body" means—

(a) in the case of arrangements under subsection (1), the Council;

(b) in the case of arrangements under subsection (2), the committee;

(c) in the case of arrangements under subsection (3), the sub-committee.

(6) Subsections (2) and (3) have effect subject to any contrary direction given by the Council.

(7) Where arrangements under subsection (3) relate to a function delegated by a committee under subsection (2), subsection (3) also has effect subject to any contrary direction given by that committee.

(8) Any power given by subsection (1), (2) or (3) may be exercised so as to impose restrictions or conditions on the body or individual by whom the function is to be discharged.

(9) A committee or sub-committee may include or consist of individuals other than—

(a) members of the Council;

(b) members of the Society;

(c) solicitors.

(10) A sub-committee of a committee may also include or consist of individuals other than members of the committee.

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(11) The Council may make arrangements for the appointment and removal of members of any committee to be made other than by the Council.

(12) A committee or sub-committee may regulate its own procedure, including quorum.

(13) The validity of any proceedings of a committee or sub-committee is not affected by any vacancy among its members.

(14) In this section "wholly-owned subsidiary" has the meaning given by section 1159 of the Companies Act 2006.

(15) This section is subject to any provision to the contrary made by or under any enactment."

Commencement Information

I400 Sch. 16 para. 71 in force for specified purposes at 7.3.2008 by S.I. 2008/222, **art. 2(j)(i)** (with arts. 7(2), 72(a), 75(c))

72 In section 80 (powers to act on behalf of Society)—

(a) in subsection (1) for "of any instrument made under it" substitute " any other enactment (or of any instrument made under this Act or any other enactment) ", and

(b) omit subsection (2).

Commencement Information

I401 Sch. 16 para. 72(a) in force at 7.3.2008 by S.I. 2008/222, **art. 2(j)(i)**; Sch. 16 para. 72(b) in force at 31.3.2009 by S.I. 2009/503, **art. 2(b)(i)**

73 Omit sections 81 and 81A (administration of oaths and taking of affidavits).

Commencement Information

I402 Sch. 16 para. 73 wholly in force at 1.1.2010 see s. 211 and S.I. 2009/3250, **art. 2(f)(ii)** (subject to art. 9)

74 Before section 87 (interpretation) insert—

Rules

"86A(1) Rules made by the Society under this Act may —

(a) make provision generally or subject to exceptions or only in relation to specified cases;

(b) make different provision for different cases or circumstances or for different purposes.

(2) Without prejudice to the generality of subsection (1), any rules prescribing a fee may provide for that fee to be reduced or waived in such circumstances as may be specified in the rules."

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Commencement Information

I403 Sch. 16 para. 74 in force at 31.3.2009 by S.I 2009/503, art. 2(b)(i)

75 In section 87(1) (interpretation)—

(a) in the definition of "client account", for "in" to the end substitute " subject to rules under section 32(1)(a) ",

F167(b) . . . . . .

(c) omit the following definitions—

"articles"

"controlled trust"

"duly certificated notary public"

"employee"

"indemnity conditions"

"replacement date"

"training conditions".

Textual Amendments

F167 Sch. 16 para. 75(b) repealed (1.11.2015) by The Legal Services Act 2007 (The Law Society) (Modification of Functions) Order 2015 (S.I. 2015/401), arts. 1(3), **3(3)**

Commencement Information

I404 Sch. 16 para. 75(c) in force for certain purposes at 7.3.2008 by S.I. 2008/222, **art. 2(j)(i)**; Sch. 16 para. 75(a) in force and Sch. 16 para. 75(c) in force for certain purposes at 31.3.2009 by S.I. 2009/503, **art. 2(b)(i)**; Sch. 16 para. 75(b)(c) in force for certain purposes at 1.7.2009 by S.I. 2009/1365, **art. 2(a)(i)**; Sch. 16 para. 75(c) in force for certain purposes at 1.1.2010 by S.I. 2009/3250, **art. 2(f)(ii)** (with art. 9)

76 In section 89 (consequential amendments etc.), omit subsection (7).

Commencement Information

I405 Sch. 16 para. 76 in force at 1.1.2010 by S.I. 2009/3250, **art.2(f)(ii)**

77 (1) Schedule 1 (intervention in solicitor's practice) is amended as follows.

(2) In paragraph 1 (grounds for intervention)—

(a) in sub-paragraph (1)(a)—

(i) for "Council have" substitute " Society has ",

(ii) after "solicitor's practice" insert " or former practice ", and

(iii) after "trustee" insert " or that employee is or was a trustee in his capacity as such an employee ",

(b) after that sub-paragraph insert—

"(aa) the Society has reason to suspect dishonesty on the part of a solicitor ("S") in connection with—

(i) the business of any person of whom S is or was an employee, or of any body of which S is or was a manager, or

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(ii) any business which is or was carried on by S as a sole trader;",

(c) in sub-paragraph (1)(b)—

(i) for "Council consider" substitute " Society considers ", and

(ii) for "controlled trust" substitute " trust ",

(d) in sub-paragraph (1)(c) for "Council are" substitute " Society is ",

(e) in sub-paragraph (1)(ee)—

(i) for "Council are" substitute " Society is ", and

(ii) after "illness" insert " , injury ",

(f) in sub-paragraph (1)(h)—

(i) for "Council are" substitute " Society is ", and

(ii) omit "sole",

(g) in sub-paragraph (1)(i) and (k) for "Council are" substitute " Society is ",

(h) in sub-paragraph (1)(l)—

(i) for "Council are" substitute " Society is ",

(ii) in sub-paragraph (iii) for "an officer" substitute " a manager ", and

(iii) in that sub-paragraph for "Council of the Law Society" substitute " Society ",

(i) after sub-paragraph (1)(l) insert—

"(m) the Society is satisfied that it is necessary to exercise the powers conferred by Part 2 of this Schedule (or any of them) in relation to a solicitor to protect—

(i) the interests of clients (or former or potential clients) of the solicitor or his firm, or

(ii) the interests of the beneficiaries of any trust of which the solicitor is or was a trustee.",

(j) after sub-paragraph (1) insert—

"(1A) In sub-paragraph (1) "manager" has the same meaning as in the Legal Services Act 2007 (see section 207 of that Act).", and

(k) omit sub-paragraph (2).

(3) In paragraph 3 (intervention following an undue delay)—

(a) for "10(3)" substitute " 10(9) ",

(b) for paragraph (a) substitute—

"(a) the Society is satisfied that there has been undue delay—

(i) on the part of a solicitor in connection with any matter in which the solicitor or his firm is or was acting on behalf of a client or with any trust, or

(ii) on the part of an employee of a solicitor in connection with any trust of which the employee is or was a trustee in his capacity as such an employee; and",

(c) in paragraph (c) for "Council regard" substitute " Society regards ".

(4) In paragraph 4(2) (continuation of powers after death etc of solicitor)—

(a) after "6(2) and (3)" insert " , 6A ",

(b) for "and (5)" substitute " , (5) and (6) ", and

(c) for "10(1)" substitute " 10(2) and (7) ".

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(5) In paragraph 6 (vesting of sums in Society)—

(a) in sub-paragraph (1)—

(i) for "Council pass" substitute " Society passes ",

(ii) for "Council's" substitute " Society's ", and

(iii) after "thereto" insert " and to rules under paragraph 6B ",

(b) in sub-paragraph (2)(a) for "his practice" to the end substitute—

"(i) his practice or former practice,

(ii) any trust of which he is or formerly was a trustee, or

(iii) any trust of which a person who is or was an employee of the solicitor is or was a trustee in the person's capacity as such an employee;", and

(c) in sub-paragraph (2)(c) for "to which the complaint relates" substitute " in connection with which the Society is satisfied there has been undue delay as mentioned in sub-paragraph (a) of that paragraph ".

(6) After paragraph 6 insert—

"6A (1) Without prejudice to paragraph 5, if the Society passes a resolution to the effect that any rights to which this paragraph applies shall vest in the Society, those rights shall vest accordingly.

(2) This paragraph applies to any right to recover or receive debts due to the solicitor or his firm in connection with his practice or former practice.

(3) Any sums recovered by the Society by virtue of the exercise of rights vested under sub-paragraph (1) shall vest in the Society and shall be held by it on trust to exercise in relation to them the powers conferred by this Part of this Schedule and, subject to those powers and to rules under paragraph 6B, upon trust for the persons beneficially entitled to them.

(4) The Society shall serve on the solicitor or his firm, and any person who owes a debt to which the order applies, a certified copy of the Society's resolution.

6B (1) The Society may make rules governing its treatment of sums vested in it under paragraph 6 or 6A(3).

(2) The rules may in particular make provision in respect of cases where the Society, having taken such steps to do so as are reasonable in all the circumstances of the case, is unable to trace the person or persons beneficially entitled to any sum vested in the Society under paragraph 6 or 6A(3) (including provision which requires amounts to be paid into or out of compensation funds (within the meaning of section 36A))."

(7) In paragraph 7(1) (holding of sums vested in Society)—

(a) after "paragraph 6" insert " or 6A(3) ", and

(b) after "thereto" insert " and to rules under paragraph 6B ".

(8) In paragraph 8 (information as to money held) for "holds money" to the end substitute—

"(a) holds money on behalf of the solicitor or his firm, or

(b) has information which is relevant to identifying any money held by or on behalf of the solicitor or his firm,

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the court may require that person to give the Society information as to any such money and the accounts in which it is held. "

(9) In paragraph 9 (documents)—

(a) in sub-paragraph (1)(a)—

(i) after "possession" insert " or under the control ", and

(ii) for "or with any controlled trust" substitute " or former practice or with any trust of which the solicitor is or was a trustee ",

(b) in sub-paragraph (1)(b)—

(i) after "possession" insert " or under the control ", and

(ii) for "to which the complaint relates" substitute " of which the Society is satisfied ",

(c) in sub-paragraph (3) after "possession" insert " or control ",

(d) in sub-paragraph (5) after "the possession" insert " or under the control ",

(e) after sub-paragraph (5) insert—

"(5A) In the case of a document which consists of information which is stored in electronic form, a requirement imposed by a notice under sub-paragraph (1) or an order under sub-paragraph (4) or (5), is a requirement to produce or deliver the information in a form in which it is legible or from which it can readily be produced in a legible form.",

(f) in sub-paragraph (6) after "possession of" insert " (a) ",

(g) at the end of that sub-paragraph insert—

"(b) any property—

(i) in the possession of or under the control of the solicitor or his firm, or

(ii) in the case of an order under sub-paragraph (5), which was in the possession or under the control of such a person and has come into the possession or under the control of the person in respect of whom the order is made,

which the Society reasonably requires for the purpose of accessing information contained in such documents,

and to use property obtained under paragraph (b) for that purpose. ",

(h) in sub-paragraph (7) after "documents" insert " or other property ",

(i) in sub-paragraph (8) after "documents" insert " or other property ", and

(j) in sub-paragraph (10) after "documents" insert " or other property ".

(10) For paragraph 10 (mail) substitute—

"Mail and other forms of communication

10 (1) The High Court, on the application of the Society, may from time to time make a communications redirection order.

(2) A communications redirection order is an order that specified communications to the solicitor or his firm are to be directed, in accordance with the order, to the Society or any person appointed by the Society.

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(3) For the purposes of this paragraph—

(a) "specified communications" means communications of such description as are specified in the order;

(b) the descriptions of communications which may be so specified include—

(i) communications in the form of a postal packet;

(ii) electronic communications;

(iii) communications by telephone.

(4) A communications redirection order has effect for such time not exceeding 18 months as is specified in the order.

(5) Where a communications redirection order has effect, the Society or the person appointed by the Society may take possession or receipt of the communications redirected in accordance with the order.

(6) Where a communications redirection order is made, the Society must pay to—

(a) in the case of an order relating to postal packets, the postal operator concerned, and

(b) in any other case, the person specified in the order,

the like charges (if any) as would have been payable for the redirection of the communications to which the order relates if the addressee had permanently ceased to occupy or use the premises or other destination of the communications and had applied to the postal operator or the specified person (as the case may be) to redirect the communications to him as mentioned in the order.

(7) The High Court may, on the application of the Society, authorise the Society, or a person appointed by it, to take such steps as may be specified in the order in relation to any website purporting to be or have been maintained by or on behalf of the solicitor or his firm if the High Court is satisfied that the taking of those steps is necessary to protect the public interest or the interests of clients (or potential or former clients) of the solicitor or his firm.

(8) In this paragraph "postal operator" and "postal packet" have the meaning given by section 125(1) of the Postal Services Act 2000.

(9) This paragraph does not apply where the powers conferred by this Part of this Schedule are exercisable by virtue of paragraph 3."

(11) In paragraph 11(1) (trusts) for "controlled trust" substitute " trust ".

(12) In paragraph 12 (liens) for "and documents" substitute " , documents and other property ".

(13) After paragraph 13 (costs) insert—

"13A(1) The High Court, on the application of the Society, may order a former partner of the solicitor to pay a specified proportion of the costs mentioned in paragraph 13.

(2) The High Court may make an order under this paragraph only if it is satisfied that the conduct (or any part of the conduct) by reason of which the powers conferred by this Part were exercisable in relation to the solicitor was

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conduct carried on with the consent or connivance of, or was attributable to any neglect on the part of, the former partner.

(3) In this paragraph "specified" means specified in the order made by the High Court."

Commencement Information
I406 Sch. 16 para. 77 wholly in force at 31.3.2009 see s. 211 and S.I. 2009/503, **art. 2(b)(i)** (subject to art. 4)

78 Omit Schedule 1A (inadequate professional services).

Commencement Information
I407 Sch. 16 para. 78 in force at 6.10.2010 by S.I. 2010/2089, **art. 2(b)** (with art. 6)

79 Omit Schedule 2 (the compensation fund).

Commencement Information
I408 Sch. 16 para. 79 wholly in force at 31.3.2009 see s. 211 and S.I. 2009/503, **art. 2(b)(i)** (subject to art. 5)

PART 2

THE ADMINISTRATION OF JUSTICE ACT 1985 (C. 61)

80 The Administration of Justice Act 1985 is amended in accordance with this Part of this Schedule.

Commencement Information
I409 Sch. 16 para. 80 in force at 7.3.2008 by S.I. 2008/222, **art. 2(j)(ii)**

81 (1) Section 9 (incorporated practices) is amended as follows.

(2) In subsection (1)—

(a) for "Council" (in both places) substitute " Society ",

(b) in paragraph (a) for "by solicitors" to the end substitute " of legal services bodies; ",

F168(c) . . . . . .

(d) in paragraph (c)—

(i) for "conditions" substitute " requirements ", and

(ii) omit "corporate".

(3) After that subsection insert—

"(1A) Where the Society makes rules under subsection (1), it must by rules under subsection (1)(c) prescribe the requirement that (subject to any exceptions provided by the rules) recognised bodies must not provide services other than—

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(a) solicitor services, or

(b) solicitor services and other relevant legal services.

(1B) "Relevant legal services" means—

(a) solicitor services, and

(b) where authorised persons other than solicitors or registered European lawyers are managers or employees of, or have an interest in, a recognised body, services of the kind provided by individuals practising as such authorised persons (whether or not those services involve the carrying on of reserved legal activities within the meaning of the Legal Services Act 2007).

(1C) The Society may by rules under this section provide that services specified, or of a description specified, in the rules are not to be treated as solicitor services or other relevant legal services."

(4) In subsection (2)—

(a) for "Council" (in both places) substitute " Society ",

(b) in paragraph (a) for "are to be" to the end substitute " , or for the renewal of such recognition, are to be made, and requiring such applications to be accompanied by a fee of such amount as the Society may from time to time determine; ",

(c) after that paragraph insert—

"(aa) for the manner and form in which other applications under the rules are to be made, and requiring such applications to be accompanied by a fee of such amount as the Society may from time to time determine;",

(d) for paragraphs (c) to (e) substitute—

"(c) about the time when any recognition, or renewal of recognition, takes effect and the period for which it is (subject to the provisions made by or under this Part) to remain in force;

(d) for the suspension or revocation of any such recognition, on such grounds and in such circumstances as may be prescribed by the rules;

(e) about the effect on the recognition of a partnership or other unincorporated body ("the existing body") of any change in the membership of the existing body, including provision for the existing body's recognition to be transferred where the existing body ceases to exist and another body succeeds to the whole or substantially the whole of its business;

(ea) for the keeping by the Society of a register containing the names and places of business of all bodies which are for the time being recognised under this section, and such other information relating to those bodies as may be specified in the rules;

(eb) for information (or information of a specified description) on such a register to be made available to the public, including provision about the manner in which, and times at which, information is to be made so available;", and

(e) after paragraph (f) insert—

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"(fa) about the education and training requirements to be met by managers and employees of recognised bodies;

(fb) for rules made under any provision of the 1974 Act to have effect in relation to managers and employees of recognised bodies with such additions, omissions or other modifications as appear to the Society to be necessary or expedient;

(fc) requiring recognised bodies to appoint a person or persons to monitor compliance, by the recognised body, its managers and its employees, with requirements imposed on them by or by virtue of this Act or any rules applicable to them by virtue of this section;".

(5) After subsection (2) insert—

"(2A) If rules under this section provide for the recognition of legal services bodies which have one or more managers who are not legally qualified, the rules must make provision—

(a) for the recognition of such bodies to be suspended or revoked, on such grounds and in such circumstances as may be prescribed by the rules;

(b) as to the criteria and procedure for the Society's approving, as suitable to be a manager of a recognised body, an individual who is not legally qualified (and for the Society's withdrawing such approval).

(2B) Rules under this section may make provision for appeals to the High Court against decisions made by the Society under the rules—

(a) to suspend or revoke the recognition of any body;

(b) not to approve, as suitable to be the manager of a recognised body, an individual who is not legally qualified (or to withdraw such approval).

(2C) The rules may provide for appeals against decisions within subsection (2B)(b) to be brought by the individual to whom the decision relates (as well as the body).

(2D) In relation to an appeal under rules made by virtue of subsection (2B), the High Court may make such order as it thinks fit as to payment of costs.

(2E) The decision of the High Court on such an appeal shall be final.

(2F) Where the Society decides to recognise a body under this section it must grant that recognition subject to one or more conditions if—

(a) the case is of a kind prescribed for the purposes of this section by rules made by the Society, and

(b) the Society considers that it is in the public interest to do so.

(2G) While a body is recognised under this section, the Society—

(a) must direct that the body's recognition is to have effect subject to one or more conditions if—

(i) the case is of a prescribed kind, and

(ii) the Society considers that it is in the public interest to do so;

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(b) may, in such circumstances as may be prescribed, direct that the body's recognition is to have effect subject to such conditions as the Society may think fit.

"Prescribed" means prescribed by rules made by the Society.

(2H) The conditions which may be imposed under subsection (2F) or (2G) include—

(a) conditions requiring the body to take specified steps that will, in the opinion of the Society, be conducive to the carrying on by the body of an efficient business;

(b) conditions which prohibit the body from taking any specified steps except with the approval of the Society;

(c) if rules under this section provide for the recognition of legal services bodies which have one or more managers who are not legally qualified, a condition that all the managers of the body must be legally qualified.

"Specified" means specified in the condition.

(2I) Rules made by the Society may make provision about when conditions imposed under this section take effect (including provision conferring power on the Society to direct that a condition is not to have effect until the conclusion of any appeal in relation to it).

(2J) Section 86A of the 1974 Act applies to rules under this section as it applies to rules under that Act.

(2K) Rules under this section may contain such incidental, supplemental, transitional or transitory provisions or savings as the Society considers necessary or expedient."

(6) For subsection (3) substitute—

"(3) Despite section 24(2) of the 1974 Act, section 20 of that Act (prohibition on unqualified person acting as solicitor) does not apply to a recognised body; and nothing in section 24(1) of that Act applies in relation to such a body."

(7) Omit subsection (4).

(8) In subsection (5) omit "corporate".

(9) In subsection (7)—

(a) for "Secretary of State" (in both places) substitute " Lord Chancellor ", and

(b) for "the commencement of this section" substitute " or in the same session as the Legal Services Act 2007 was passed ".

(10) In subsection (8)—

(a) after the definition of "the 1974 Act" insert—

""authorised person" means an authorised person in relation to an activity which is a reserved legal activity (within the meaning of the Legal Services Act 2007);",

(b) for " "the Council" and "the Society" have" substitute " "the Society" has ",

(c) after the definition of "the Society" insert—

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""legally qualified" and "legal services body" have the meaning given by section 9A;

"manager", in relation to a body, has the same meaning as in the Legal Services Act 2007 (see section 207 of that Act);",

(d) omit the definition of "officer",

(e) in the definition of "recognised body" omit "corporate", and

(f) after the definition of "registered European lawyer" insert—

""solicitor services" means professional services such as are provided by individuals practising as solicitors or lawyers of other jurisdictions;

and a person has an interest in a body if the person has an interest in the body within the meaning of Part 5 of the Legal Services Act 2007 (see sections 72 and 109 of that Act). "

(11) Omit subsection (9).

Textual Amendments

F168 Sch. 16 para. 81(2)(c) repealed (1.11.2015) by The Legal Services Act 2007 (The Law Society) (Modification of Functions) Order 2015 (S.I. 2015/401), arts. 1(3), **3(3)**

Commencement Information

I410 Sch. 16 para. 81(1)(9) in force at 30.6.2008 by S.I. 2008/1436, **art. 2(d)(ii)**; Sch. 16 para. 81 in force at 31.3.2009 by S.I. 2009/503, **art. 2(b)(ii)** (subject to art. 4)

82 After that section insert—

"**9A Legal services bodies**

(1) For the purposes of section 9, a "legal services body" means a body (corporate or unincorporate) in respect of which —

(a) the management and control condition, and

(b) the relevant lawyer condition,

are satisfied.

(2) The management and control condition is satisfied if—

(a) at least 75% of the body's managers are legally qualified,

(b) the proportion of shares in the body held by persons who are legally qualified is at least 75%,

(c) the proportion of voting rights in the body which persons who are legally qualified are entitled to exercise, or control the exercise of, is at least 75%,

(d) all the persons with an interest in the body who are not legally qualified are managers of the body, and

(e) all the managers of the body who are not legally qualified are individuals approved by the Society as suitable to be managers of a recognised body.

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(3) The Society may by rules under section 9 provide that, in relation to specified kinds of bodies, subsection (2) applies as if the references to 75% were to such greater percentage as may be specified (and different percentages may be specified for different kinds of bodies).

(4) The relevant lawyer condition is satisfied in relation to a body if at least one manager of the body is—

(a) a solicitor,

(b) a registered European lawyer, or

(c) a qualifying body.

(5) For that purpose a qualifying body is a body in respect of which—

(a) the management and control condition [F169is] satisfied F170. . .

(b) the relevant lawyer condition is satisfied by virtue of subsection (4)(a) or (b), and

(c) the services condition is satisfied.

(6) For the purposes of this section the following are legally qualified—

(a) an authorised person who is an individual;

(b) a registered foreign lawyer (within the meaning of section 89 of the Courts and Legal Services Act 1990 (c. 41));

(c) a person entitled to pursue professional activities under a professional title to which the Directive applies in a state to which the Directive applies (other than the title of barrister or solicitor in England and Wales);

(d) an authorised person which is a body in respect of which—

(i) the services condition is satisfied, and

(ii) the management and control condition would be satisfied if the references in subsection (2) to persons who are legally qualified were to persons who are legally qualified by virtue of paragraphs (a) to (c);

(e) a body which provides professional services such as are provided by individuals who are authorised persons or lawyers of other jurisdictions, and in respect of which the management and control condition would be satisfied if the references in subsection (2) to persons who are legally qualified were to persons who are legally qualified by virtue of paragraphs (a) to (c).

[F171(f) a legal partnership which—

(i) was in existence immediately before the commencement of this paragraph,

(ii) since that time has continued to be a partnership of the kind mentioned in rule 12.01(1)(b), 12.02(1)(b) or 12.04(1)(c)(i) of the pre-commencement conduct rules (framework of practice), and

(iii) has not, since that time, had a body corporate (other than a body within paragraph (g)) as a member;

(g) a body corporate which—

(i) was recognised under section 9 immediately before the commencement of this paragraph, and

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(ii) has since that time continued to satisfy the requirements of rule 14.03(1) and 14.04(1) to (3) or the requirements of rule 14.05(1) to (3) of the pre-commencement conduct rules (restrictions on directors, owners etc. of incorporated practices);

(h) a body which—

(i) is an authorised person and satisfies the services condition, or

(ii) provides professional services such as are provided by individuals who are authorised persons or lawyers of other jurisdictions,

and which satisfies the requirements of rules under subsection (6C).

(6A) For the purposes of subsection (6)(f), a partnership is to be treated as the same partnership despite a change in membership, if any person who was a member before the change remains a member.

(6B) For the purposes of subsection (6)(f) and (g), the references in the pre-commencement conduct rules to a recognised body are to be construed as references to a body which was recognised under section 9 immediately before the commencement of subsection (6)(f) and (g).

(6C) The Society must make rules for the purposes of paragraph (h) of subsection (6) prescribing the requirements relating to management and control which must be satisfied by or in relation to a body for it to fall within that paragraph.**]**

(7) For the purposes of this section, the services condition is satisfied in relation to a body if the body provides only services which may be provided by a recognised body (having regard to rules under section 9(1A) and (1C)).

(8) For the purposes of this section—

"authorised person" has the same meaning as in section 9;

[[F172] " the Directive " means Directive 98/5/EC of the European Parliament and the Council, to facilitate practice of the profession of lawyer on a permanent basis in a Member State other than that in which the qualification was obtained; **]**

"legal partnership" means a partnership in which a solicitor, a registered European lawyer or a recognised body is permitted to practise by virtue of rules made under section 31 of the Solicitors Act 1974 (c. 47), as those rules had effect immediately before the commencement of subsection (6)(f);

"manager", in relation to a body, has the meaning given by section 9;

[[F173] " pre-commencement conduct rules " means rules under Part 2 of the Solicitors Act 1974 or section 9 of this Act, known as the Solicitors' Code of Conduct 2007, as those rules had effect immediately before the commencement of subsection (6)(f) and (g); **]**

"recognised body" has the same meaning as in section 9 **[**[F174](subject to subsection (6B) above)**]**;

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"registered European lawyer" has the same meaning as in section 9;

"shares" has the same meaning as for the purposes of Part 5 of the Legal Services Act 2007 (see sections 72 and 109 of that Act);

[[F175] " the Society " has the meaning given by section 87(1) of the Solicitors Act 1974; **]**

"specified" means specified in rules made by the Society;

and a person has an interest in a body if the person has an interest in the body for the purposes of section 9."

Textual Amendments

F169 Word in Sch. 16 para. 82 substituted (27.11.2008) by The Legal Services Act 2007 (Functions of a Designated Regulator) Order 2008 (S.I. 2008/3074), **art. 2(2)(a)**

F170 Words in Sch. 16 para. 82 omitted (27.11.2008) by virtue of The Legal Services Act 2007 (Functions of a Designated Regulator) Order 2008 (S.I. 2008/3074), **art. 2(2)(b)**

F171 Words in Sch. 16 para. 82 inserted (27.11.2008) by The Legal Services Act 2007 (Functions of a Designated Regulator) Order 2008 (S.I. 2008/3074), **art. 2(3)**

F172 Words in Sch. 16 para. 82 inserted (27.11.2008) by The Legal Services Act 2007 (Functions of a Designated Regulator) Order 2008 (S.I. 2008/3074), **art. 2(4)(a)**

F173 Words in Sch. 16 para. 82 inserted (27.11.2008) by The Legal Services Act 2007 (Functions of a Designated Regulator) Order 2008 (S.I. 2008/3074), **art. 2(4)(b)**

F174 Words in Sch. 16 para. 82 inserted (27.11.2008) by The Legal Services Act 2007 (Functions of a Designated Regulator) Order 2008 (S.I. 2008/3074), **art. 2(4)(c)**

F175 Words in Sch. 16 para. 82 substituted (27.11.2008) by The Legal Services Act 2007 (Functions of a Designated Regulator) Order 2008 (S.I. 2008/3074), **art. 2(4)(d)**

Commencement Information

I411 Sch. 16 para. 82 in force at 31.3.2009 by S.I. 2009/503, **art. 2(b)(ii)**

83 (1) Section 10 (penalty for pretending to be a body recognised under section 9) is amended as follows.

(2) In subsection (1) omit "corporate" (in both places).

(3) In subsection (2) omit "corporate".

(4) For subsection (3) substitute—

"(3) Where an offence under this section committed by a body corporate is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of an officer of the body corporate, that officer (as well as the body corporate) is guilty of the offence and is liable to be proceeded against and punished accordingly.

(4) Where the affairs of a body corporate are managed by its members, subsection (3) applies in relation to the acts and defaults of a member in connection with the member's functions of management as it applies to an officer of the body corporate.

(5) Proceedings for an offence under this section alleged to have been committed by an unincorporated body are to be brought in the name of that body (and not in that of any of its members) and, for the purposes of any such proceedings,

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any rules of court relating to the service of documents have effect as if that body were a corporation.

(6) A fine imposed on an unincorporated body on its conviction of an offence under this section is to be paid out of the funds of that body.

(7) If an unincorporated body is charged with an offence under this section, section 33 of the Criminal Justice Act 1925 (c. 86) and Schedule 3 to the Magistrates' Courts Act 1980 (c. 43) (procedure on charge of an offence against a corporation) have effect in like manner as in the case of a corporation so charged.

(8) Where an offence under this section committed by an unincorporated body (other than a partnership) is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any officer of the body or any member of its governing body, that officer or member as well as the unincorporated body is guilty of the offence and liable to be proceeded against and punished accordingly.

(9) Where an offence under this section committed by a partnership is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner, that partner as well as the partnership is guilty of the offence and liable to be proceeded against and punished accordingly.

(10) In this section "officer", in relation to a body corporate, means—

(a) any director, secretary or other similar officer of the body corporate, or

(b) any person who was purporting to act in any such capacity."

Commencement Information

I412 Sch. 16 para. 83 in force at 31.3.2009 by S.I. 2009/503, **art. 2(b)(ii)**

I413 Sch. 16 para. 83(3) in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(f)**

84 (1) Section 43 (jurisdiction and powers of Solicitors Disciplinary Tribunal in relation to complaints against solicitors) is amended as follows.

(2) In subsection (2)(a) for "(7) to" substitute " (9) to ".

(3) After subsection (3) insert—

"(3A) Nothing in section 157 of the Legal Services Act 2007 (approved regulators not to make provision for redress) prevents an order being made under subsection (3)."

(4) For subsection (5) substitute—

"(5) An appeal under section 49 of the Solicitors Act 1974 against an order of the Tribunal under subsection (3) lies only at the instance of the solicitor with respect to whom the legal aid complaint was made."

Commencement Information

I414 Sch. 16 para. 84(1)(2)(4) in force at 31.3.2009 by S.I. 2009/503, **art. 2(b)(ii)**

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85 In the title of Schedule 2, for "Incorporated practices" substitute " Legal services practices ".

Commencement Information

I415 Sch. 16 para. 85 in force at 31.3.2009 by S.I. 2009/503, **art. 2(b)(ii)**

86 In paragraph 1 of that Schedule (interpretation)—

(a) in sub-paragraph (1) omit "corporate",

(b) in sub-paragraph (2) omit—

(i) paragraph (b) and the "or" immediately preceding it,

(ii) "corporate", and

(iii) "or application",

(c) after that sub-paragraph insert—

"(2A) References in this Schedule to a manager or employee of a recognised body, in relation to a complaint (other than such a complaint as is mentioned in paragraph 16(1A)(a)), include references to a person who was such a manager or employee at the time when the conduct to which the complaint relates took place.",

(d) omit sub-paragraph (3),

(e) in sub-paragraph (4) omit from "; and for those purposes" to the end,

(f) in sub-paragraph (5) for "sub-paragraphs (3) and (4)" substitute " sub-paragraphs (4) and (6) ", and

(g) for sub-paragraph (6) substitute—

"(6) In this Schedule—

"manager", in relation to a body, has the same meaning as in the Legal Services Act 2007 (see section 207 of that Act);

"registered European lawyer" has the same meaning as in section 9A;

"the 1974 Act" means the Solicitors Act 1974."

Commencement Information

I416 Sch. 16 para. 86(g) in force for certain purposes at 30.6.2008 by S.I. 2008/1436, **art. 2(d)(ii)**; Sch. 16 para. 86 in force at 31.3.2009 by S.I. 2009/503, **art. 2(b)(ii)** (subject to art. 4)

87 For paragraph 2 of that Schedule (appeal against refusal of Council to grant recognition) substitute—

"Appeal against refusal of Society to grant recognition etc

2 (1) A body may appeal to the High Court against—

(a) a decision to refuse an application by the body for recognition under section 9;

(b) a decision to impose a condition under subsection (2F) of that section on the body's recognition under that section;

(c) a decision to impose a condition under subsection (2G) of that section on the body's recognition under that section.

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(2) A recognised body whose recognition is subject to a condition within section 9(2H)(b) may appeal to the High Court against any decision by the Society to refuse to approve the taking of any step for the purposes of that condition.

(3) Rules made by the Society may make provision, as respects any application for recognition that is neither granted nor refused by the Society within such period as may be specified in the rules, for enabling an appeal to be brought under this paragraph in relation to the application as if it had been refused by the Society.

(4) On an appeal under sub-paragraph (1)(a) or (b), the High Court may—

(a) affirm the decision of the Society,

(b) direct the Society to grant the body recognition under section 9 free from conditions or subject to such conditions as the High Court may think fit,

(c) direct the Society not to recognise the body,

(d) if the Society has recognised the body, by order suspend the recognition, or

(e) make such other order as the High Court thinks fit.

(5) On an appeal under sub-paragraph (1)(c), the High Court may—

(a) affirm the decision of the Society,

(b) direct that the body's recognition under section 9 is to have effect subject to such conditions as the High Court may think fit,

(c) by order revoke the direction given by the Society under section 9(2G), or

(d) make such other order as the High Court thinks fit.

(6) On an appeal under sub-paragraph (2), the High Court may—

(a) affirm the decision of the Society,

(b) direct the Society to approve the taking of one or more steps for the purposes of a condition within section 9(2H)(b), or

(c) make such other order as the High Court thinks fit.

(7) In relation to an appeal under this paragraph, the High Court may make such order as it thinks fit as to payment of costs.

(8) The decision of the High Court on an appeal under this paragraph is final."

Commencement Information

I417 Sch. 16 para. 87 in force at 31.3.2009 by S.I. 2009/503, **art. 2(b)(ii)**

88 For paragraph 3 of that Schedule (accounts rules) substitute—

"3 (1) This paragraph applies where rules made under section 32(1) of the 1974 Act are applied—

(a) to recognised bodies in accordance with section 9(2)(f) of this Act, or

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(b) to managers or employees of such bodies in accordance with section 9(2)(fb) of this Act.

(2) The Society may disclose a report on or information about the accounts of a recognised body, or a manager or employee of a recognised body, obtained in pursuance of such rules for use—

(a) in investigating the possible commission of an offence by the body or any of its managers or employees, and

(b) in connection with any prosecution of the body or any of its managers or employees consequent on the investigation."

Commencement Information

I418 Sch. 16 para. 88 in force at 31.3.2009 by S.I. 2009/503, **art. 2(b)(ii)**

89 In paragraph 4 of that Schedule (interest on clients' money)—

(a) in sub-paragraph (1)—

(i) for "section 33(1)(a)" substitute " section 33(1) ", and

(ii) for the words from "and subject to" to the end substitute ", a recognised body is not liable to account to any client, other person or trust for interest received by the recognised body on money held at a bank or building society in an account which is for money received or held for, or on account of—

(a) clients of the recognised body, other persons or trusts, generally, or

(b) that client, person or trust separately.", and

(b) omit sub-paragraph (2).

Commencement Information

I419 Sch. 16 para. 89 in force at 31.3.2009 by S.I. 2009/503, **art. 2(b)(ii)**

90 After that paragraph insert—

"4ZA Where rules made under section 32 of the 1974 Act and containing any such provision as is referred to in section 33(1) of that Act are applied to managers or employees of recognised bodies in accordance with section 9(2)(fb), then, except as provided by the rules, a manager or employee to whom the rules are applied is not liable to account to any client, other person or trust for interest received by the manager or employee on money held at a bank or building society in an account which is for money received or held for, or on account of—

(a) clients of the recognised body, other persons or trusts, generally, or

(b) that client, person or trust, separately."

Commencement Information

I420 Sch. 16 para. 90 in force at 31.3.2009 by S.I. 2009/503, **art. 2(b)(ii)**

91 For paragraph 4A of that Schedule (inspection of bank accounts) substitute—

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"4A (1) This paragraph applies where rules made under section 33A(1) of the 1974 Act are applied—

(a) to recognised bodies in accordance with section 9(2)(f) of this Act, or

(b) to managers or employees of such bodies in accordance with section 9(2)(fb) of this Act.

(2) The Society may disclose information about the accounts of a recognised body, or a manager or employee of a recognised body, obtained in pursuance of such rules for use—

(a) in investigating the possible commission of an offence by the body or any of its managers or employees, and

(b) in connection with any prosecution of the body or any of its managers or employees consequent on the investigation."

Commencement Information
I421 Sch. 16 para. 91 in force at 31.3.2009 by S.I. 2009/503, **art. 2(b)(ii)**

92 For paragraph 5 of that Schedule (accountants' reports) substitute—

"5 Where rules made under section 34 of the 1974 Act are applied to recognised bodies in accordance with section 9(2)(f), section 34(9) and (10) of that Act apply in relation to a recognised body as they apply in relation to a solicitor."

Commencement Information
I422 Sch. 16 para. 92 in force at 31.3.2009 by S.I. 2009/503, **art. 2(b)(ii)**

93 After that paragraph insert—

"5A Where rules made under section 34 of the 1974 Act are applied to managers or employees of recognised bodies in accordance with section 9(2)(fb), section 34(9) and (10) of that Act apply in relation to a manager or employee to which the rules are applied as they apply in relation to a solicitor."

Commencement Information
I423 Sch. 16 para. 93 in force at 31.3.2009 by S.I. 2009/503, **art. 2(b)(ii)**

94 For paragraph 6 of that Schedule (compensation fund) substitute—

"6 (1) Section 36 of the 1974 Act applies in relation to recognised bodies as if for paragraphs (a) and (b) of subsection (1) there were substituted—

"(a) an act or omission of a recognised body or former recognised body;

(b) an act or omission of a manager or employee, or former manager or employee, of a recognised body or former recognised body;".

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(2) Section 36A(2) and (3) of the 1974 Act applies in relation to recognised bodies as it applies in relation to solicitors."

Commencement Information

I424 Sch. 16 para. 94 wholly in force at 31.3.2009, see s. 211 and S.I. 2009/503, **art. 2(b)(ii)** (subject to art. 5)

95 In paragraph 7 of that Schedule (solicitor who is justice of the peace not to act in certain proceedings) for "an officer" (in both places) substitute " a manager ".

Commencement Information

I425 Sch. 16 para. 95 in force at 31.3.2009 by S.I. 2009/503, **art. 2(b)(ii)**

96 In paragraph 9 of that Schedule (restriction on employment of person struck off roll or suspended)—

(a) the existing provision becomes sub-paragraph (1) and in that sub-paragraph after "recognised body" insert " (and any manager or employee of it) ", and

(b) after that sub-paragraph insert—

"(2) No recognised body (or manager or employee of such a body) may, except in accordance with a written permission granted by the Society under this paragraph, permit a person to whom sub-paragraph (3) applies to—

(a) be a manager of the body, or

(b) have an interest in the body;

and for this purpose a person has an interest in the body if he has an interest in the body within the meaning of Part 5 of the Legal Services Act 2007 (see sections 72 and 109 of that Act).

(3) This sub-paragraph applies to a person who to the knowledge of the recognised body (or, as the case may be, the manager or employee) is a person—

(a) who is disqualified from practising as a solicitor by reason of one of the facts mentioned in section 41(1)(a), (b) or (c) of the 1974 Act (name struck off the roll, suspension etc), or

(b) in respect of whom there is a direction in force under section 47(2)(g) of that Act (prohibition on restoration to roll).

(4) Permission granted for the purposes of sub-paragraph (2) may be granted for such period and subject to such conditions as the Society thinks fit.

(5) A person aggrieved by the refusal of the Society to grant permission under sub-paragraph (4), or by any conditions attached by the Society to the grant of any such permission may appeal to the High Court which may—

(a) confirm the refusal or the conditions, as the case may be, or

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(b) grant a permission under this paragraph for such period and subject to such conditions as it thinks fit.

(6) In relation to an appeal under sub-paragraph (5) the High Court may make such order as it thinks fit as to payment of costs.

(7) The decision of the High Court on an appeal under sub-paragraph (5) is final."

Commencement Information
I426 Sch. 16 para. 96 in force at 31.3.2009 by S.I. 2009/503, **art. 2(b)(ii)**

97 In paragraph 10 of that Schedule (failure to disclose striking off or suspension)—

(a) the existing paragraph becomes sub-paragraph (1) of that paragraph,

(b) in that sub-paragraph after "recognised body" insert " (or any manager or employee of such a body) ", and

(c) after that sub-paragraph insert—

"(2) It is an offence for a person ("P") to whom sub-paragraph (3) applies—

(a) to seek or accept from any person an interest in a recognised body, without previously informing that person (and, if different, the recognised body) that P is a person to whom that sub-paragraph applies, or

(b) to seek or accept a position as a manager of a recognised body, without previously informing that body that P is such a person.

(3) This sub-paragraph applies to a person—

(a) who is disqualified from practising as a solicitor by reason of one of the facts mentioned in section 41(1)(a), (b) or (c) of the 1974 Act (name struck off the roll, suspension etc), or

(b) in respect of whom there is a direction in force under section 47(2)(g) of that Act (prohibition on restoration to roll).

(4) A person guilty of an offence under sub-paragraph (2) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(5) Subsection (2) of section 42 of the 1974 Act applies in relation to an offence under sub-paragraph (2) as it applies in relation to an offence under that section.

(6) For the purposes of sub-paragraph (2)(a) a person seeks or accepts an interest in a recognised body if the person seeks or accepts an interest which if it were obtained by the person would result in the person having an interest in that body within the meaning of Part 5 of the Legal Services Act 2007 (see sections 72 and 109 of that Act)."

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Commencement Information
I427 Sch. 16 para. 97 in force at 31.3.2009 by S.I. 2009/503, **art. 2(b)(ii)**

98 Omit paragraph 11 of that Schedule (control of employment of persons convicted of offences of dishonesty and certain other persons).

Commencement Information
I428 Sch. 16 para. 98 in force at 31.3.2009 by S.I. 2009/503, **art. 2(b)(ii)**

99 Omit paragraph 12 of that Schedule (offences in connection with orders under section 43(2) of the 1974 Act).

Commencement Information
I429 Sch. 16 para. 99 in force at 31.3.2009 by S.I. 2009/503, **art. 2(b)(ii)**

100 Omit paragraph 13 of that Schedule (redress for inadequate professional services).

Commencement Information
I430 Sch. 16 para. 100 in force at 6.10.2010 by S.I. 2010/2089, **art. 2(b)** (with art. 6)

101 For paragraph 14 of that Schedule (examination of files) substitute—

"Information about suitability for recognition

14 (1) The Society may give a notice under this paragraph if it is satisfied that it is necessary to do so for the purpose of investigating whether—

(a) a recognised body continues to be suitable to be recognised under section 9, or

(b) a manager of a recognised body who is not legally qualified (within the meaning of section 9A) continues to be suitable to be a manager of a recognised body.

(2) A notice under this paragraph is a notice which requires a person within sub-paragraph (3)—

(a) to provide information, or information of a description, specified in the notice, or

(b) to produce documents, or documents of a description, specified in the notice.

(3) The persons are—

(a) the recognised body;

(b) an employee or manager of the recognised body;

(c) a person who has an interest in the recognised body (within the meaning of the Legal Services Act 2007 (see sections 72 and 109 of that Act)).

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(4) For the purposes of this paragraph, section 44B(4) to (7) of the 1974 Act applies—

(a) in relation to a notice under this paragraph as if it were a notice under section 44B of that Act, and

(b) in relation to a person given a notice under this paragraph as if that person were a person given a notice under that section,

and references in subsections (6) and (7) of that section to powers conferred by that section are to be read as references to powers conferred by this paragraph.

(5) Where powers conferred by Part 2 of Schedule 1 to the 1974 Act are exercisable in relation to a person within paragraph (a), (b) or (c) of sub-paragraph (3), they continue to be so exercisable after the person has ceased to be a person within the paragraph in question.

(6) Section 44BA of the 1974 Act (power to require explanation of document or information) applies in relation to a notice under this paragraph and the person to whom such a notice is given as it applies in relation to a notice under section 44B of the 1974 Act and the person to whom such a notice is given.

(7) Subsection (1) of section 44BC of that Act (falsification of documents etc) applies in relation to an investigation of the kind mentioned in sub-paragraph (1) as it applies in relation to the investigations mentioned in that subsection, and subsections (2), (4) and (5) of that section apply accordingly.

(8) Subsection (3) of that section (provision of false information etc) applies in relation to a requirement imposed under this paragraph as it applies in relation to a requirement imposed by section 44B of that Act, and subsections (4) and (5) of that section apply accordingly."

Commencement Information

I431 Sch. 16 para. 101 wholly in force at 31.3.2009 see s. 211 and S.I. 2009/503, **art. 2(b)(ii)** (subject to art. 4)

102 For paragraph 14A of that Schedule (payment of costs of investigations) substitute—

"Power to charge for costs of investigation

14A (1) The Society may make regulations prescribing charges to be paid to the Society by recognised bodies who are the subject of a discipline investigation.

(2) A discipline investigation is an investigation carried out by the Society into a failure or apprehended failure by a recognised body to comply with any requirement imposed by or by virtue of this Act or any rules applicable to it by virtue of section 9.

(3) Regulations under this paragraph may—

(a) make different provision for different cases or purposes;

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(b) provide for the whole or part of a charge payable under the regulations to be repaid in such circumstances as may be prescribed by the regulations.

(4) Any charge which a recognised body is required to pay under regulations under this paragraph is recoverable by the Society as a debt due to the Society from the recognised body.

(5) This paragraph applies in relation to a manager or employee of a recognised body as it applies in relation to a recognised body."

Commencement Information

I432 Sch. 16 para. 102 wholly in force at 31.3.2009 see s. 211 and S.I. 2009/503, **art. 2(b)(ii)** (subject to art. 4)

103 After that paragraph insert—

"Disciplinary powers of the Society

14B (1) This paragraph applies where the Society is satisfied that a recognised body, or a manager or employee of a recognised body, has failed to comply with a requirement imposed by or by virtue of this Act or any rules applicable to that person by virtue of section 9 of this Act.

(2) The Society may do one or both of the following—

(a) give the person a written rebuke;

(b) direct the person to pay a penalty not exceeding £2,000.

(3) The Society may publish details of any action it has taken under sub-paragraph (2)(a) or (b), if it considers it to be in the public interest to do so.

(4) Where the Society takes action against a person under sub-paragraph (2)(b), or decides to publish under sub-paragraph (3) details of such action under sub-paragraph (2)(a) or (b), it must notify the person in writing that it has done so.

(5) A penalty imposed under sub-paragraph (2)(b) does not become payable until—

(a) the end of the period during which an appeal against the decision to impose the penalty, or the amount of the penalty, may be made under paragraph 14C, or

(b) if such an appeal is made, such time as it is determined or withdrawn.

(6) The Society may not publish under sub-paragraph (3) details of any action under sub-paragraph (2)(a) or (b)—

(a) during the period within which an appeal against—

(i) the decision to take the action,

(ii) in the case of action under sub-paragraph (2)(b), the amount of the penalty, or

(iii) the decision to publish the details,

may be made under paragraph 14C, or

(b) if such an appeal has been made, until such time as it is determined or withdrawn.

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(7) The Society must make rules—

(a) prescribing the circumstances in which the Society may decide to take action under sub-paragraph (2)(a) or (b);

(b) about the practice and procedure to be followed by the Society in relation to such action;

(c) governing the publication under sub-paragraph (3) of details of action taken under sub-paragraph (2)(a) or (b);

and the Society may make such other rules in connection with the exercise of its powers under this paragraph as it considers appropriate.

(8) Before making rules under sub-paragraph (7), the Society must consult the Tribunal.

(9) A penalty under this paragraph may be recovered as a debt due to the Society, and is to be forfeited to Her Majesty.

(10) The Lord Chancellor may, by order, amend paragraph (b) of sub-paragraph (2) so as to substitute for the amount for the time being specified in that paragraph such other amount as may be specified in the order.

(11) Before making an order under sub-paragraph (10), the Lord Chancellor must consult the Society.

(12) An order under sub-paragraph (10) is to be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

(13) This paragraph is without prejudice to any power conferred on the Society, or any other person, to make an application or complaint to the Tribunal.

14C (1) A person may appeal against—

(a) a decision by the Society to rebuke that person under paragraph 14B(2)(a) if a decision is also made to publish details of the rebuke;

(b) a decision by the Society to impose a penalty on that person under paragraph 14B(2)(b) or the amount of that penalty;

(c) a decision by the Society to publish under paragraph 14B(3) details of any action taken against that person under paragraph 14B(2)(a) or (b).

(2) Subsections (9)(b), (10)(a) and (b), (11) and (12) of section 46 of the 1974 Act (Tribunal rules about procedure for hearings etc) apply in relation to appeals under this paragraph as they apply in relation to applications or complaints, except that subsection (11) of that section is to be read as if for "the applicant" to "application)" there were substituted " any party to the appeal ".

(3) Rules under section 46(9)(b) of the 1974 Act may, in particular, make provision about the period during which an appeal under this paragraph may be made.

(4) On an appeal under this paragraph, the Tribunal has power to make an order which—

(a) affirms the decision of the Society;

(b) revokes the decision of the Society;

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(c) in the case of a penalty imposed under paragraph 14B(2)(b), varies the amount of the penalty;

(d) in the case of a recognised body, contains provision for any of the matters mentioned in paragraph 18(2);

(e) in the case of a manager or employee of a recognised body, contains provision for any of the matters mentioned in paragraph 18A(2);

(f) makes such provision as the Tribunal thinks fit as to payment of costs.

(5) Where, by virtue of sub-paragraph (4)(e), an order contains provision for any of the matters mentioned in sub-paragraph (2)(c) of paragraph 18A, sub-paragraphs (5) and (6) of that paragraph apply as if the order had been made under sub-paragraph (2)(c) of that paragraph.

(6) An appeal from the Tribunal shall lie to the High Court, at the instance of the Society or the person in respect of whom the order of the Tribunal was made.

(7) The High Court shall have power to make such order on an appeal under this paragraph as it may think fit.

(8) Any decision of the High Court on an appeal under this section shall be final.

(9) This paragraph is without prejudice to any power conferred on the Tribunal in connection with an application or complaint made to it."

Commencement Information

I433 Sch. 16 para. 103 wholly in force at 31.3.2009 see s. 211 and S.I. 2009/503, **art. 2(b)(ii)** (subject to art. 4)

104 In paragraph 16 of that Schedule (complaints to Tribunal with respect to recognised bodies)—

(a) in sub-paragraph (1), in paragraph (a) omit "in the United Kingdom",

(b) in paragraph (b) of that sub-paragraph for "section 34 of the 1974 Act" substitute " any requirement imposed by or by virtue of this Act ",

(c) for paragraph (c) of that sub-paragraph substitute—

"(c) a complaint that the body has acted in contravention of section 41 of the 1974 Act or paragraph 9(2) of this Schedule or of any conditions subject to which a permission has been granted under section 41 of that Act or that paragraph of this Schedule; or", and

(d) after that sub-paragraph insert—

"(1A) The Tribunal shall have jurisdiction to hear and determine any of the following complaints made to it under this paragraph with respect to a manager or employee of a recognised body ("the relevant person")—

(a) a complaint that the relevant person has been convicted by any court of a criminal offence which renders that person unsuitable to be a manager or employee (or both) of a recognised body;

(b) a complaint that the relevant person has failed to comply with any requirement imposed by or by virtue of this Act

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or any rules applicable to the relevant person by virtue of section 9 of this Act;

(c) a complaint that the relevant person has acted in contravention of section 41 of the 1974 Act or paragraph 9(2) of this Schedule or of any conditions subject to which a permission has been granted under that section or for the purposes of paragraph 9(2) of this Schedule;

(d) a complaint that the relevant person has knowingly acted in contravention of an order under section 43(2) of the 1974 Act or of any conditions subject to which a permission has been granted under such an order."

Commencement Information

I434 Sch. 16 para. 104 in force at 31.3.2009 by S.I. 2009/503, **art. 2(b)(ii)**

105 In paragraph 17 of that Schedule (procedure on applications and complaints)—

(a) for "(7)" substitute " (9) ",

(b) in paragraph (a)—

(i) omit "11(1), 15(2) or",

(ii) omit "13(3) or", and

(iii) after "16(1)" insert " or (1A) ", and

(c) in paragraph (c) after "body" insert " or, in the case of such a complaint as is mentioned in paragraph 16(1A), to a manager or employee of such a body ".

Commencement Information

I435 Sch. 16 para. 105(a)(b)(i)(iii)(c) in force at 31.3.2009 by S.I. 2009/503, **art. 2(b)(ii)**

I436 Sch. 16 para. 105(b)(ii) in force at 6.10.2010 by S.I. 2010/2089, **art. 2(b)** (with art. 6)

106 In paragraph 18 of that Schedule (powers of Tribunal with respect to recognised bodies)—

(a) in sub-paragraph (1) after "this Schedule" insert " (other than paragraph 16(1A) ",

(b) in paragraph (b) of that sub-paragraph for "section 34 of the 1974 Act" substitute " any requirement imposed by or by virtue of this Act ",

(c) omit paragraph (d) of that sub-paragraph and the "or" immediately preceding it,

(d) in sub-paragraph (2) omit "not exceeding £3,000", and

(e) omit sub-paragraphs (3) and (4).

Commencement Information

I437 Sch. 16 para. 106(a)(b)(d) in force and Sch. 16 para. 106(e) in force for certain purposes at 31.3.2009 by S.I. 2009/503, **art. 2(b)(ii)**

I438 Sch. 16 para. 106(c) in force at 6.10.2010 by S.I. 2010/2089, **art. 2(b)** (with art. 6)

I439 Sch. 16 para. 106(e) in force at 1.10.2011 in so far as not already in force by S.I. 2011/2196, **art. 2(1)(f)**

107 After that paragraph insert—

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"18A(1) Where, on the hearing of any complaint made to it under paragraph 16(1A) of this Schedule, the Tribunal is satisfied that a manager or employee of a recognised body—

(a) has been convicted as mentioned in paragraph (a) of paragraph 16(1A),

(b) has failed to comply with any requirement imposed by or by virtue of this Act or any rules applicable to the relevant person by virtue of section 9 of this Act, or

(c) has acted as mentioned in paragraph (c) or (d) of paragraph 16(1A),

the Tribunal may, if it thinks fit, make one or more of the orders referred to in sub-paragraph (2).

(2) Those orders are—

(a) an order directing the payment by the relevant person of a penalty to be forfeited to Her Majesty;

(b) an order requiring the Society to consider taking such steps as the Tribunal may specify in relation to the relevant person;

(c) if the person is not a solicitor, an order which states one or more of the matters mentioned in sub-paragraph (3);

(d) an order requiring the Society to refer to an appropriate regulator any matter relating to the conduct of the relevant person.

(3) The matters referred to in sub-paragraph (2)(c) are—

(a) that as from the specified date—

(i) no solicitor or employee of a solicitor shall employ or remunerate, in connection with the practice carried on by that solicitor, the person with respect to whom the order is made, and

(ii) no recognised body, or manager or employee of such a body, shall employ or remunerate that person, in connection with the business of the recognised body,

except in accordance with a Society permission;

(b) that as from the specified date no recognised body or manager or employee of such a body shall, except in accordance with a Society permission, permit the person with respect to whom the order is made to be a manager of the body;

(c) that as from the specified date no recognised body or manager or employee of such a body shall, except in accordance with a Society permission, permit the person with respect to whom the order is made to have an interest in the body.

(4) For this purpose a person has an interest in a body if the person has an interest in the body within the meaning of Part 5 the Legal Services Act 2007 (see sections 72 and 109 of that Act).

(5) Subsections (1) to (1C), (3) and (4) of section 44 of the 1974 Act (offences in connection with orders under section 43(2) of that Act) apply in relation to an order under sub-paragraph (2)(c) as they apply in relation to an order under section 43(2) of that Act, except that references in those subsections to provision within section 43(2)(a), (b) or (c) of that Act are to be read as references to provision within sub-paragraph (3)(a), (b) or (c).

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(6) Section 44(2) of the 1974 Act, paragraph 16(1)(d) and (1A)(d) of this Schedule and paragraph 15(3A) of Schedule 14 to the Courts and Legal Services Act 1990 apply in relation to an order under sub-paragraph (2)(c) as they apply in relation to an order under section 43(2) of the 1974 Act.

(7) For the purposes of sub-paragraph (2)(d) an "appropriate regulator" in relation to the relevant person means—

(a) if the person is an authorised person in relation to a reserved legal activity for the purposes of the Legal Services Act 2007, any relevant approved regulator (within the meaning of that Act) in relation to that person, and

(b) if the person carries on activities which are not reserved legal activities, any body which regulates the carrying on of such activities by the person."

Commencement Information

I440 Sch. 16 para. 107 wholly in force at 31.3.2009 see s. 211 and S.I. 2009/503, **art. 2(b)(ii)** (subject to art. 4)

108 In paragraph 20 of that Schedule (powers of Tribunal in respect of legal aid complaints), in sub-paragraph (1)—

(a) for "an officer" substitute " a manager ",

(b) for "director" substitute " manager ", and

F176(c) . . . . . .

and omit sub-paragraph (2).

Textual Amendments

F176 Sch. 16 para. 108(c) repealed (1.4.2013) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 5 Pt. 2**; S.I. 2013/453, art. 3(h) (with savings and transitional provisions in S.I. 2013/534, art. 6)

Commencement Information

I441 Sch. 16 para. 108 in force at 31.3.2009 by S.I. 2009/503, **art. 2(b)(ii)**

109 In paragraph 21 of that Schedule (revocation of recognition by reason of default by director)—

(a) in sub-paragraph (1), in paragraph (a) for "director" substitute " manager ",

(b) in paragraph (b) of that sub-paragraph for "director" (in both places) substitute " manager ",

(c) in paragraph (c) of that sub-paragraph for "director" (in both places) substitute " manager ",

(d) in sub-paragraph (3) for "director" (in both places) substitute " manager ", and

(e) after that sub-paragraph insert—

"(4) The reference in paragraph (c) of sub-paragraph (1) to a person employed by a recognised body includes a reference to a person who was so employed at the time of the conduct leading to the making of the order referred to in that paragraph."

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Commencement Information
I442 Sch. 16 para. 109 in force at 31.3.2009 by S.I. 2009/503, **art. 2(b)(ii)**

110 In paragraph 23 (orders as to remuneration for non-contentious business)—

(a) the existing provision becomes sub-paragraph (1) of that paragraph,

(b) in that sub-paragraph for "regulating (in accordance with paragraph 22)" substitute " prescribing (by virtue of paragraph 22) general principles to be applied when determining ",

(c) in that sub-paragraph for paragraph (b) substitute—

"(b) in paragraph (d), the reference to the solicitor or any employee of the solicitor who is an authorised person were a reference to any manager or employee of the recognised body who is an authorised person.", and

(d) after that sub-paragraph insert—

"(2) In this paragraph "authorised person" means a person who is an authorised person in relation to an activity which is a reserved legal activity, within the meaning of the Legal Services Act 2007 (see section 18 of that Act)."

Commencement Information
I443 Sch. 16 para. 110 in force at 31.3.2009 by S.I. 2009/503, **art. 2(b)(ii)**

111 For paragraph 24 of that Schedule (effect of contentious business agreements) substitute—

"24 (1) This paragraph applies in relation to a contentious business agreement made between a recognised body and a client.

(2) A provision in the agreement that the body shall not be liable for the negligence of any of its managers or employees shall be void if the client is a natural person who, in entering that agreement, is acting for purposes which are outside his trade, business or profession.

(3) A provision in the agreement that the body shall be relieved from any responsibility to which it would otherwise be subject in the course of carrying on its business as a recognised body shall be void.

(4) A provision in the agreement that any manager of the body shall be relieved from any responsibility to which the manager would otherwise be subject in the course of the carrying on by the body of its business as a recognised body shall be void."

Commencement Information
I444 Sch. 16 para. 111 in force at 30.6.2008 by S.I. 2008/1436, **art. 2(d)(ii)**

112 In paragraph 25 of that Schedule (effect of supervening incapacity on contentious business agreements)—

(a) for sub-paragraph (1)(b) substitute—

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"(b) a relevant insolvency event occurs in relation to the body;",

(b) in sub-paragraphs (2) and (3)—

(i) for "taxation" (in each place) substitute " assessment ", and

(ii) for "taxing officer" (in each place) substitute " costs officer ",

(c) in sub-paragraph (3) for "any officer" substitute " any manager ", and

(d) after that sub-paragraph insert—

"(4) For the purposes of this paragraph a relevant insolvency event occurs in relation to a recognised body if—

(a) a resolution for a voluntary winding-up of the body is passed without a declaration of solvency under section 89 of the Insolvency Act 1986;

(b) the body enters administration within the meaning of paragraph 1(2)(b) of Schedule B1 to that Act;

(c) an administrative receiver within the meaning of section 251 of that Act is appointed;

(d) a meeting of creditors is held in relation to the body under section 95 of that Act (creditors' meeting which has the effect of converting a members' voluntary winding up into a creditors' voluntary winding up);

(e) an order for the winding up of the body is made."

Commencement Information

I445 Sch. 16 para. 112(a)(c)(d) in force at 30.6.2008 by S.I. 2008/1436, **art. 2(d)(ii)**; Sch. 16 para. 112(b) in force at 1.1.2010 by S.I. 2009/3250, **art. 2(f)(ii)** (with art. 9)

113 In paragraph 26 of that Schedule (taxations with respect to contentious business)—

(a) in the paragraph heading for "Taxations" substitute " Assessments ",

(b) the existing paragraph becomes sub-paragraph (1) and in that sub-paragraph —

(i) for "taxation" substitute " assessment ",

(ii) for "taxing officer" substitute " costs officer ",

(iii) after "the body" (in the second place) insert " or any manager or employee of the body ", and

(iv) for "any solicitor, being an officer" substitute " any authorised person, being a manager ", and

(c) after that sub-paragraph insert—

"(2) In this paragraph "authorised person" means an authorised person, in relation to an activity which is a reserved legal activity, within the meaning of the Legal Services Act 2007."

Commencement Information

I446 Sch. 16 para. 113(b)(iii) in force at 30.6.2008 by S.I. 2008/1436, **art. 2(d)(ii)** (as amended by S.I. 2008/1591, art. 2(2)); Sch. 16 para. 113(b)(iv)(c) in force at 31.3.2009 by S.I. 2009/503, **art. 2(b)(ii)**; Sch. 16 para. 113(a)(b)(i)(ii) in force at 1.1.2010 by S.I. 2009/3250, **art. 2(f)(ii)** (with art. 9)

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114 In paragraph 28 (power of court to order recognised body to pay over clients' money) after "client" (in the third place) insert " or any manager or employee of such a body ".

Commencement Information
I447 Sch. 16 para. 114 in force at 31.3.2009 by S.I. 2009/503, **art. 2(b)(ii)**

115 For paragraph 29 of that Schedule (actions to recover costs) substitute—

"29 (1) Subsection (2A) of section 69 of the 1974 Act shall have effect in relation to a bill of costs delivered by a recognised body as if for paragraphs (a) and (b) there were substituted—

"(a) signed on behalf of the recognised body by any manager or employee of the body authorised by it to do so, or

(b) enclosed in, or accompanied by, a letter which is so signed and refers to the bill."

(2) Subsection (2E) of that section shall have effect in relation to such a bill as if for "the solicitor" there were substituted " the recognised body "."

Commencement Information
I448 Sch. 16 para. 115 in force at 7.3.2008 by S.I. 2008/222, **art. 2(j)(ii)**

116 In paragraph 30 (power of Society to inspect files relating to certain proceedings), for paragraph (b) substitute—

"(b) for the appointment of an administrative receiver within the meaning of section 251 of the Insolvency Act 1986; or".

Commencement Information
I449 Sch. 16 para. 116 in force at 31.3.2009 by S.I. 2009/503, **art. 2(b)(ii)**

117 In paragraph 31 of that Schedule (bank accounts)—

(a) omit "or (2)", and

(b) after "bank" insert " or building society ".

Commencement Information
I450 Sch. 16 para.117 in force at 31.3.2009 by S.I. 2009/503, **art. 2(b)(ii)**

118 After that paragraph insert—

"31A Where rules made under section 32(1) of the 1974 Act are applied to managers or employees in accordance with section 9(2)(fb) of this Act, section 85 of the 1974 Act shall apply in relation to a manager or employee to whom the rules are applied who keeps an account with a bank or building society in pursuance of any such rules as it applies in relation to a solicitor who keeps such an account in pursuance of rules under section 32."

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Commencement Information
I451 Sch. 16 para. 118 in force at 31.3.2009 by S.I. 2009/503, **art. 2(b)(ii)**

119 (1) Paragraph 32 of that Schedule (intervention by Society) is amended as follows.

(2) In sub-paragraph (1)(a)—

(a) for "Council are" substitute " Society is ",

(b) after "recognised body" insert " or a manager of such a body ", and

(c) for "it" substitute " the body or manager ".

(3) For sub-paragraph (1)(c) substitute—

"(c) a relevant insolvency event occurs in relation to a recognised body; or".

(4) In sub-paragraph (1)(d)—

(a) for "Council have" substitute " Society has ",

(b) for "officer" substitute " manager ", and

(c) for "that body's" to the end substitute—

"(i) that body's business,

(ii) any trust of which that body is or was a trustee,

(iii) any trust of which the manager or employee is or was a trustee in his capacity as such a manager or employee, or

(iv) the business of another body in which the manager or employee is or was a manager or employee or the practice (or former practice) of the manager or employee; or".

(5) After sub-paragraph (1)(d) insert—

"(e) the Society is satisfied that it is necessary to exercise the powers conferred by Part 2 of Schedule 1 to the 1974 Act (or any of them) in relation to a recognised body to protect—

(i) the interests of clients (or former or potential clients) of the recognised body,

(ii) the interests of the beneficiaries of any trust of which the recognised body is or was a trustee, or

(iii) the interests of the beneficiaries of any trust of which a person who is or was a manager or employee of the recognised body is or was a trustee in that person's capacity as such a manager or employee;".

(6) After sub-paragraph (1) insert—

"(1A) For the purposes of this paragraph a relevant insolvency event occurs in relation to a recognised body if—

(a) a resolution for a voluntary winding-up of the body is passed without a declaration of solvency under section 89 of the Insolvency Act 1986;

(b) the body enters administration within the meaning of paragraph 1(2)(b) of Schedule B1 to that Act;

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(c) an administrative receiver within the meaning of section 251 of that Act is appointed;

(d) a meeting of creditors is held in relation to the body under section 95 of that Act (creditors' meeting which has the effect of converting a members' voluntary winding up into a creditors' voluntary winding up);

(e) an order for the winding up of the body is made."

(7) Omit sub-paragraph (2).

Commencement Information
I452 Sch. 16 para. 119 in force at 31.3.2009 by S.I. 2009/503, **art. 2(b)(ii)**

120 For paragraph 33 of that Schedule (further grounds for intervention)—

(a) for paragraph (a) substitute—

"(a) the Society is satisfied that there has been undue delay—

(i) on the part of a recognised body in connection with any matter in which it is or was acting on behalf of a client or with any trust of which it is or was a trustee, or

(ii) on the part of a person who is or was a manager or employee of a recognised body in connection with any trust of which the manager or employee is or was a trustee in his capacity as such a manager or employee;", and

(b) in paragraph (c) for "Council regard" substitute " Society regards ".

Commencement Information
I453 Sch. 16 para. 120 in force at 31.3.2009 by S.I. 2009/503, **art. 2(b)(ii)**

121 In paragraph 34 of that Schedule (powers of intervention on revocation of recognition etc), in sub-paragraph (1)—

(a) omit "corporate" (in both places), and

(b) in paragraph (a), after "revoked" insert " in accordance with rules under that section or ".

Commencement Information
I454 Sch. 16 para. 121 in force at 31.3.2009 by S.I. 2009/503, **art. 2(b)(ii)**

122 In paragraph 35 of that Schedule (provision relating to the application of Part 2 of Schedule 1 to the Solicitors Act 1974)—

(a) in paragraph (a) omit "corporate", and

(b) omit "and" at the end of paragraph (b) and after paragraph (c) insert—

"(d) paragraph 6(2)(a) of that Schedule is to be construed as including a reference to sums of money held by or on behalf of the recognised body in connection with any trust of which a person who is or was a manager of the

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recognised body is or was a trustee in his capacity as such a manager;

(e) paragraph 9 of that Schedule is to be construed—

(i) as if sub-paragraph (1) included a reference to documents in the possession or under the control of the recognised body in connection with any trust of which a person who is or was a manager or employee of the recognised body is or was a trustee in his capacity as such a manager or employee, and

(ii) as applying to such a manager or employee and documents and property in his possession or under his control in connection with such a trust as it applies to a solicitor and documents and property in the possession or under the control of the solicitor;

(f) paragraph 11(1) of that Schedule is to be construed as including a power for the Society to apply to the High Court for an order for the appointment of a new trustee to a trust in substitution for a person who is a trustee, in his capacity as a manager or employee of the recognised body; and

(g) paragraph 13A of that Schedule is to be read as if the references to a former partner were references—

(i) in the case of a recognised body which is a partnership, to a former partner in the partnership, and

(ii) in any other case to a manager or former manager of the recognised body."

Commencement Information

I455 Sch. 16 para. 122 in force at 31.3.2009 by S.I. 2009/503, **art. 2(b)(ii)**

123 In paragraph 36 of that Schedule (privilege from disclosure etc)—

(a) for sub-paragraph (1) substitute—

"(1) Where a recognised body acts as such for a client, any communication, document, material or information is privileged from disclosure in like manner as if the recognised body had at all material times been a solicitor acting for the client.",

(b) in sub-paragraph (3) for "an officer" substitute " a manager ", and

(c) after that sub-paragraph insert—

"(4) This paragraph does not apply to a recognised body which holds a licence under Part 5 of the Legal Services Act 2007 (alternative business structures)."

Commencement Information

I456 Sch. 16 para. 123 in force at 31.3.2009 by S.I. 2009/503, **art. 2(b)(ii)**

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PART 3

THE COURTS AND LEGAL SERVICES ACT 1990 (C. 41)

124 The Courts and Legal Services Act 1990 is amended in accordance with this Part of this Schedule.

Commencement Information

I457 Sch. 16 para. 124 in force at 7.3.2008 by S.I. 2008/222, **art. 2(j)(iii)**

125 In section 89 (foreign lawyers: recognised bodies and partnerships with solicitors) —

(a) for subsection (3)(a)(iv) substitute—

"(iv) sections 36 and 36A (compensation grants); and",

(b) in subsection (4), for paragraphs (a) to (d) substitute " to make different provision with respect to registered foreign lawyers to the provision made with respect to solicitors. ",

(c) in subsection (5) for "Secretary of State" substitute " Lord Chancellor ",

(d) in paragraph (a) of that subsection for "the commencement of this section" substitute " or in the same Session as the Legal Services Act 2007 was passed ",

(e) in subsection (6) for "Secretary of State" substitute " Lord Chancellor ",

(f) in subsection (7) for "Secretary of State" (in both places) substitute " Lord Chancellor ",

(g) in paragraph (a) of that subsection for "the commencement of this section" substitute " or in the same Session as the Legal Services Act 2007 was passed ",

(h) in that subsection for "officers" substitute " managers ",

(i) after subsection (8) insert—

"(8A) Rules and regulations made by the Law Society under, or by virtue of, this section or Schedule 14 which are not regulatory arrangements within the meaning of the Legal Services Act 2007 are to be treated as such arrangements for the purposes of that Act.", and

(j) in subsection (9), after the definition of "foreign lawyer" insert—

""manager", in relation to a body, has the same meaning as in the Legal Services Act 2007 (see section 207 of that Act);".

Commencement Information

I458 Sch. 16 para. 125(c)(d)(e)(f)(g) in force at 30.6.2008 by S.I. 2008/1436, **art. 2(d)(iii)** (as amended by S.I. 2008/1591, art. 2(2)); Sch. 16 para. 125 in force at 31.3.2009 by S.I. 2009/503, **art. 2(b)(iii)** (subject to art. 4)

126 Schedule 14 to that Act (foreign lawyers: partnerships and recognised bodies) is amended as follows.

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Commencement Information
I459 Sch. 16 para. 126 in force at 7.3.2008 by S.I. 2008/222, **art. 2(j)(iii)**

127 In paragraph 1 (interpretation) omit the definitions of "the Council" and "controlled trust".

Commencement Information
I460 Sch. 16 para. 127 in force at 31.3.2009 by S.I. 2009/503, **art. 2(b)(iii)**

128 In paragraph 2 (application for registration)—

(a) for "Council" in each place substitute " Society ",

(b) in sub-paragraph (1)(b) for "the Master of the Rolls" substitute " the Legal Services Board ",

(c) in sub-paragraph (2)—

(i) for "Law Society" substitute " Society ", and

(ii) for paragraphs (a) and (b) substitute " for members of that profession to be managers of recognised bodies. ",

(d) omit sub-paragraph (3),

(e) in sub-paragraph (4)—

(i) for "Master of the Rolls" substitute " Legal Services Board ", and

(ii) in paragraph (a) after "including" insert " the form of the register and ",

(f) in that sub-paragraph, after paragraph (b) insert "and

(c) the making available to the public of the information contained in the register (including the manner in which, and hours during which, the information is to be made so available and whether the information is to be made available free of charge).", and

(g) omit sub-paragraph (5).

Commencement Information
I461 Sch. 16 para. 128(a)(c)(i) in force at 7.3.2008 by S.I. 2008/222, **art. 2(j)(iii)**; Sch. 16 para. 128(c)(ii) in force at 30.6.2008 by S.I. 2008/1436, **art. 2(d)(iii)** (as amended by S.I. 2008/1591, art. 2(2)); Sch. 16 para. 128(d)(e)(ii)(f)(g) in force at 1.7.2009 by S.I. 2009/1365, **art. 2(b)(i)**; Sch. 16 para. 128(b)(e)(i) in force at 1.1.2010 by S.I. 2009/3250, **art. 2(f)(ii)** (with art. 9)

129 After paragraph 2 insert—

"2A (1) The Society may direct that a foreign lawyer's registration is to have effect subject to such conditions as the Society thinks fit to impose.

(2) A direction under sub-paragraph (1) may be given in respect of a foreign lawyer

(a) at the time he is first registered, or

(b) at any time when the registration has effect."

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Commencement Information
I462 Sch. 16 para. 129 in force at 1.7.2009 by S.I. 2009/1365, **art. 2(b)(i)**

130 In paragraph 3 (duration of registration) in sub-paragraphs (2) and (3)(c) for "Council" substitute " Society ".

Commencement Information
I463 Sch. 16 para. 130 in force at 7.3.2008 by S.I. 2008/222, **art. 2(j)(iii)**

131 In paragraph 5 (intervention in practices)—

(a) in sub-paragraph (3)(a) and (b)—

(i) for "Council have" substitute " Society has ", and

(ii) omit "by virtue of his being a member of that partnership",

(b) after sub-paragraph (3)(b) insert—

"(ba) the Society has reason to suspect dishonesty on the part of the registered foreign lawyer ("L") in connection with—

(i) the business of any person of whom L is or was an employee, or of any body of which L is or was a manager, or

(ii) any business which is or was carried on by L as a sole trader;",

(c) in sub-paragraph (3)(c) for "Council are" substitute " Society is ",

(d) after sub-paragraph (3)(e) insert—

"(ea) the Society is satisfied that he has abandoned his practice;",

(e) in sub-paragraph (3)(i)—

(i) for "Council are" substitute " Society is ", and

(ii) for "an officer" (in both places) substitute " a manager ",

(f) after that sub-paragraph insert—

"(j) the Society is satisfied that it is necessary to exercise the intervention powers (or any of them) in relation to the registered foreign lawyer to protect—

(i) the interests of clients (or former or potential clients) of the registered foreign lawyer or the multi-national partnership, or

(ii) the interests of the beneficiaries of any trust of which the registered foreign lawyer is or was a trustee.",

(g) omit sub-paragraph (4),

(h) in sub-paragraph (5)(a) for "a complaint is made to the Society" substitute " the Society is satisfied ",

(i) in sub-paragraph (5)(a)(ii) for "controlled trust" substitute " trust ",

(j) in sub-paragraph (5)(c) for "Council regard" substitute " Society regards ", and

(k) after sub-paragraph (9) insert—

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"(10) In this paragraph "manager", in relation to a recognised body, has the same meaning as in the Legal Services Act 2007 (see section 207 of that Act)."

Commencement Information
I464 Sch. 16 para. 131 in force at 31.3.2009 by S.I. 2009/503, **art. 2(b)(iii)**

132 For paragraph 6 (compensation fund) substitute—

"6 Section 36 of the 1974 Act applies in relation to registered foreign lawyers as if for paragraphs (a) and (b) of subsection (1) there were substituted—

"(a) an act or omission of a registered foreign lawyer or former registered foreign lawyer;

(b) an act or omission of an employee or former employee of a registered foreign lawyer or former registered foreign lawyer;"."

Commencement Information
I465 Sch. 16 para. 132 wholly in force at 31.3.2009 see s. 211 and S.I. 2009/503, **art. 2(b)(iii)** (subject to art. 5)

133 For paragraph 7 (contributions to fund) substitute—

"7 Section 36A(2) and (3) of the 1974 Act applies in relation to registered foreign lawyers as it applies in relation to solicitors."

Commencement Information
I466 Sch. 16 para. 133 in force at 31.3.2009 by S.I. 2009/503, **art. 2(b)(iii)**

134 For paragraph 8 (accountants' reports) substitute —

"8 Section 34 of the Act of 1974 applies in relation to registered foreign lawyers as it applies in relation to solicitors."

Commencement Information
I467 Sch. 16 para. 134 in force at 31.3.2009 by S.I. 2009/503, **art. 2(b)(iii)**

135 In paragraph 14 (appeal against conditions or refusals)—

(a) in sub-paragraph (1)—

(i) for "Master of the Rolls" substitute " High Court ", and

(ii) for "2(3)" substitute " 2A ",

(b) omit sub-paragraph (2),

(c) in sub-paragraph (3)—

(i) omit "to him",

(ii) for "Master of the Rolls" substitute " High Court ", and

(iii) for "he" substitute " it ", and

(d) after that sub-paragraph insert—

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"(4) In relation to an appeal under this paragraph the High Court may make such order as it thinks fit as to payment of costs.

(5) The decision of the High Court on an appeal under this paragraph shall be final."

Commencement Information
I468 Sch. 16 para. 135 wholly in force at 1.7.2009 see s. 211 and S.I. 2009/1365, **art. 2(b)(ii)** (subject to art. 4)

136 In paragraph 15 (jurisdiction and powers of disciplinary tribunal)—

(a) after sub-paragraph (3) insert—

"(3A) Any person who alleges that a registered foreign lawyer has knowingly acted in contravention of any order under section 43(2) of the Act of 1974 or of any conditions subject to which a permission has been granted under such an order may make a complaint to the Tribunal.",

(b) in sub-paragraph (4)(c), omit "not exceeding £5,000", and

(c) omit sub-paragraph (5).

Commencement Information
I469 Sch. 16 para. 136 in force at 31.3.2009 by S.I. 2009/503, **art. 2(b)(iii)**

137 In paragraph 16(2) (foreign lawyers assisting Tribunal) for "Master of the Rolls" substitute " Legal Services Board ".

Commencement Information
I470 Sch. 16 para. 137 in force at 1.1.2010 by S.I. 2009/3250, **art. 2(f)(ii)**

138 In paragraph 17 (appeals from Tribunal)—

(a) in sub-paragraph (1) for "lie—" to the end substitute " lie to the High Court ",

(b) in sub-paragraph (2)—

(i) omit "and the Master of the Rolls", and

(ii) for "they" substitute " it ",

(c) in sub-paragraph (3) for "of the Master of the Rolls on an appeal under this paragraph" substitute " of the High Court on an appeal in the case of an order on an application under paragraph 15(2)(d) or (e), or the refusal of any such application, ", and

(d) omit sub-paragraph (4).

Commencement Information
I471 Sch. 16 para. 138 wholly in force at 1.7.2009 see s. 211 and S.I. 2009/1365, **art. 2(b)(ii)** (subject to art. 4)

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SCHEDULE 17

Section 182

LICENSED CONVEYANCING

PART 1

ADMINISTRATION OF JUSTICE ACT 1985 (C. 61)

1 Part 2 of the Administration of Justice Act 1985 (licensed conveyancing) is amended in accordance with this Part.

Commencement Information
I472 Sch. 17 para. 1 in force at 7.3.2008 by S.I. 2008/222 art. 2(k)

2 In section 11 (provision of conveyancing services by licensed conveyancers)—

(a) in subsection (1) for "by persons" to the end substitute " and other services by persons who hold licences in force under this Part or who are recognised bodies. ",

(b) for subsection (3) substitute—

"(3) References in this Part to conveyancing services are references to—

(a) the preparation of transfers, conveyances, contracts and other documents in connection with, and other services ancillary to, the disposition or acquisition of estates or interests in land, and

(b) any other activities which are reserved instrument activities for the purposes of the Legal Services Act 2007 (see section 12 of and Schedule 2 to that Act).

(3A) For the purposes of subsection (3)—

(a) "disposition"

(i) does not include a testamentary disposition or any disposition in the case of such a lease as is referred to in section 54(2) of the Law of Property Act 1925 (short leases), but

(ii) subject to that, includes in the case of leases both their grant and their assignment, and

(b) "acquisition" has a corresponding meaning.", and

(c) omit subsection (4).

Commencement Information
I473 Sch. 17 para. 2 wholly in force at 1.1.2010; Sch. 17 para. 2 not in force at Royal Assent see s. 211; Sch. 17 para. 2(a) in force at 31.3.2009 by S.I. 2009/503, **art. 2(c)(i)**; Sch. 17 para. 2 in force otherwise at 1.1.2010 by S.I. 2009/3250, **art. 2(f)(iii)** (with art. 9)

3 In section 12 (establishment of the Council), omit subsection (2).

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Commencement Information
I474 Sch. 17 para. 3 in force at 1.1.2010 by S.I. 2009/3250, **art. 2(f)(iii)**

4 (1) Section 15 (issue of licences by Council) is amended as follows.

(2) In subsection (3)(b), for "21" substitute " 42 ".

(3) In subsection (4), for "the period of" to the end substitute " such period, beginning with the date of issue of the licence, as may be specified in the licence. "

(4) Omit subsections (7) and (8).

Commencement Information
I475 Sch. 17 para. 4 in force at 31.3.2009 by S.I. 2009/503, **art. 2(c)(i)**

5 (1) Section 16 (conditional licences) is amended as follows.

(2) In subsection (1)—

(a) after paragraph (c) insert—

"(ca) after the Investigating Committee established under section 24 has made any order in his case under section 24A;", and

(b) after paragraph (e) insert—

"(ea) when, having been required by rules made under section 22 to deliver to the Council a report by an accountant, he has not delivered such a report within the period required by the rules;

(eb) after having been disqualified under section 99 of the Legal Services Act 2007 (disqualification from being manager or employee of a licensed body etc);

(ec) after his holding of a restricted interest in a licensed body has been approved subject to conditions under paragraph 17, 28 or 33 of Schedule 13 to that Act (ownership of licensed bodies) or objected to under paragraph 19, 31 or 36 of that Schedule;".

(3) In subsection (4)—

(a) after "paragraph" insert " (ca), ", and

(b) after "(e)," insert " (ea), (eb), (ec), ".

(4) In subsection (5) for "or" at the end of paragraph (a) substitute—

"(aa) pending the hearing and determination of any appeal brought by the applicant under paragraph 18, 20, 29, 32, 34 or 37 of Schedule 13 to the Legal Services Act 2007;

(ab) pending the review by a licensing authority, in accordance with its licensing rules, of a determination that the applicant should be disqualified under section 99 of the Legal Services Act 2007; or".

(5) After that subsection insert—

"(6) In this section—

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"licensed body", "licensing authority" and "licensing rules" have the same meaning as in the Legal Services Act 2007 (see sections 71, 73 and 83 of that Act);

"restricted interest", in relation to a body, has the same meaning as in Schedule 13 to that Act (ownership of licensed bodies)."

Commencement Information

I476 Sch. 17 para. 5(1)(2)(a)(3)(a) in force and Sch. 17 para. 5(2)(b)(3)(b) in force for certain purposes at 31.3.2009 by S.I. 2009/503, **art. 2(c)(i)**

I477 Sch. 17 para. 5(2)(b)(3)(b) in force at 1.10.2011 in so far as not already in force by S.I. 2011/2196, **art. 2(1)(g)**

I478 Sch. 17 para. 5(4)(5) in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(g)**

6 After section 16 insert—

"**16A Additional fee payable by certain persons when applying for licences**

(1) This section applies where a person applies for a licence at a time when section 16 has effect in relation to him by reason of the circumstances mentioned in section 16(1)(ea).

(2) The application must be accompanied by an additional fee of an amount prescribed by rules made by the Council for the purposes of this section."

Commencement Information

I479 Sch. 17 para. 6 in force at 31.3.2009 by S.I. 2009/503, **art. 2(c)(i)**

7 (1) Section 17 (imposition of conditions during currency of licence) is amended as follows.

(2) In subsection (2)(a)—

(a) after "paragraph" insert " (ca), ", and

(b) after "(e)," insert " (ea), (eb), (ec), ".

(3) In subsection (4), for "or" at the end of paragraph (a) substitute—

"(aa) pending the hearing and determination of any appeal brought by the licensed conveyancer under paragraph 18, 20, 29, 32, 34 or 37 of Schedule 13 to the Legal Services Act 2007;

(ab) pending the review by a licensing authority, in accordance with its licensing rules, of a determination that the licensed conveyancer should be disqualified under section 99 of the Legal Services Act 2007; or".

(4) After subsection (5) insert—

"(6) In this section "licensing authority" and "licensing rules" have the same meaning as in the Legal Services Act 2007 (see sections 73 and 83 of that Act)."

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I480 Sch. 17 para. 7(1)(2)(a) in force and Sch. 17 para. 7(2)(b) in force for certain purposes at 31.3.2009 by S.I. 2009/503, **art. 2(c)(i)**

I481 Sch. 17 para. 7(2)(b) in force at 1.10.2011 in so far as not already in force by S.I. 2011/2196, **art. 2(1)(g)**

I482 Sch. 17 para. 7(3)(4) in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(g)**

8 After section 17 insert—

"**17A Variation of conditions**

(1) This section applies where a licensed conveyancer's licence has effect subject to conditions.

(2) On an application made by the licensed conveyancer, the Council may in prescribed circumstances direct—

(a) the removal of a condition;

(b) the variation of a condition in the manner described in the application.

(3) "Prescribed" means prescribed by rules made by the Council.

(4) Section 14 (applications for licences) applies in relation to an application under this section as it applies in relation to applications for a licence under this Part."

Commencement Information

I483 Sch. 17 para. 8 in force at 31.3.2009 by S.I. 2009/503, **art. 2(c)(i)**

9 In section 18 (suspension or termination of licences), after subsection (2) insert—

"(2A) Where the power conferred by paragraph 6(1) or 9(1) of Schedule 5 has been exercised in relation to a licensed conveyancer by virtue of paragraph 1(1)(a)(i), (aa), (c) or (e) of that Schedule, the exercise of that power shall operate immediately to suspend any licence held by that person under this Part.

(2B) Subsection (2A) does not apply if, at the time when the power referred to there is exercised, the Council directs that subsection (2A) is not to apply in relation to the licensed conveyancer concerned.

(2C) If, at the time when the power referred to in subsection (2A) is exercised, the Council gives a direction to that effect, the licensed conveyancer concerned may continue to act in relation to any matter specified in the direction as if the licence had not been suspended by virtue of subsection (2A), but subject to such conditions (if any) as the Council sees fit to impose.

(2D) Subject to subsection (2E), where a licence is suspended by virtue of subsection (2A) the suspension of the licence shall continue until the licence expires.

(2E) The licensed conveyancer may, at any time before the licence expires, apply to the Council to terminate the suspension.

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(2F) On an application under subsection (2E), the Council may in its discretion—

(a) by order terminate the suspension either unconditionally or subject to such conditions as the Council may think fit, or

(b) refuse the application.

(2G) If on an application by a licensed conveyancer under subsection (2E) the Council refuses the application or terminates the suspension subject to conditions, the licensed conveyancer may appeal against the decision of the Council to the High Court which may—

(a) affirm the decision, or

(b) terminate the suspension either unconditionally or subject to such conditions as it may think fit.

(2H) In relation to an appeal under subsection (2G) the High Court may make such order as it thinks fit as to payment of costs."

Commencement Information
I484 Sch. 17 para. 9 in force at 31.3.2009 by S.I. 2009/503, **art. 2(c)(i)**

10 In section 20 (rules as to professional practice, conduct and discipline), in subsection (1) omit ", in pursuance of its general duty referred to in section 12(2),".

Commencement Information
I485 Sch. 17 para. 10 in force at 1.1.2010 by S.I. 2009/3250, **art. 2(f)(iii)**

11 In section 22 (keeping of accounts and establishment of client accounts)—

(a) in subsection (3)(a) omit "qualified", and

(b) for subsections (4) and (5) substitute—

"(4) Provision made in rules by virtue of subsection (3)(a) may provide that the reports delivered to the Council must be reports given by accountants in respect of whom requirements prescribed by the rules are met."

Commencement Information
I486 Sch. 17 para. 11 in force at 7.3.2008 by S.I. 2008/222 art. 2(k)

12 (1) Section 24 (preliminary investigation of disciplinary cases) is amended as follows.

(2) In subsection (1)—

(a) for "preliminary investigation" substitute " consideration ",

(b) omit paragraph (b), and

(c) omit from "with a view" to the end.

(3) After subsection (1) insert—

"(1A) The Investigating Committee shall make a preliminary investigation of such an allegation and—

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(a) hear and determine the allegation, or

(b) refer the allegation to the Discipline and Appeals Committee established under section 25 for hearing and determination by that Committee under section 26."

(4) Omit subsection (2).

(5) In subsection (3) omit—

(a) "or (2)",

(b) "or complaint" (in both places), and

(c) "or paragraph (b)".

(6) After subsection (4) insert—

"(4A) The Council shall make rules as to the cases in which the Investigating Committee may hear and determine an allegation, and the cases in which they must refer an allegation to the Discipline and Appeals Committee."

(7) In subsection (5) omit "or complaint" (in both places).

(8) After that subsection insert—

"(6) Before making a direction under subsection (5), the Investigating Committee must give the licensed conveyancer an opportunity to make representations against the making of the proposed direction.

(7) In relation to proceedings under subsection (6), the Investigating Committee may make such order as they think fit as to the payment of costs by—

(a) the Council, or

(b) the licensed conveyancer.

(8) Where a direction under subsection (5) has been made, the licensed conveyancer may appeal to the Discipline and Appeals Committee, and on any such appeal the Committee may make such order as they think fit.

(9) Where an order has been made under subsection (7) the Council or the licensed conveyancer may appeal to the Discipline and Appeals Committee, and on any such appeal the Committee may make such order as they think fit.

(10) Where an order is made by the Discipline and Appeals Committee under subsections (8) or (9)—

(a) the person against whom the order is made, and

(b) if not within paragraph (a), the Council,

may appeal against the order to the High Court.

(11) On an appeal under subsection (10) the High Court may make such order as it thinks fit.

(12) The decision of the High Court on an appeal under subsection (10) shall be final."

Commencement Information

I487 Sch. 17 para. 12 in force at 31.3.2009 by S.I. 2009/503, **art. 2(c)(i)**

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13 After section 24 insert—

"**24A Determination of allegations by Investigating Committee**

(1) Where, on hearing an allegation by virtue of section 24(1A)(a), the Investigating Committee are satisfied that a licensed conveyancer—

(a) has, while holding a licence in force under this Part, failed to comply with any condition to which that licence was subject, or

(b) has failed to comply with any rules made by the Council under this Part,

the Committee may, if they think fit, make an order directing the payment by the licensed conveyancer of a penalty to be forfeited to Her Majesty.

(2) In relation to proceedings before the Investigating Committee by virtue of section 24(1A)(a), the Committee may make such order as they consider fit as to the payment of costs by—

(a) the Council,

(b) the licensed conveyancer against whom the proceedings were brought, or

(c) if the person on whose allegation the proceedings were brought was heard (in person, or through a representative) by the Committee in the course of the proceedings, that person.

(3) In subsection (2), for the purposes of paragraph (a) or (b) of that subsection, the reference to costs includes costs incurred in connection with a preliminary investigation of the allegation under section 24(1A).

(4) The amount of any penalty required to be paid under subsection (1) may not exceed such amount as may be prescribed by rules made by the Council for the purposes of this subsection.

(5) Paragraphs 1, 2(1) and (3) and 4 of Schedule 4 have effect in relation to—

(a) proceedings for the hearing and determination of an allegation by the Investigating Committee, as they have effect in relation to proceedings before the Discipline and Appeals Committee under section 26, and

(b) orders of the Investigating Committee, as they have effect in relation to orders of the Discipline and Appeals Committee.

(6) A person against whom an order is made by the Investigating Committee by virtue of subsection (1) may appeal to the Discipline and Appeals Committee, and on any such appeal the Discipline and Appeals Committee may make such order as they think fit.

(7) Where an order is made by the Investigating Committee by virtue of subsection (2), a person listed in paragraphs (a) to (c) of that subsection may appeal to the Discipline and Appeals Committee, and on any such appeal the Discipline and Appeals Committee may make such order as they think fit.

(8) Where an order is made by the Discipline and Appeals Committee under subsection (6) or (7)—

(a) a party to the appeal, or

(b) if not within paragraph (a), the Council,

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may appeal against the order to the High Court.

(9) On an appeal under subsection (8) the High Court may make such order as it thinks fit.

(10) The decision of the High Court on an appeal under subsection (8) shall be final."

Commencement Information
I488 Sch. 17 para. 13 in force at 31.3.2009 by S.I. 2009/503, **art. 2(c)(i)**

14 In section 25 (the Discipline and Appeals Committee), in subsection (1)(b) for "sections 27 to" substitute " section 24A, 27, 28 or ".

Commencement Information
I489 Sch. 17 para. 14 in force at 31.3.2009 by S.I. 2009/503, **art. 2(c)(i)**

15 (1) Section 26 (proceedings in disciplinary cases) is amended as follows.

(2) In subsection (1) after "allegation" insert " referred to them under section 24(1A)(b) ".

(3) In subsection (2)—

(a) in paragraph (e), for "£3,000" substitute " such amount as may be prescribed by rules made by the Council for the purposes of this paragraph ",

(b) for paragraph (f) substitute—

"(f) an order reprimanding the licensed conveyancer.", and

(c) omit paragraph (g).

(4) After subsection (2) insert—

"(2A) In relation to proceedings before the Discipline and Appeals Committee under this section, the Committee may make such order as they consider fit as to the payment of costs by—

(a) the Council;

(b) the licensed conveyancer against whom the proceedings were brought;

(c) if the person on whose allegation the proceedings were brought was heard (in person, or through a representative) by the Committee in the course of the proceedings, that person.

(2B) In subsection (2A), for the purposes of paragraph (a) or (b) of that subsection, the reference to costs includes costs incurred in connection with a preliminary investigation of the allegation under section 24(1A)."

(5) Omit subsections (5) and (6).

(6) After subsection (7) insert—

"(7A) Where the Discipline and Appeals Committee make an order under subsection (2A), a person listed in paragraphs (a) to (c) of that subsection

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may appeal to the High Court, and on any such appeal the High Court may make such order as it thinks fit."

(7) In subsection (8), after "(7)" insert " or (7A) ".

Commencement Information
I490 Sch. 17 para. 15 in force at 31.3.2009 by S.I. 2009/503, **art. 2(c)(i)**

16 In section 27 (removal of disqualification from holding a licence), after subsection (2) insert—

"(3) In relation to proceedings on an application under subsection (1), the Discipline and Appeals Committee may make such order as they consider fit as to the payment of costs by—

(a) the Council;

(b) the applicant."

Commencement Information
I491 Sch. 17 para. 16 in force at 31.3.2009 by S.I. 2009/503, **art. 2(c)(i)**

17 In section 28 (revocation of licence on grounds of fraud or error), after subsection (4) insert—

"(5) In relation to proceedings for the revocation of a licence under subsection (1), the Discipline and Appeals Committee may make such order as they consider fit as to the payment of costs by—

(a) the Council;

(b) the licensed conveyancer to whose licence the proceedings relate.

(6) In relation to proceedings on an application under subsection (2), the Discipline and Appeals Committee may make such order as they consider fit as to the payment of costs by—

(a) the Council;

(b) the applicant."

Commencement Information
I492 Sch. 17 para. 17 in force at 31.3.2009 by S.I. 2009/503, **art. 2(c)(i)**

18 In section 29 (appeals from decisions of Council in relation to licences)—

(a) in subsection (1), omit "or" at the end of paragraph (b),

(b) in that subsection, at the end of paragraph (c) insert "or

(d) refuses an application made by that person under section 17A,", and

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

"(ba) in the case of an appeal under subsection (1)(d), by order direct the Council to grant the application;".

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Commencement Information
I493 Sch. 17 para. 18 in force at 31.3.2009 by S.I. 2009/503, **art. 2(c)(i)**

19 (1) Section 31 (application of Schedule 5) is amended as follows.

(2) In subsection (2) omit—
(a) "or complaint" (in each place), and
(b) "or paragraph (b)".

(3) In subsection (3), for "and 12" substitute " to 12A ".

(4) In subsection (4) omit "or complaint".

Commencement Information
I494 Sch. 17 para. 19 in force at 31.3.2009 by S.I. 2009/503, **art. 2(c)(i)**

20 (1) Section 32 (provision of conveyancing services by recognised bodies) is amended as follows.

(2) In subsection (1)(a) for "by licensed" (in the first place) to the end substitute " of conveyancing services bodies; ".

(3) In subsection (1)(b) for "such services" substitute " conveyancing services or other relevant legal services ".

(4) After subsection (1)(b) insert—
"(ba) prescribing the Council's arrangements for authorising recognised bodies, for the purposes of the Legal Services Act 2007, to carry on reserved instrument activities, or the administration of oaths, within the meaning of that Act;".

(5) In subsection (1)(c) for "conditions" substitute " requirements ".

(6) In subsection (2) omit "corporate".

(7) In subsection (3)—
(a) in paragraph (a) after "section" insert " , or for the renewal of such recognition, ",
(b) after that paragraph insert—
"(aa) for the payment of fees in connection with other applications under the rules;",
(c) for paragraph (c) substitute—
"(c) about the time when any recognition granted under this section, or renewal of such recognition, takes effect and the period for which it is (subject to the provisions of this Part) to remain in force;
(ca) for the suspension or revocation of any such recognition, on such grounds and in such circumstances as may be prescribed in the rules;
(cb) about the effect on the recognition of a partnership or other unincorporated body ("the existing body") of any change

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in its membership, including provision for the existing body's recognition to be transferred where the existing body ceases to exist and another body succeeds to the whole or substantially the whole of its business;",

(d) omit paragraph (d),

(e) in paragraph (e)—

(i) for "a list" substitute " a register ",

(ii) omit "corporate", and

(iii) for ", and for the" to the end substitute " and such other information relating to those bodies as may be specified in the rules; ",

(f) after that paragraph insert—

"(ea) for information (or information of a specified description) on such a register to be made available to the public, and about the manner in which and times at which, information is to be made so available;",

(g) after paragraph (f) insert—

"(fa) about the education and training requirements to be met by managers and employees of recognised bodies;

(fb) for rules made under any other provision of this Part to have effect in relation to managers and employees of recognised bodies with such additions, omissions or other modifications as appear to the Council to be necessary or expedient;", and

(h) in paragraph (g) after "recognised bodies" insert " or managers or employees of such bodies ".

(8) After subsection (3) insert—

"(3A) Rules made by the Council may provide for the Council to grant a body recognition under this section subject to one or more conditions.

(3B) At any time while a body is recognised under this section, the Council may, in such circumstances as may be prescribed, direct that the body's recognition is to have effect subject to such conditions as the Council may think fit.

"Prescribed" means prescribed by rules made by the Council.

(3C) The conditions which may be imposed under subsection (3A) or (3B) include—

(a) conditions restricting the kinds of conveyancing services that may be provided by the body;

(b) conditions imposed by reference to criteria of general application;

(c) conditions requiring the body to take any specified steps that will, in the opinion of the Council, be conducive to the body carrying on an efficient business;

and conditions may be imposed despite the fact that they may result in expenditure being incurred by the body.

(3D) On an application made by a recognised body, the Council may, in such circumstances as may be prescribed, direct—

(a) the removal of a condition subject to which the body's recognition has effect;

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(b) the variation of such a condition in the manner described in the application.

(3E) For the purposes of subsection (3D)—

(a) section 14 applies in relation to an application under that subsection as it applies in relation to an application for a licence under this Part of this Act, and

(b) "prescribed" means prescribed by rules made by the Council.

(3F) Rules under subsection (3A) or (3B) may make provision about when conditions imposed take effect (including provision conferring power on the Council to direct that a condition is not to have effect until the conclusion of any appeal in relation to it).

(3G) Rules under this section may contain such incidental, supplemental, transitional or transitory provisions or savings as the Council considers necessary or expedient."

(9) Omit subsections (4) and (5).

(10) In subsection (6)—

(a) in paragraph (a) omit "corporate", and

(b) for paragraph (b) substitute—

"(b) that a body's recognition under this section does not have effect subject to any conditions or has effect subject to any particular conditions,".

(11) After subsection (7) insert—

"(8) In this section "conveyancing services body" and "relevant legal services" have the meaning given by section 32A.

(9) The Council is capable of being designated as a licensing authority for the purposes of, and subject to, Part 5 of the Legal Services Act 2007 (alternative business structures)."

Commencement Information

I495 Sch. 17 para. 20 wholly in force at 31.3.2009 see s. 211 and S.I. 2009/503, **art. 2(c)(i)** (subject to art. 4)

21 After section 32 (provision of conveyancing by recognised bodies) insert—

"**32A Conveyancing services bodies**

(1) For the purposes of section 32 a "conveyancing services body" means a body (corporate or unincorporate) in respect of which—

(a) the management and control condition, and

(b) the services condition,

are satisfied.

(2) The management and control condition is satisfied in the case of a partnership if at least one of the partners is a licensed conveyancer.

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(3) The management and control condition is satisfied in the case of an unincorporated body (other than a partnership), or a body corporate which is managed by its members, if at least one of those members is a licensed conveyancer.

(4) The management and control condition is satisfied in the case of any other body corporate if at least one director of the body is a licensed conveyancer.

(5) The services condition is satisfied in respect of a body if the body is carrying on a business consisting of the provision of—

(a) conveyancing services, or

(b) conveyancing services and other relevant legal services.

(6) For the purposes of this section—

"authorised person" means an authorised person in relation to an activity which is a reserved legal activity (within the meaning of the Legal Services Act 2007);

"relevant legal services", in relation to a body, means—

(a) conveyancing services, and

(b) where authorised persons are managers or employees of, or have an interest in, the body, services such as are provided by individuals practising as such authorised persons (whether or not those services involve the carrying on of reserved legal activities within the meaning of the Legal Services Act 2007);

and a person has an interest in a body if the person has an interest in the body within the meaning of Part 5 of the Legal Services Act 2007 (see sections 72 and 109 of that Act)."

Commencement Information
I496 Sch. 17 para. 21 in force at 31.3.2009 by S.I. 2009/503, **art. 2(c)(i)**

22 For section 33 (legal professional privilege), substitute—

"**33 Legal professional privilege**

(1) Subsection (2) applies where a licensed conveyancer or recognised body acts as such for a client.

(2) Any communication, document, material or information is privileged from disclosure in like manner as if the licensed conveyancer or body had at all material times been acting as the client's solicitor.

(3) This section does not apply to a recognised body which holds a licence under Part 5 of the Legal Services Act 2007 (alternative business structures)."

Commencement Information
I497 Sch. 17 para. 22 in force at 31.3.2009 by S.I. 2009/503, **art. 2(c)(i)**

23 After that section insert—

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"**33A Administration of oaths by licensed conveyancers**

The Council may make rules prescribing its arrangements for authorising licensed conveyancers, for the purposes of the Legal Services Act 2007, to carry on activities which consist of the administration of oaths."

Commencement Information
I498 Sch. 17 para. 23 in force at 1.1.2010 by S.I. 2009/3250, **art. 2(f)(iii)**

24 In section 34 (modification of existing enactments relating to conveyancing etc), omit subsection (2)(c) to (e).

Commencement Information
I499 Sch. 17 para. 24 in force at 31.3.2009 by S.I. 2009/503, **art. 2(c)(i)**

25 In section 35 (penalty for pretending to be a licensed conveyancer or recognised body), in subsection (2) omit "corporate".

Commencement Information
I500 Sch. 17 para. 25 in force at 31.3.2009 by S.I. 2009/503, **art. 2(c)(i)**

26 In section 36 (offences by bodies corporate)—

(a) the existing section becomes subsection (1) of that section and in that subsection for "director" to "capacity" substitute " officer of the body corporate ", and

(b) after that subsection insert—

"(2) Where the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in connection with the member's functions of management as it applies to an officer of the body corporate.

(3) Proceedings for an offence under this section alleged to have been committed by an unincorporated body are to be brought in the name of that body (and not in that of any of its members) and, for the purposes of any such proceedings, any rules of court relating to the service of documents have effect as if that body were a corporation.

(4) A fine imposed on an unincorporated body on its conviction of an offence under this section is to be paid out of the funds of that body.

(5) If an unincorporated body is charged with an offence under this section, section 33 of the Criminal Justice Act 1925 and Schedule 3 to the Magistrates' Courts Act 1980 (procedure on charge of an offence against a corporation) have effect in like manner as in the case of a corporation so charged.

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(6) Where an offence under this section committed by an unincorporated body (other than a partnership) is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any officer of the body or any member of its governing body, that officer or member as well as the unincorporated body is guilty of the offence and liable to be proceeded against and punished accordingly.

(7) Where an offence under this section committed by a partnership is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner, that partner as well as the partnership is guilty of the offence and liable to be proceeded against and punished accordingly.

(8) In this section "officer", in relation to a body corporate, means—

(a) any director, secretary or other similar officer of the body corporate, or

(b) any person who was purporting to act in any such capacity."

Commencement Information
I501 Sch. 17 para. 26 in force at 31.3.2009 by S.I. 2009/503, **art. 2(c)(i)**

27 In section 38 (rules)—

(a) omit subsection (1), and

(b) in subsection (2) for "such rules" substitute " rules made by the Council under this Part ".

Commencement Information
I502 Sch. 17 para. 27 in force at 1.1.2010 by S.I. 2009/3250, **art. 2(f)(iii)**

28 In section 39(1) (interpretation of Part 2)—

(a) in the definition of "client", in paragraph (a) omit "or his firm",

(b) omit the definitions of "director" and "officer",

(c) at the appropriate place insert—

""manager", in relation to a body, has the same meaning as in the Legal Services Act 2007 (see section 207 of that Act);", and

(d) in the definition of "recognised body" omit "corporate".

Commencement Information
I503 Sch. 17 para. 28 in force at 31.3.2009 by S.I. 2009/503, **art. 2(c)(i)**

29 (1) Schedule 3 (Council for Licensed Conveyancers: supplementary provisions) is amended as follows.

(2) In paragraph 2(1), for "elected or nominated" substitute " appointed ".

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(3) In paragraph 2(2), for "elect" substitute " appoint ".

(4) Omit paragraph 2(3).

(5) Omit paragraph 3.

(6) In paragraph 4(1)—

(a) for "election or nomination" (in both places) substitute " appointment ",

(b) for "election of" substitute " appointment of ", and

(c) for "elected or nominated" substitute " appointed ".

(7) In paragraph 4(2), for "elected or nominated" (in each place) substitute " appointed ".

(8) In paragraph 4(3), for the words from "Secretary of State" (in the first place) to the end substitute " Legal Services Board. "

(9) In paragraph 4(4)—

(a) for "Secretary of State" (in both places) substitute " Legal Services Board ",

(b) for "him" substitute " it ", and

(c) for "he" (in both places) substitute " it ".

(10) In paragraph 9, for "election or nomination" substitute " appointment ".

(11) In paragraph 10 for "Secretary of State" (in both places) substitute " Lord Chancellor ".

(12) In paragraph 11(3) for "Secretary of State" substitute " Lord Chancellor ".

Commencement Information

I504 Sch. 17 para. 29 in force at 31.3.2009 by S.I. 2009/503, **art. 2(c)(i)**

30 (1) Schedule 4 (the Discipline and Appeals Committee: supplementary provisions) is amended as follows.

(2) In paragraph 1 (rules of procedure)—

(a) omit sub-paragraphs (3) and (4), and

(b) in sub-paragraph (5), for "paragraphs 2 and 3" substitute " paragraph 2 ".

(3) Omit paragraph 3.

Commencement Information

I505 Sch. 17 para. 30 wholly in force at 1.1.2010; Sch. 17 para. 30 not in force at Royal Assent see s. 211; Sch. 17 para. 30(1)(2)(b)(3) in force at 31.3.2009 by S.I. 2009/503, **art. 2(c)(i)**; Sch. 17 para. 30 in force otherwise at 1.1.2010 by S.I. 2009/3250, **art. 2(f)(iii)** (with art. 9)

31 (1) Schedule 5 (intervention in licensed conveyancer's practice) is amended as follows.

(2) In paragraph 1 (grounds for intervention)—

(a) in sub-paragraph (1)(a) after "practice" insert " or former practice or in connection with any trust of which that licensed conveyancer is or was a trustee ",

(b) after that sub-paragraph insert—

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"(aa) the Council has reason to suspect dishonesty on the part of a licensed conveyancer ("L") in connection with—

(i) the business of any person of whom L is or was an employee, or of any body of which L is or was a manager, or

(ii) any business which is or was carried on by L as a sole trader;",

(c) in sub-paragraph (1)(b) after "practice" insert " or in connection with any trust ",

(d) in sub-paragraph (1)(c), after "section" insert " 20, 21(3)(c), ",

(e) after sub-paragraph (1)(e) insert—

"(ea) the Council is satisfied that a licensed conveyancer has abandoned his practice;

(eb) the Council is satisfied that a licensed conveyancer has been practising in breach of any conditions subject to which his licence has effect;",

(f) in sub-paragraph (1)(f), after "illness" insert " , injury ",

(g) for sub-paragraph (1)(g) substitute—

"(g) a licensed conveyancer lacks capacity (within the meaning of the Mental Capacity Act 2005) to act as a licensed conveyancer and powers under section 15 to 20 or section 48 of that Act are exercisable in relation to the licensed conveyancer;",

(h) after sub-paragraph (1)(h) insert—

"(i) the Council is satisfied that it is necessary to exercise the powers conferred by Part 2 of this Schedule (or any of them) in relation to a licensed conveyancer to protect—

(i) the interests of clients (or former or potential clients) of the licensed conveyancer or his firm, or

(ii) the interests of the beneficiaries of any trust of which the licensed conveyancer is or was a trustee.", and

(i) omit sub-paragraph (2).

(3) In paragraph 3 (intervention following an undue delay)—

(a) for "10(3)" substitute " 10(9) ",

(b) in paragraph (a) for "a complaint is made to the Council" substitute " the Council is satisfied ",

(c) in that paragraph for "was instructed" substitute " is or was acting ", and

(d) in that paragraph after "client" insert " or in connection with any trust ".

(4) In paragraph 4(2) (continuation of powers after death etc of licensed conveyancer)—

(a) after "and (3)" insert " , 6A ",

(b) for "and (5)" substitute " , (5) and (6) ", and

(c) for "10(1)" substitute " 10(2) and (7) ".

(5) In paragraph 6 (vesting of sums in Council)—

(a) in sub-paragraph (1) after "thereto" insert " and to rules under paragraph 6B ", and

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(b) in sub-paragraph (2)(a) after "practice" insert " or former practice or with any trust of which he is or was a trustee ".

(6) After paragraph 6 insert—

"6A (1) Without prejudice to paragraph 5, if the Council passes a resolution to the effect that any rights to which this paragraph applies shall vest in the Council, those rights shall vest accordingly.

(2) This paragraph applies to any right to recover or receive debts due to the licensed conveyancer or his firm in connection with his practice or former practice.

(3) Any sums recovered by the Council by virtue of the exercise of rights vested under sub-paragraph (1) shall vest in the Council and shall be held by it on trust to exercise in relation to them the powers conferred by this Part of this Schedule and, subject to those powers and to rules under paragraph 6B, upon trust for the persons beneficially entitled to them.

(4) The Council shall serve on the licensed conveyancer or his firm, and any person who owes a debt to which the order applies a certified copy of the Council's resolution.

6B (1) The Council may make rules governing its treatment of sums vested in it under paragraph 6 or 6A(3).

(2) The rules may, in particular, make provision in respect of cases where the Council, having taken such steps to do so as are reasonable in all the circumstances of the case, is unable to trace the person or persons beneficially entitled to any sum vested in the Council under paragraph 6 or 6A(3) (including provision which requires amounts to be paid into or out of a fund maintained under section 21)."

(7) In paragraph 7(1) (holding of sums vested in Council) after "thereto" insert " and to rules under paragraph 6B ".

(8) In paragraph 8 for "holds money" to the end substitute—

"(a) holds money on behalf of the licensed conveyancer or his firm, or

(b) has information which is relevant to identifying any money held by or on behalf of the licensed conveyancer or his firm,

the court may require that person to give the Council information as to any such money and the accounts in which it is held. "

(9) In paragraph 9 (documents)—

(a) in sub-paragraph (1)(a)—

(i) after "possession" insert " or under the control ", and

(ii) after "practice" insert " or former practice or with any trust of which the licensed conveyancer is or was a trustee ",

(b) in sub-paragraph (1)(b)—

(i) after "possession" insert " or under the control ", and

(ii) for "to which the complaint relates" substitute " of which the Council is satisfied ",

(c) in sub-paragraph (3) after "possession" insert " or control ",

(d) in sub-paragraph (5) after "possession" insert " or are under the control ",

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(e) after that sub-paragraph insert—

"(5A) In the case of a document which consists of information which is stored in electronic form, the requirement imposed by a notice under sub-paragraph (1) or an order under sub-paragraph (4) or (5), is a requirement to produce or deliver the information in a form in which it is legible or from which it can readily be produced in a legible form.",

(f) in sub-paragraph (6) after "possession of" insert " (a) ",

(g) at the end of that sub-paragraph insert—

"(b) any property—

(i) in the possession or under the control of the licensed conveyancer or his firm, or

(ii) in the case of an order under sub-paragraph (5), which was in the possession or under the control of such a person and has come into the possession or under the control of the person in respect of whom the order is made,

which the Council reasonably requires for the purpose of accessing information contained in such documents,

and to use property obtained under paragraph (b) for that purpose. ",

(h) in sub-paragraph (7) after "documents" insert " or other property ",

(i) in sub-paragraph (8) after "documents" insert " or other property ", and

(j) in sub-paragraph (10) after "documents" insert " or other property ".

(10) For paragraph 10 (mail) substitute—

"Redirection of communications

10 (1) The High Court, on the application of the Council, may from time to time make a communications redirection order.

(2) A communications redirection order is an order that specified communications to the licensed conveyancer or his firm are to be directed, in accordance with the order, to the Council, or any person appointed by the Council.

(3) For the purposes of this paragraph—

(a) "specified communications" means communications of such description as are specified in the order;

(b) the descriptions of communications which may be so specified include—

(i) communications in the form of a postal packet;

(ii) electronic communications;

(iii) communications by telephone.

(4) A communications redirection order has effect for such time not exceeding 18 months as is specified in the order.

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(5) Where a communications redirection order has effect, the Council or the person appointed by the Council may take possession or receipt of the communications redirected in accordance with the order.

(6) Where a communications redirection order is made the Council must pay to—

(a) in the case of an order relating to postal packets, the postal operator concerned, and

(b) in any other case, the person specified in the order,

the like charges (if any) as would have been payable for the redirection of the communications to which the order relates if the addressee had permanently ceased to occupy or use the premises or other destination of the communications and had applied to the postal operator or the specified person (as the case may be) to redirect the communications to him as mentioned in the order.

(7) The High Court may, on the application of the Council, authorise the Council, or a person appointed by it, to take such steps as may be specified in the order in relation to any website purporting to be or have been maintained by or on behalf of the licensed conveyancer or his firm if the High Court is satisfied that the taking of those steps is necessary to protect the public interest or the interests of clients (or potential or former clients) of the licensed conveyancer or his firm.

(8) In this paragraph "postal operator" and "postal packet" have the meaning given by section 125(1) of the Postal Services Act 2000.

(9) This paragraph does not apply where the powers conferred by this Part of this Schedule are exercisable by virtue of paragraph 3."

(11) After paragraph 10 insert—

"Trusts

10A(1) If the licensed conveyancer or his personal representative is a trustee of a trust, the Council may apply to the High Court for an order for the appointment of a new trustee in substitution for him.

(2) The Trustee Act 1925 has effect in relation to an appointment of a new trustee under this paragraph as it has effect in relation to an appointment under section 41 of that Act."

(12) In paragraph 11 (liens) for "and documents" substitute " , documents and other property ".

(13) After paragraph 12 (costs) insert—

"12A(1) The High Court, on the application of the Council, may order a former partner of the licensed conveyancer to pay a specified proportion of the costs mentioned in paragraph 12.

(2) The High Court may make an order under this paragraph only if it is satisfied that the conduct (or any part of the conduct) by reason of which the powers conferred by this Part were exercisable in relation to the licensed

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conveyancer was conduct carried on with the consent or connivance of, or was attributable to any neglect on the part of, the former partner.

(3) In this paragraph "specified" means specified in the order made by the High Court."

Commencement Information

I506 Sch. 17 para. 31 wholly in force at 31.3.2009 see s. 211 and S.I. 2009/503, **art. 2(c)(i)** (subject to art. 4)

32 (1) Schedule 6 (bodies recognised under section 32: supplementary provisions) is amended as follows.

(2) In paragraph 1—

(a) omit "corporate" (in both places), and

(b) in sub-paragraph (2) omit—

(i) "or complaint" (in both places), and

(ii) "or (b)".

(3) In paragraph 2 (disciplinary control of recognised bodies) after "24" insert " , 24A ".

(4) In paragraph 3—

(a) in sub-paragraph (1), in paragraph (a)(i) omit "by any court in the United Kingdom",

(b) after paragraph (a) of that sub-paragraph insert—

"(aa) it is alleged that a manager or employee of a recognised body who is not a licensed conveyancer has failed to comply with any rules applicable to him by virtue of section 32;

(ab) it is alleged that a recognised body (while a recognised body) has failed to comply with a condition subject to which its recognition has effect.",

(c) in that sub-paragraph omit—

(i) paragraph (b), and

(ii) from "with a view" to the end, and

(d) after sub-paragraph (1) insert—

"(1A) After making such an investigation, the Investigating Committee may—

(a) hear and determine the allegation, or

(b) refer the allegation to the Discipline and Appeals Committee for hearing and determination by that Committee under paragraph 4.

(1B) The Council shall make rules as to the cases in which the Investigating Committee may hear and determine an allegation, and the cases in which they must refer an allegation to the Discipline and Appeals Committee."

(5) After paragraph 3 insert—

"3A (1) Where, on hearing an allegation by virtue of paragraph 3(1A)(a), the Investigating Committee are satisfied—

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(a) in a case within paragraph 3(1)(a), that a recognised body has failed to comply with any such rules as are mentioned in sub-paragraph (ii) of that paragraph, or

(b) in a case within paragraph 3(1)(aa), that a manager or employee has failed to comply with any such rules as are mentioned in that paragraph, or

(c) in a case within paragraph 3(1)(ab), that a recognised body has failed to comply with any condition mentioned in that paragraph,

the Committee may make an order directing the payment by the recognised body, manager or employee of a penalty to be forfeited to Her Majesty.

(2) In relation to proceedings before the Investigating Committee by virtue of paragraph 3(1A)(a), the Committee may make such order as they consider fit as to the payment of costs by—

(a) the Council;

(b) the recognised body, manager or employee against whom the proceedings were brought;

(c) if the person on whose allegation the proceedings were brought was heard (in person, or through a representative) by the Committee in the course of the proceedings, that person.

(3) In sub-paragraph (2), for the purposes of paragraph (a) or (b) of that sub-paragraph, the reference to costs includes costs incurred in connection with a preliminary investigation of the allegation under paragraph 3.

(4) The amount of any penalty required to be paid under sub-paragraph (1) may not exceed such amount as is prescribed by rules made by the Council for the purposes of this sub-paragraph.

(5) Paragraphs 1, 2(1) and (3) and 4 of Schedule 4 have effect in relation to—

(a) proceedings for the hearing and determination of an allegation by the Investigating Committee, as they have effect in relation to proceedings before the Discipline and Appeals Committee under section 26, and

(b) orders of the Investigating Committee, as they have effect in relation to orders of the Discipline and Appeals Committee.

(6) A person against whom an order is made by the Investigating Committee by virtue of sub-paragraph (1) may appeal to the Discipline and Appeals Committee, and on any such appeal the Discipline and Appeals Committee may make such order as they think fit.

(7) If an order is made by the Investigating Committee by virtue of sub-paragraph (2), a person listed in paragraphs (a) to (c) of that sub-paragraph may appeal to the Discipline and Appeals Committee, and on any such appeal the Discipline and Appeals Committee may make such order as they think fit.

(8) Where an order is made by the Discipline and Appeals Committee under sub-paragraph (6) or (7)—

(a) a party to the appeal, or

(b) if not within paragraph (a), the Council,

may appeal against the order to the High Court.

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(9) On an appeal under sub-paragraph (8) the High Court may make such order as it thinks fit.

(10) The decision of the High Court on an appeal under sub-paragraph (8) shall be final."

(6) In paragraph 4—

(a) in sub-paragraph (1) after "allegation" insert " within paragraph 3(1)(a) or (ab) ",

(b) in that sub-paragraph, after paragraph (b) insert ", or

(c) has failed to comply with any such condition as is mentioned in paragraph 3(1)(ab),",

(c) in sub-paragraph (2), in paragraph (b), for "£3,000" substitute " such amount as may be prescribed by rules made by the Council for the purposes of this sub-paragraph ",

(d) after paragraph (b) of that sub-paragraph insert—

"(ba) an order reprimanding that body;

(bb) an order that the recognition of that body under section 32 is to have effect subject to such conditions as may be specified in the order;",

(e) omit paragraph (c) of that sub-paragraph,

(f) after that sub-paragraph insert—

"(2A) Where on the hearing of any allegation within paragraph 3(1)(aa) the Discipline and Appeals Committee are satisfied that a manager or employee has failed to comply with any such rules as are mentioned in sub-paragraph (ii) of that paragraph, the Committee may, if they think fit, make one or more of the orders referred to in sub-paragraph (2B).

(2B) Those orders are—

(a) an order directing the payment by the manager or employee of a penalty not exceeding such amount as may be prescribed by rules made by the Council for the purposes of this sub-paragraph;

(b) an order requiring the Council to consider taking such steps as the Committee may specify in relation to the manager or employee;

(c) an order requiring the Council to refer to an appropriate regulator any matter relating to the conduct of the manager or employee.

(2C) For the purposes of sub-paragraph (2B)(c) an "appropriate regulator" in relation to a manager or employee means—

(a) if the person is an authorised person in relation to a reserved legal activity for the purposes of the Legal Services Act 2007, any relevant approved regulator (within the meaning of that Act) in relation to that person, and

(b) if the person carries on activities which are not reserved legal activities, any person who exercises regulatory

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functions in relation to the carrying on of such activities by the person.

(2D) In relation to proceedings under this paragraph, the Committee may make such order as they consider fit as to the payment of costs by—

(a) the Council;

(b) the recognised body or manager or employee against whom the proceedings were brought;

(c) if the person on whose allegation the proceedings were brought was heard (in person, or through a representative) by the Committee in the course of the proceedings, that person.

(2E) In sub-paragraph (2D), for the purposes of paragraph (a) or (b) of that sub-paragraph, the reference to costs includes costs incurred in connection with a preliminary investigation of the allegation under paragraph 3.", and

(g) omit sub-paragraphs (3), (3A) and (4).

(7) In paragraph 5—

(a) in sub-paragraph (1)—

(i) after "26" insert " or paragraph 4 ", and

(ii) for "director" (in each place) substitute " manager ",

(b) in sub-paragraph (3) for "director" (in both places) substitute " manager ", and

(c) after sub-paragraph (3) insert—

"(4) In relation to proceedings for the revocation of a recognition under sub-paragraph (1), the Discipline and Appeals Committee may make such order as they consider fit as to the payment of costs by—

(a) the Council;

(b) the body to whose recognition the proceedings relate.".

(8) In paragraph 6 (appeals against orders of the Committee)—

(a) in sub-paragraph (1)—

(i) for "body corporate" substitute " person ",

(ii) after "4(1)" insert " or (2A) ", and

(iii) for "5" substitute " 5(1) ", and

(b) after that sub-paragraph insert—

"(1A) Where an order is made by the Committee under paragraph 4(2D) or 5(4) a person listed in that paragraph may appeal to the High Court, and on any such appeal the High Court may make such order as it thinks fit."

(9) After paragraph 7 (revocation of recognition on grounds of fraud or error)—

(a) in sub-paragraph (1) and (2) omit "corporate", and

(b) after sub-paragraph (2) insert—

"(3) In relation to proceedings for the revocation of a recognition under sub-paragraph (1), the Discipline and Appeals Committee may make such order as they consider fit as to the payment of costs by—

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(a) the Council;
(b) the body to whose recognition the proceedings relate.

(4) In relation to proceedings on an application under sub-paragraph (2), the Discipline and Appeals Committee may make such order as they consider fit as to the payment of costs by—
(a) the Council;
(b) the applicant."

(10) In paragraph 8 (appeal against decision of Council in relation to grant of recognition) —
(a) in sub-paragraph (1) omit "corporate",
(b) in paragraph (b) of that sub-paragraph for "restrictions" substitute " conditions ",
(c) after that paragraph insert ", or
(c) decides to give a direction in relation to that body under section 32(3B), or
(d) refuses an application by that body under section 32(3D),",
(d) in sub-paragraph (2) for "this paragraph" substitute " sub-paragraph (1)(a) or (b) ",
(e) in paragraph (a) of that sub-paragraph—
(i) for "restrictions" (in the first place) substitute " conditions ", and
(ii) for "restrictions falling within subsection (3)(d) of that section" substitute " conditions ", and
(f) after that sub-paragraph insert—

"(2A) On an appeal under sub-paragraph (1)(c), the Discipline and Appeals Committee may—
(a) revoke the direction of the Council under section 32(3B),
(b) direct that the body's recognition is to have effect subject to such conditions as may be specified by the Council in the direction, or
(c) affirm the decision of the Council,
and the Committee may make such order as to the payment of costs by the Council or by that body as they think fit.

(2B) On an appeal under sub-paragraph (1)(d), the Discipline and Appeals Committee may—
(a) direct the Council to grant the application, or
(b) affirm the decision of the Council,
and the Committee may make such order as to the payment of costs by the Council or by that body as they think fit."

(11) In paragraph 9 (rules of procedure etc) in sub-paragraph (1)—
(a) for ", 2 and 3" substitute " and 2 ", and
(b) for "paragraph 4 or 5" substitute " paragraph 3A, 4 or 5 ".

(12) In paragraph 10 (intervention by Council)—
(a) in sub-paragraph (1), in paragraph (a) after "recognised body" insert " or a manager of such a body ",

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(b) after that paragraph insert—

"(aa) the Council is satisfied that a recognised body has been carrying on business in breach of any condition subject to which the body's recognition under section 32 of this Act has effect; or",

(c) for paragraph (c) of that sub-paragraph substitute—

"(c) a relevant insolvency event occurs in relation to a recognised body; or",

(d) in paragraph (d) of that sub-paragraph for "officer" substitute " manager ",

(e) in that paragraph for "that body's" to the end of the paragraph substitute—

"(i) that body's business,

(ii) any trust of which that body is or was a trustee,

(iii) any trust of which the manager or employee is or was a trustee in his capacity as such a manager or employee, or

(iv) the business of another body in which the manager or employee is or was a manager or employee or the practice (or former practice) of the manager or employee;",

(f) after that paragraph insert "or

(e) the Council is satisfied that it is necessary to exercise the powers conferred by Part 2 of Schedule 5 (or any of them) in relation to a recognised body to protect—

(i) the interests of clients (or former or potential clients) of the recognised body,

(ii) the interests of the beneficiaries of any trust of which the recognised body is or was a trustee, or

(iii) the interests of the beneficiaries of any trust of which a person who is or was a manager or employee of the recognised body is or was a trustee in that person's capacity as such a manager or employee,",

(g) after sub-paragraph (1) insert—

"(1A) For the purposes of this paragraph a relevant insolvency event occurs in relation to a recognised body if—

(a) a resolution for a voluntary winding-up of the body is passed without a declaration of solvency under section 89 of the Insolvency Act 1986;

(b) the body enters administration within the meaning of paragraph 1(2)(b) of Schedule B1 to that Act;

(c) an administrative receiver within the meaning of section 251 of that Act is appointed;

(d) a meeting of creditors is held in relation to the body under section 95 of that Act (creditors' meeting which has the effect of converting a members' voluntary winding up into a creditors' voluntary winding up);

(e) an order for the winding up of the body is made.", and

(h) omit sub-paragraph (2).

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(13) For paragraph 11(a) substitute—

"(a) the Council is satisfied that there has been undue delay on the part of—

(i) a recognised body in connection with any matter in which it is or was acting on behalf of a client or with any trust of which it is or was a trustee, or

(ii) a person who is or was a manager or employee of a recognised body in connection with any trust of which he is or was a trustee in his capacity as such a manager or employee; and".

(14) In paragraph 12(1) omit "corporate" (in both places).

(15) In paragraph 13—

(a) in paragraph (a) omit "corporate", and

(b) omit "and" at the end of paragraph (b) and after paragraph (c) insert—

"(d) paragraph 6(2)(a) of that Schedule is to be construed as including a reference to sums of money held by or on behalf of the recognised body in connection with any trust of which a person who is or was manager or employee of that body is or was a trustee in his capacity as such a manager or employee;

(e) paragraph 9 of that Schedule is to be construed—

(i) as if sub-paragraph (1) included a reference to documents in the possession or under the control of the recognised body in connection with any trust of which a person who is or was a manager or employee of that body is or was a trustee in his capacity as such a manager or employee, and

(ii) as applying to a person who is or was a manager or employee of the recognised body and documents and property in his possession or under his control in connection with such a trust as it applies to a recognised body and documents and property in the possession or under the control of that body;

(f) paragraph 10A(1) of that Schedule is to be construed as including power for the Council to apply to the High Court for an order for the appointment of a new trustee to a trust in substitution for a person who is a trustee in his capacity as a manager or employee of the recognised body; and

(g) paragraph 12A of that Schedule is to be read as if the references to a former partner were references—

(i) in the case of a recognised body which is a partnership, to a former partner in the partnership, and

(ii) in any other case to a manager or former manager of the recognised body."

(16) In paragraph 14 (examination of files)—

(a) for sub-paragraph (1) substitute—

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"(1) Where the Investigating Committee are satisfied that it is necessary to do so for the purpose of investigating any such allegation as is mentioned in paragraph 3(1)(a)(ii), (aa) or (ab), the Committee may give an information notice to a relevant person.

(1A) An information notice is a notice requiring the production or delivery to any person appointed by the Committee, at a time and a place to be fixed by the Committee, of all documents in the possession or under the control of the relevant person in connection with the matters to which the allegation relates (whether or not they relate also to other matters).

(1B) In this section "relevant person" means—

(a) in the case of an allegation against a recognised body, the recognised body or any of its managers or employees, and

(b) in the case of an allegation against a manager or employee of a recognised body, the manager or employee, the recognised body or any other manager or employee of the recognised body.", and

(b) in sub-paragraph (2)—

(i) for "and 12" substitute " to 12A ",

(ii) for "sub-paragraph (1) of this paragraph" (except where it appears in paragraph (d)) substitute " sub-paragraphs (1) and (1A) of this paragraph ",

(iii) in paragraph (b) after "body" insert " , manager or employee ", and

(iv) in paragraph (d) for "sub-paragraph (1)" substitute " sub-paragraph (1A) ".

(17) Omit paragraph 15 (application of rules relating to accounts etc).

(18) In paragraph 16 (interest on client's money)—

(a) in sub-paragraph (1)—

(i) after "recognised bodies" insert " or managers or employees of such bodies, ",

(ii) after "recognised body" insert " , manager or employee ",

(iii) for "it keeps" substitute " it or he keeps ",

(iv) for "its clients" substitute " clients of the recognised body ", and

(v) after "received by it" insert " or him ", and

(b) in sub-paragraph (2), for "and any of its clients" substitute " , or any manager or employee of such a body, and any of the clients of the recognised body ".

Commencement Information

I507 Sch. 17 para. 32 partly in force: Sch. 17 para. 32 not in force at Royal Assent see s. 211; Sch. 17 para. 32(1)-(6)(f) in force and Sch. 17 para. 32(6)(f) in force for certain purposes at 31.3.2009 by S.I. 2009/503, **art. 2(c)(i)** (subject to art. 4)

I508 Sch. 17 para. 32(6)(a)-(e) in force at 6.10.2010 by S.I. 2010/2089, **art. 2(c)**

I509 Sch. 17 para. 32(6)(g) in force at 6.10.2010 in so far as not already in force by S.I. 2010/2089, **art. 2(c)**

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PART 2

COURTS AND LEGAL SERVICES ACT 1990 (C. 41)

33 The Courts and Legal Services Act 1990 is amended in accordance with this Part.

34 (1) Section 53 (the Council for Licensed Conveyancers) is amended as follows.

(2) For subsections (1) to (3) substitute—

"(1) The Council for Licensed Conveyancers has the powers necessary to enable it to become designated as an approved regulator in relation to one or more of the reserved legal activities within subsection (1A).

(1A) The reserved legal activities to which this subsection applies are—

(a) the exercise of a right of audience;

(b) the conduct of litigation;

(c) probate activities.

(2) If the Council becomes an approved regulator in relation to one or more of those activities, it may, in that capacity, authorise a person to carry on a relevant activity only if the person is a licensed conveyancer.

(3) Where the Council authorises a licensed conveyancer to carry on a relevant activity, it is to do so by issuing a licence to the licensed conveyancer."

(3) Omit subsection (5).

(4) For subsection (6) substitute—

"(6) Where the Council exercises any of its powers in connection with—

(a) an application for designation as an approved regulator in relation to a reserved legal activity within subsection (1A), or

(b) the authorising of a person to carry on a relevant activity,

it is to do so subject to any requirements to which it is subject in accordance with the provisions of the Legal Services Act 2007."

(5) In subsection (8), for "Secretary of State" substitute " Lord Chancellor ".

(6) In subsection (9)—

(a) for "Secretary of State" substitute " Lord Chancellor ", and

(b) omit paragraph (e).

(7) After that subsection insert—

"(10) For the purposes of this section—

(a) "right of audience", "conduct of litigation", "probate activities" and "reserved legal activity" have the same meaning as in the Legal Services Act 2007;

(b) references to designation as an approved regulator are to designation as an approved regulator—

(i) by Part 1 of Schedule 4 to the Legal Services Act 2007, by virtue of an order under paragraph 5 of Schedule 22 to that Act, or

(ii) under Part 2 of Schedule 4 to that Act;

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(c) "relevant activity" means an activity which is a reserved legal activity—

(i) which is within subsection (1A), and

(ii) in relation to which the Council is designated as an approved regulator by Part 1 of Schedule 4 to that Act (by virtue of an order under paragraph 5 of Schedule 22 to that Act) or under Part 2 of that Schedule."

Commencement Information

I510 Sch. 17 para. 34 wholly in force at 1.1.2010; Sch. 17 para. 34 not in force at Royal Assent see s. 211; Sch. 17 para. 34(1)(5)(6) in force at 31.3.2009 by S.I. 2009/503, **art. 2(c)(ii)**; Sch. 17 para. 34 in force otherwise at 1.1.2010 by S.I. 2009/3250, **art. 2(f)(iii)** (with art. 9)

35 (1) Schedule 8 (licensed conveyancers) is amended as follows.

(2) In paragraph 1 (definitions)—

(a) in the definition of "advocacy licence" for "and constituting" to the end substitute " by which the Council authorises the licensed conveyancer concerned to exercise a right of audience; ",

(b) in the definition of "litigation licence" for "and constituting" to the end substitute " by which the Council authorises the licensed conveyancer concerned to carry on activities which constitute the conduct of litigation; ",

(c) in the definition of "probate licence" for "and constituting" to the end substitute " by which the Council authorises the licensed conveyancer concerned to carry on activities which constitute probate activities; ", and

(d) at the end insert—

""reserved legal activity" has the same meaning as in the Legal Services Act 2007 (see section 12 of and Schedule 2 to that Act)."

(3) In paragraph 2 (qualification regulations and rules of conduct), in sub-paragraph (1)—

(a) for "rules of conduct" substitute " conduct rules ", and

(b) for "granting of the rights or exemption" substitute " carrying on of the reserved legal activities ".

(4) In paragraph 4 (issue of licences), in sub-paragraph (1)—

(a) in paragraph (a) for "rules of conduct" substitute " conduct rules ", and

(b) in paragraph (c) for "provide the advocacy, litigation or probate services" substitute " carry on the reserved legal activities ".

(5) In paragraph 5 (conditional licences)—

(a) for sub-paragraph (1)(d) substitute—

"(d) after the Investigating Committee have made any order in his case under section 24A(1) of the Act of 1985 or the Discipline and Appeals Committee have made any order in his case under section 26(1) of that Act.",

(b) in sub-paragraph (6)—

(i) in paragraph (a) for "service that may be provided" substitute " activities that may be carried on ", and

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(ii) in paragraph (b) for "provides the additional services" substitute " carries on the additional activities ", and

(c) after sub-paragraph (7) insert—

"(8) Where a person applies for an advocacy, litigation or probate licence at a time when this paragraph has effect in relation to that person by reason of the circumstances mentioned in section 16(1)(ea) of the Act of 1985, section 16A(2) of that Act has effect as it has effect in relation to an application for a licence under Part 2 of that Act."

(6) Omit paragraph 7 (code of conduct).

(7) In paragraph 9 (removal of disqualification from holding a licence) after sub-paragraph (2) insert—

"(3) In relation to proceedings on an application under sub-paragraph (1), the Discipline and Appeals Committee may make such order as they consider fit as to the payment of costs by—

(a) the Council;

(b) the applicant."

(8) In paragraph 10 (revocation on grounds of error or fraud), after sub-paragraph (4) insert—

"(5) In relation to proceedings for the revocation of a licence under sub-paragraph (1), the Discipline and Appeals Committee may make such order as they consider fit as to the payment of costs by—

(a) the Council;

(b) the licensed conveyancer to whose licence the proceedings relate.

(6) In relation to proceedings on an application under sub-paragraph (2), the Discipline and Appeals Committee may make such order as they consider fit as to the payment of costs by—

(a) the Council;

(b) the applicant."

(9) Omit paragraph 11.

(10) In paragraph 12 (delegation of powers etc)—

(a) in sub-paragraph (1) for "Subject" to "enactment, the" substitute " The ",

(b) in that sub-paragraph, for paragraph (b) substitute—

"(b) by a sub-committee of such a committee; or

(c) by an individual (whether or not a member of the Council's staff).",

(c) after that sub-paragraph insert—

"(1A) Where by virtue of sub-paragraph (1) any function may be discharged by a committee, the committee may arrange for the discharge of that function by—

(a) a sub-committee of that committee; or

(b) an individual, whether or not a member of the Council's staff.

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(1B) Sub-paragraph (1A) is subject to any contrary direction given by the Council.

(1C) Arrangements made under sub-paragraph (1) or (1A) in respect of a function may provide that the function is to be exercised in accordance with the arrangements only (and not by the delegating body).

(1D) For this purpose "the delegating body" means—

(a) in the case of arrangements under sub-paragraph (1), the Council, and

(b) in the case of arrangements under sub-paragraph (1A), the committee.",

(d) for sub-paragraph (3) substitute—

"(3) Any power conferred by sub-paragraph (1), (1A) or (2) may be exercised so as to impose restrictions or conditions on the body or individual by whom the function is to be discharged.",

(e) for sub-paragraphs (6) and (7) substitute—

"(6) A committee or sub-committee established under this paragraph may include or consist of individuals other than—

(a) members of the Council;

(b) licensed conveyancers.

(7) A sub-committee of a committee established under this paragraph may also include or consist of individuals other than members of the committee.

(7A) The Council may make arrangements for the appointment and removal of members of any committee to be made other than by the Council.

(7B) A committee or sub-committee may regulate its own procedure, including quorum.", and

(f) after sub-paragraph (9) insert—

"(10) This paragraph is subject to any provision to the contrary made by or under any enactment."

(11) Omit paragraph 13 (Council's intervention powers).

Commencement Information

I511 Sch. 17 para. 35 wholly in force at 1.1.2010; Sch. 17 para. 35 not in force at Royal Assent see s. 211; Sch. 17 para. 35(1)(5)(7)-(11) in force at 31.3.2009 by S.I. 2009/503, **art. 2(c)(ii)**; Sch. 17 para. 35(2)-(4)(6) in force at 1.1.2010 by S.I. 2009/3250, **art. 2(f)(iii)** (with art. 9)

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SCHEDULE 18

Section 186

IMMIGRATION ADVICE AND IMMIGRATION SERVICES

PART 1

QUALIFYING REGULATORS

Designation orders

1 In this Part of this Schedule "designation order" means an order made under section 86A(6) of the Immigration and Asylum Act 1999 (c. 33) (designated qualifying regulators entitled to authorise persons to provide immigration advice and immigration services).

Commencement Information
I512 Sch. 18 para. 1 in force at 1.4.2011 by S.I. 2011/720, **art. 2(c)**

Continuity of existing rights

2 Each of the following bodies is a qualifying regulator for the purposes of Part 5 of the Immigration and Asylum Act 1999—

(a) the Law Society;

(b) the Institute of Legal Executives;

(c) the General Council of the Bar.

Commencement Information
I513 Sch. 18 para. 2 in force at 1.4.2011 by S.I. 2011/720, **art. 2(c)**

Application to become a qualifying regulator

3 (1) This paragraph applies where a body wishes to become a qualifying regulator for the purposes of Part 5 of the Immigration and Asylum Act 1999.

(2) A body may apply to the Board for the Board—

(a) to designate the body as a qualifying regulator for those purposes, and

(b) to approve what the applicant proposes as its regulatory arrangements if a designation order is made ("the proposed regulatory arrangements").

(3) But a body may make an application under this paragraph only if—

(a) it is an approved regulator (other than the Board), or

(b) it has made an application under Part 2 of Schedule 4 (designation of approved regulators).

(4) An application under this paragraph must be made in such form and manner as the Board may specify in rules and must be accompanied by—

(a) details of the applicant's proposed regulatory arrangements,

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(b) such explanatory material as the applicant considers is likely to be needed for the purposes of this Part of this Schedule, and

(c) the prescribed fee.

(5) The prescribed fee is the fee prescribed in, or determined in accordance with, rules made by the Board with the consent of the Lord Chancellor.

(6) An applicant may, at any time, withdraw the application by giving notice to that effect to the Board.

Commencement Information
I514 Sch. 18 para. 3 in force at 1.4.2011 by S.I. 2011/720, **art. 2(c)**

Consultation and representations

4 Paragraphs 4 to 12 of Schedule 4 (consultation requirements etc in relation to applications for designation as approved regulator) apply in relation to an application under paragraph 3 as they apply in relation to an application under paragraph 3 of that Schedule, but as if—

(a) in paragraphs 6(2), 7(2), and 9(3) of that Schedule the references to making an order under paragraph 17 in accordance with the recommendation were references to making a designation order in respect of the applicant, and

(b) in paragraph 6(2) of that Schedule the reference to the market for reserved legal services were a reference to the market for immigration advice and immigration services.

Commencement Information
I515 Sch. 18 para. 4 in force at 1.4.2011 by S.I. 2011/720, **art. 2(c)**

Determination of application

5 (1) The Board must make rules specifying how it will determine applications under paragraph 3.

(2) Rules under sub-paragraph (1) must, in particular, provide that the Board may grant an application only if it is satisfied—

(a) that, if a designation order were to be made in relation to the applicant, the applicant would have appropriate internal governance arrangements in place at the time the order takes effect,

(b) that, if such an order were made, the applicant would be competent to perform the role of designated qualifying regulator (within the meaning of section 86A of the Immigration and Asylum Act 1999 (c. 33)) at that time,

(c) that the arrangements made by the applicant for authorising persons to provide immigration advice or immigration services provide that persons may not be so authorised unless they are persons who are also authorised by the applicant to carry on activities which are reserved legal activities,

(d) that the applicant's proposed regulatory arrangements make appropriate provision, and

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(e) that the applicant's proposed regulatory arrangements comply with the requirements imposed by sections 112 and 145 (requirements imposed in relation to the handling of complaints).

(3) The rules made for the purposes of sub-paragraph (2)(a) must in particular require the Board to be satisfied—

(a) that the exercise of the applicant's regulatory functions would not be prejudiced by any of its representative functions, and

(b) that decisions relating to the exercise of its regulatory functions would so far as reasonably practicable be taken independently from decisions relating to the exercise of its representative functions.

(4) In subsection (2)(c) the reference to persons who are also authorised by the applicant to carry on activities which are reserved legal activities includes, in relation to any application by the Law Society, registered foreign lawyers (within the meaning of section 89 of the Courts and Legal Services Act 1990).

Commencement Information
I516 Sch. 18 para. 5 in force at 1.4.2011 by S.I. 2011/720, **art. 2(c)**

6 (1) After considering—

(a) the application and accompanying material,

(b) any other information provided by the applicant,

(c) any advice duly given and representations duly made by virtue of paragraph 4, and

(d) any other information which the Board considers relevant to the application,

the Board must decide whether to grant the application.

(2) The Board must give notice of its decision to the applicant ("the decision notice").

(3) Where the Board decides to refuse the application, the decision notice must specify the reasons for that decision.

(4) The Board must publish the decision notice.

(5) Paragraph 15 of Schedule 4 (period within which decision must be made) applies in relation to a decision notice under this paragraph as it applies in relation to a decision notice under paragraph 14 of that Schedule.

Commencement Information
I517 Sch. 18 para. 6 in force at 1.4.2011 by S.I. 2011/720, **art. 2(c)**

Effect of application

7 (1) Where an application is granted under paragraph 6, the decision notice must specify that the applicant is a qualifying regulator for the purposes of Part 5 of the Immigration and Asylum Act 1999 (c. 33).

(2) Where an application is granted under paragraph 6, the proposed regulatory arrangements are at the same time treated as having been approved by the Board.

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(3) But if the application was made in reliance upon paragraph 3(3)(b), the applicant's status as such a qualifying regulator and the approval of its proposed regulatory arrangements under sub-paragraph (2) are conditional upon the Lord Chancellor making an order under Part 2 of Schedule 4 designating the body as an approved regulator in relation to one or more reserved legal activities.

Commencement Information
I518 Sch. 18 para. 7 in force at 1.4.2011 by S.I. 2011/720, **art. 2(c)**

Loss of qualifying regulator status

8 (1) Where a qualifying regulator—

(a) ceases to be an approved regulator, or

(b) ceases to be a designated qualifying regulator within the meaning of section 86A of the Immigration and Asylum Act 1999 by virtue of an order under subsection (3) or (4) of that section,

it also ceases to be a qualifying regulator.

(2) But sub-paragraph (1) is without prejudice to a body's ability to make a further application under paragraph 3.

(3) If a body in the list in paragraph 2 ceases to be a qualifying regulator by virtue of sub-paragraph (1), the Lord Chancellor must, by order, remove it from that list.

Commencement Information
I519 Sch. 18 para. 8 in force at 1.4.2011 by S.I. 2011/720, **art. 2(c)**

PART 2

AMENDMENTS OF THE IMMIGRATION AND ASYLUM ACT 1999 (C. 33)

9 The Immigration and Asylum Act 1999 is amended in accordance with this Part of this Schedule.

Commencement Information
I520 Sch. 18 para. 9 in force at 1.4.2011 by S.I. 2011/720, **art. 2(c)**

10 In section 82(1) (interpretation of Part 5), after the definition of "designated professional body" insert—

""designated qualifying regulator" has the meaning given by section 86A;".

Commencement Information
I521 Sch. 18 para. 10 in force at 1.4.2011 by S.I. 2011/720, **art. 2(c)**

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11 In section 83 (the Immigration Services Commissioner), after subsection (6) insert—

"(6A) The duties imposed on the Commissioner by subsections (3) and (5) apply in relation to persons within section 84(2)(ba) only to the extent that those duties have effect in relation to the Commissioner's functions under section 92 or 92A."

Commencement Information
I522 Sch. 18 para. 11 in force at 1.4.2011 by S.I. 2011/720, **art. 2(c)**

12 (1) Section 84 (provision of immigration services) is amended as follows.

(2) In subsection (2)—

(a) after paragraph (b) insert—

"(ba) a person authorised to provide immigration advice or immigration services by a designated qualifying regulator,", and

(b) in paragraph (c)(ii) after "(b)" insert " or (ba) ".

(3) After subsection (3) insert—

"(3A) A person's entitlement to provide immigration advice or immigration services by virtue of subsection (2)(ba)—

(a) is subject to any limitation on that person's authorisation imposed by the regulatory arrangements of the designated qualifying regulator in question, and

(b) does not extend to the provision of such advice or services by the person other than in England and Wales (regardless of whether the persons to whom they are provided are in England and Wales or elsewhere).

(3B) In subsection (3A) "regulatory arrangements" has the same meaning as in the Legal Services Act 2007 (see section 21 of that Act)."

Commencement Information
I523 Sch. 18 para. 12 in force at 1.4.2011 by S.I. 2011/720, **art. 2(c)**

13 (1) Section 86 (designated professional bodies) is amended as follows.

(2) Omit subsections (1)(a), (d) and (e) and (4)(b).

(3) In subsection (5)(a) omit "England and Wales or".

(4) In subsection (6)—

(a) omit paragraph (a), and

(b) in paragraph (b) for "it" substitute " the order ".

(5) In subsection (8) after "that a body" insert " (other than a body in England and Wales) ".

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Commencement Information
I524 Sch. 18 para. 13 in force at 1.4.2011 by S.I. 2011/720, **art. 2(c)**

14 After section 86 insert—

"**86A Designated qualifying regulators**

(1) "Designated qualifying regulator" means a body which is a qualifying regulator and is listed in subsection (2).

(2) The listed bodies are—
(a) the Law Society;
(b) the Institute of Legal Executives;
(c) the General Council of the Bar.

(3) The Secretary of State may by order remove a body from the list in subsection (2) if the Secretary of State considers that the body has failed to provide effective regulation of relevant authorised persons in their provision of immigration advice or immigration services.

(4) If a designated qualifying regulator asks the Secretary of State to amend subsection (2) so as to remove its name, the Secretary of State may by order do so.

(5) Where, at a time when a body is listed in subsection (2), the body ceases to be a qualifying regulator by virtue of paragraph 8(1)(a) of Schedule 18 to the Legal Services Act 2007 (loss of approved regulator status), the Secretary of State must, by order, remove it from the list.

(6) If the Secretary of State considers that a body which—
(a) is a qualifying regulator,
(b) is not a designated qualifying regulator, and
(c) is capable of providing effective regulation of relevant authorised persons in their provision of immigration advice or immigration services,

ought to be designated, the Secretary of State may, by order, amend the list in subsection (2) to include the name of that body.

(7) If the Secretary of State is proposing to act under subsection (3) or (6), the Secretary of State must, before doing so, consult the Commissioner.

(8) If the Secretary of State is proposing to act under subsection (3), the Secretary of State must, before doing so, also —
(a) notify the body concerned of the proposal and give it a reasonable period within which to make representations, and
(b) consider any representations duly made.

(9) An order under subsection (3) or (6) requires the approval of the Lord Chancellor.

(10) If the Legal Services Board considers that a designated qualifying regulator is failing to provide effective regulation of relevant authorised persons in

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their provision of immigration advice or immigration services, the Legal Services Board must make a report to this effect to—

(a) the Secretary of State, and

(b) the Lord Chancellor.

(11) In this section—

"qualifying regulator" means a body which is a qualifying regulator for the purposes of this Part of this Act by virtue of Part 1 of Schedule 18 to the Legal Services Act 2007 (approved regulators approved by the Legal Services Board in relation to immigration matters);

"relevant authorised persons", in relation to a designated qualifying regulator, means persons who are authorised by the designated qualifying regulator to provide immigration advice or immigration services."

Commencement Information
I525 Sch. 18 para. 14 in force at 1.4.2011 by S.I. 2011/720, **art. 2(c)**

15 (1) Section 90 (orders by disciplinary bodies) is amended as follows.

(2) In subsection (2), for paragraph (a) substitute—

"(a) appearing to the Secretary of State to be established for the purpose of hearing disciplinary charges against—

(i) members of a designated professional body, or

(ii) persons regulated by designated qualifying regulators; and".

(3) In subsection (3) after "body" insert " or designated qualifying regulator ".

(4) In subsection (5)—

(a) after "means" insert "—

(a)",

and

(b) after "that body" insert ", or

(b) a person who is authorised by the designated qualifying regulator concerned to provide immigration advice or immigration services."

Commencement Information
I526 Sch. 18 para. 15 in force at 1.4.2011 by S.I. 2011/720, **art. 2(c)**

16 In section 166(4) (orders requiring approval by Parliament), after paragraph (d) insert—

"(da) section 86A(3),".

Commencement Information
I527 Sch. 18 para. 16 in force at 1.4.2011 by S.I. 2011/720, **art. 2(c)**

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17 (1) Schedule 5 (the Immigration Services Commissioner) is amended as follows.

(2) In paragraph 3 (code of standards)—

(a) after sub-paragraph (3)(a) insert—

"(aa) a person who is authorised by a designated qualifying regulator to provide immigration advice or immigration services;",

(b) in sub-paragraph (3)(b) after "paragraph (a)" insert " or (aa) ",

(c) after sub-paragraph (6)(a) insert—

"(aa) each of the designated qualifying regulators;", and

(d) omit sub-paragraph (6)(b).

(3) In paragraph 4 (extension of scope of the code)—

(a) omit sub-paragraph (2)(b),

(b) in sub-paragraph (3)(a) omit "England and Wales or", and

(c) omit sub-paragraph (4)(a).

(4) In paragraph 5 (investigation of complaints)—

(a) in sub-paragraph (3), for the words from "but" to the end substitute— " but not if the complaint is excluded by sub-paragraph (3A). ",

(b) after that sub-paragraph insert—

"(3A) A complaint is excluded if—

(a) it relates to a person who is excluded from the application of subsection (1) of section 84 by subsection (6) of that section, or

(b) it relates to a person within section 84(2)(ba)."

Commencement Information

I528 Sch. 18 para. 17 in force at 1.4.2011 by S.I. 2011/720, **art. 2(c)**

PROSPECTIVE

PART 3

TRANSITIONAL PROVISION

The transitional period

18 (1) In this Part of this Schedule references to "the transitional period" are to the period which—

(a) begins with the day appointed for the coming into force of section 13 (entitlement to carry on reserved legal activities), and

(b) ends with the day appointed by the Lord Chancellor by order for the purposes of this paragraph.

(2) Different days may be appointed under sub-paragraph (1)(b) for different purposes.

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(3) An order may be made under sub-paragraph (1)(b) only on the recommendation of the Board.

Barristers etc

19 (1) During the transitional period, every barrister is deemed to be authorised by the General Council of the Bar to provide immigration advice and immigration services.

(2) That authority is exercisable in accordance with, and subject to, the regulatory arrangements of the General Council of the Bar.

(3) A person is not authorised under sub-paragraph (1) unless the person has in force a certificate issued by the General Council of the Bar authorising the person to practise as a barrister.

20 (1) During the transitional period, every registered European lawyer registered with the Inns of Court and the General Council of the Bar is deemed to be authorised by the General Council of the Bar to provide immigration advice and immigration services if the registered European lawyer is entitled to provide immigration advice and immigration services under his home professional title by virtue of the European regulations.

(2) That authority is exercisable in accordance with, and subject to, the regulatory arrangements of the General Council of the Bar (as they apply to the registered European lawyer by virtue of the European regulations).

(3) In this paragraph—

"European regulations" means the European Communities (Lawyer's Practice) Regulations 2000 (S.I. 2000/1119);

"home professional title" and "registered European lawyer" have the same meaning as in the European regulations.

Solicitors etc

21 (1) During the transitional period, each of the following is deemed to be authorised by the Law Society to provide immigration advice and immigration services—

(a) every qualified solicitor;

(b) every registered foreign lawyer (within the meaning of section 89 of the Courts and Legal Services Act 1990 (c. 41));

(c) every legal partnership (within the meaning of paragraph 7(4) of Schedule 5);

(d) every body recognised under section 9 of the Administration of Justice Act 1985 (c. 61).

(2) That authority is exercisable in accordance with, and subject to, the regulatory arrangements of the Law Society.

(3) "Qualified solicitor" means a person who is qualified under section 1 of the Solicitors Act 1974 (c. 47) to act as a solicitor.

22 (1) During the transitional period, every registered European lawyer registered with the Law Society is deemed to be authorised by the Law Society to provide immigration advice and immigration services if the registered European lawyer is entitled to

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provide immigration advice and immigration services under his home professional title by virtue of the European regulations.

(2) That authority is exercisable in accordance with, and subject to, the regulatory arrangements of the Law Society (as they apply to the registered European lawyer by virtue of the European regulations).

(3) In this paragraph—

"European regulations" means the European Communities (Lawyer's Practice) Regulations 2000 (S.I. 2000/1119);

"home professional title" and "registered European lawyer" have the same meaning as in the European regulations.

Legal Executives

23 (1) During the transitional period, a person who is authorised by the Institute of Legal Executives to practise as a member of the profession of legal executives is deemed to be authorised by that Institute to provide immigration advice and immigration services.

(2) That authority is exercisable in accordance with and subject to the regulatory arrangements of the Institute of Legal Executives.

(3) A person is not authorised under sub-paragraph (1) unless the person has in force a certificate issued by the Institute of Legal Executives authorising the person to practise as a legal executive.

F177SCHEDULE 19

Section 187

CLAIMS MANAGEMENT SERVICES

Textual Amendments

F177 Sch. 19 omitted (29.11.2018 for specified purposes, 1.4.2019 in so far as not already in force) by virtue of The Financial Services and Markets Act 2000 (Claims Management Activity) Order 2018 (S.I. 2018/1253), arts. 1(2)(3), **95(7)** (with arts. 106, 108)

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SCHEDULE 20

Section 195

AMENDMENTS IN RELATION TO THE LEGAL PROFESSION AND LEGAL AID (SCOTLAND) ACT 2007 (ASP 5)

Solicitors (Scotland) Act 1980 (c. 46)

1 (1) The Solicitors (Scotland) Act 1980 is amended as follows.

(2) In section 3A(5), omit paragraphs (a) and (ad).

(3) In section 15(2)—

(a) in paragraph (e), for "38" substitute " 62A ", and

(b) omit paragraph (j).

(4) In section 20(2), omit ", 53A(2)(ba)".

(5) In section 24C(2)—

(a) in paragraph (d), for "38" substitute " 62A ", and

(b) omit paragraph (i).

(6) In section 34, omit subsections (4), (4C) and (4D).

(7) Omit sections 38, 39, 42A and 42B.

(8) In section 42C—

(a) in subsection (1)—

(i) omit paragraphs (a) and (c),

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(ii) omit "to the solicitor or his firm or", and

(iii) omit "or, where" to the end,

(b) in subsection (2), in paragraphs (a) and (b) omit (in each place) "solicitor, firm or",

(c) in subsection (3)—

(i) in paragraph (a), omit "the solicitor or his firm or, as the case may be,",

(ii) in paragraph (b), omit "of which the solicitor" to "be,",

(d) in subsection (4), omit (in each place) "38,", and

(e) omit subsection (5).

(9) In section 51—

(a) in subsection (2)—

(i) omit "a solicitor may have been guilty" to "Fund) or", and

(ii) omit "or a solicitor" to "services", and

(b) omit subsection (2A).

(10) In section 52, in subsection (2)(aa) omit "42A(7) or".

(11) In section 53, omit subsections (3), (10) and (11).

(12) Omit sections 53A, 53B and 53C.

(13) In section 54, omit subsections (1), (2B) and (2C).

(14) In section 55, omit subsection (8).

(15) Omit section 56A.

(16) In section 62A, in subsections (1) and (2) omit (in each place) "38,".

(17) In section 65—

(a) in subsection (1), omit the definition of "inadequate professional services", and

(b) omit subsection (5).

(18) In Part 2 of Schedule 3, in paragraph 5(1), (2) and (3) omit (in each place) "38,".

(19) In Part 2 of Schedule 4—

(a) in paragraph 9(a) and (b), omit (in each place) "or, as the case may be, of provision of inadequate professional services",

(b) in paragraph 16, omit sub-paragraphs (f) and (g), and

(c) in paragraph 23, omit ", 42A(7)".

(20) In the side-note to section 62A, omit "38,".

Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40)

2 In the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990, omit section 33.

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SCHEDULE 21

Section 208

MINOR AND CONSEQUENTIAL AMENDMENTS

Public Notaries Act 1801 (c. 79)

1 The Public Notaries Act 1801 is amended in accordance with paragraphs 2 and 3.

2 In section 1 (no person to be created to act as public notary, to do any notarial act etc unless duly admitted), omit ", or use and exercise the office of a notary, or do any notarial act,".

3 In section 14 (Act not to extend to certain persons), omit from "proctor" to "any other".

Public Notaries Act 1843 (c. 90)

4 The Public Notaries Act 1843 is amended in accordance with paragraphs 5 to 7.

5 After section 7 insert—

"**7A Effect of admission or grant of faculty**

(1) Despite any provision made by the Public Notaries Acts, a person's entitlement to carry on an activity which is a notarial activity is to be determined in accordance with the Legal Services Act 2007.

(2) Nothing in the Public Notaries Acts is to be regarded, for the purposes of paragraph 5(2) of Schedule 3 to the Legal Services Act 2007 (exempt persons in relation to notarial activities) as authorising a person to carry on such an activity.

(3) For this purpose—

"the Public Notaries Acts" means this Act and the Public Notaries Act 1801;

"exempt person" and "notarial activity" have the same meaning as in the Legal Services Act 2007."

6 In section 8 (Master of Faculties may issue commissions to take oaths)—

(a) the existing provision becomes subsection (1), and

(b) after that subsection insert—

"(2) For the purposes of the Legal Services Act 2007, the issue of a commission under subsection (1) is to be treated as an authorisation to carry on the relevant activities by virtue of another enactment (see paragraph 6(2) of Schedule 3 to that Act).

(3) In subsection (2), "relevant activities" means the activities authorised by the commission."

7 Omit section 10 (offence of practising as notary without authorisation).

Bills of Exchange Act 1882 (c. 61)

8 The Bills of Exchange Act 1882 is amended in accordance with paragraphs 9 and 10.

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9 In section 51 (noting or protest of bill), after subsection (7) insert—

"(7A) In subsection (7) "notary" includes a person who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to any activity which constitutes a notarial activity (within the meaning of that Act)."

10 In section 94 (protest when notary not accessible)—

(a) the existing provision becomes subsection (1), and

(b) after that subsection insert—

"(2) In subsection (1), "notary" includes a person who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to any activity which constitutes a notarial activity (within the meaning of that Act)."

Commissioners for Oaths Act 1889 (c. 10)

11 The Commissioners for Oaths Act 1889 is amended in accordance with paragraphs 12 and 13.

12 In section 1(3) (powers of commissioners for oaths) omit from "in which" (in the first place) to "solicitor, or".

13 In section 6 (powers as to oaths and notarial acts abroad), after subsection (1) insert—

"(1A) In subsection (1), "notary public" includes a person who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to any activity which constitutes a notarial activity (within the meaning of that Act)."

Benefices Act 1898 (c. 48)

14 In section 3 of the Benefices Act 1898 (appeal against refusal of benefice)—

(a) in subsection (2) for "counsel or a solicitor" substitute " an authorised person ", and

(b) after that subsection insert—

"(2A) In subsection (2) "authorised person" means a person who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to an activity which constitutes the exercise a right of audience (within the meaning of that Act)."

Children and Young Persons Act 1933 (c. 12)

15 The Children and Young Persons Act 1933 is amended in accordance with paragraphs 16 to 20.

16 In section 37(1) (power to clear court while child or young person giving evidence), for "counsel or solicitors" substitute " legal representatives ".

17 In section 43 (admission of deposition in evidence), for "counsel or solicitor" substitute " legal representative ".

18 In section 47(2)(b) (procedure in youth courts), for "solicitors and counsel" substitute " legal representatives ".

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19 In section 49(11) (restrictions on reports of proceedings), omit the definition of "legal representative".

20 In section 107 (interpretation), after the definition of "legal guardian" insert—

> ""legal representative" means a person who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to an activity which constitutes the exercise of a right of audience or the conduct of litigation (within the meaning of that Act);".

London Building Acts (Amendment) Act 1939 (c. xcvii)

21 In section 115 of the London Building Acts (Amendment) Act 1939 (jurisdiction of tribunal of appeal)—

(a) in subsection (2), for "counsel solicitor" substitute " an authorised person ", and

(b) after that subsection insert—

> "(2A) In subsection (2) "authorised person" means a person who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to an activity which constitutes the exercise of a right of audience (within the meaning of that Act)."

Accommodation Agencies Act 1953 (c. 23)

22 In section 1 of the Accommodation Agencies Act 1953 (illegal commissions and advertisements)—

(a) in subsection (3), after "solicitor" insert " or an authorised person ", and

(b) in subsection (6), after "say:—" insert—

> ""authorised person" means a person (other than a solicitor) who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to an activity which is a reserved legal activity (within the meaning of that Act);".

Geneva Conventions Act 1957 (c. 52)

23 In section 3 of the Geneva Conventions Act 1957 (legal representation of certain persons), after subsection (5) insert—

> "(6) In this section—
>
> "counsel" includes any person who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to an activity which constitutes the exercise of a right of audience (within the meaning of that Act);
>
> "solicitor" includes any person who, for the purposes of that Act, is an authorised person in relation to an activity which constitutes the conduct of litigation (within the meaning of that Act)."

Horserace Betting Levy Act 1969 (c. 14)

24 In section 4 of the Horserace Betting Levy Act 1969 (non-renewal of bookmaker's permit)—

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(a) in subsection (2), for "or a solicitor" substitute " , a solicitor or an authorised person ", and

(b) after that subsection insert—

"(2A) In subsection (2), "authorised person" means a person (other than counsel or a solicitor) who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to an activity which constitutes the exercise of a right of audience or the conduct of litigation (within the meaning of that Act)."

Taxes Management Act 1970 (c. 9)

25 In section 20B of the Taxes Management Act 1970 (restrictions on power to require documents)—

(a) in subsection (3), for "barrister, advocate or solicitor" (in both places) substitute " relevant lawyer ",

(b) in subsection (8), for "barrister, advocate or a solicitor" substitute " relevant lawyer ", and

(c) after subsection (14) insert—

"(15) In this section "relevant lawyer" means a barrister, advocate, solicitor or other legal representative communications with whom may be the subject of a claim to professional privilege."

Powers of Attorney Act 1971 (c. 27)

26 In section 3 of the Powers of Attorney Act 1971 (proof of instruments creating powers of attorney)—

(a) in subsection (1)(b) for "duly certificated notary public" substitute " , authorised person ", and

(b) in subsection (3) for from " "duly" to "Act and" substitute " "authorised person" means a person (other than a solicitor) who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to any activity which constitutes a notarial activity (within the meaning of that Act) and ".

Poisons Act 1972 (c. 66)

27 In section 9(7) of the Poisons Act 1972 (right to conduct proceedings), omit "notwithstanding that he is not of counsel or a solicitor".

Local Government Act 1972 (c. 70)

28 In section 223 of the Local Government Act 1972 (appearance of local authorities in legal proceedings), in subsection (1) for ", notwithstanding" to the end substitute " to conduct any such proceedings. "

Matrimonial Causes Act 1973 (c. 18)

29 In section 6 of the Matrimonial Causes Act 1973 (attempts at reconciliation of parties to marriage) in subsection (1) for "solicitor" substitute " legal representative ".

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Fair Trading Act 1973 (c. 41)

30 In section 29 of the Fair Trading Act 1973 (powers of entry and seizure)—

(a) in subsection (5), for "barrister, advocate or solicitor" substitute " relevant lawyer ", and

(b) after subsection (5) insert—

"(6) "Relevant lawyer" means a barrister, advocate, solicitor, or other legal representative communications with whom may be the subject of a claim to privilege."

Consumer Credit Act 1974 (c. 39)

31 In section 146 of the Consumer Credit Act 1974 (exceptions from section 145), after subsection (2) insert—

"(2A) An authorised person (other than a barrister or solicitor) engaging in contentious business is not to be treated as doing so in the course of any ancillary credit business.

(2B) In subsection (2A)—

"authorised person" means a person who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to an activity which constitutes the exercise of a right of audience or the conduct of litigation (within the meaning of that Act);

"contentious business" means business done in or for the purposes of proceedings begun before a court or before an arbitrator, not being non-contentious or common form probate business (within the meaning of section 128 of the Supreme Court Act 1981)."

F178 ...

Textual Amendments

F178 Sch. 21 para. 32 crossheading repealed (1.10.2010) by 2010 c. 15, Sch. 27 Pt. 1 (as substituted by The Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010 (S.I. 2010/2279), art. 1(2), **Sch. 2**

F179 32 . . . . . .

Textual Amendments

F179 Sch. 21 para. 32 repealed (1.10.2010) by 2010 c. 15, Sch. 27 Pt. 1 (as substituted by The Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010 (S.I. 2010/2279), art. 1(2), **Sch. 2**)

Bail Act 1976 (c. 63)

33 The Bail Act 1976 is amended in accordance with paragraphs 34 and 35.

34 In section 3 (general provisions), in subsection (6)(e) for "an authorised advocate" to the end substitute " a person who, for the purposes of the Legal Services Act

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2007, is an authorised person in relation to an activity which constitutes the exercise of a right of audience or the conduct of litigation (within the meaning of that Act); ".

35 In section 5 (supplementary provisions about decisions on bail)—

(a) in subsection (5), for "is represented by counsel or a solicitor unless his counsel or solicitor" substitute " has legal representation unless his legal representative ", and

(b) in subsection (6), for "is not represented by counsel or a solicitor" substitute " does not have legal representation ".

Race Relations Act 1976 (c. 74)

F180 36 . . . . . .

Textual Amendments

F180 Sch. 21 paras. 36-38 repealed (1.10.2010) by 2010 c. 15, Sch. 27 Pt. 1 (as substituted by The Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010 (S.I. 2010/2279), art. 1(2), **Sch. 2**)

F180 37 . . . . . .

Textual Amendments

F180 Sch. 21 paras. 36-38 repealed (1.10.2010) by 2010 c. 15, Sch. 27 Pt. 1 (as substituted by The Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010 (S.I. 2010/2279), art. 1(2), **Sch. 2**)

F180 38 . . . . . .

Textual Amendments

F180 Sch. 21 paras. 36-38 repealed (1.10.2010) by 2010 c. 15, Sch. 27 Pt. 1 (as substituted by The Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010 (S.I. 2010/2279), art. 1(2), **Sch. 2**)

F181 39 . . . . . .

Textual Amendments

F181 Sch. 21 para. 39 repealed (4.4.2011) by the Equality Act 2010 (c. 15), Sch. 27 Pt. 1A (as inserted by S.I. 2011/1060, arts. 1(2), 3(3)(a), **Sch. 3)**

Patents Act 1977 (c. 37)

40 In section 102 of the Patents Act 1977 (rights of audience etc in proceedings before the comptroller)—

(a) after subsection (2) insert—

"(2A) For the purposes of subsection (2), as it has effect in relation to England and Wales, "the enactment relating to the preparation

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of documents by persons not qualified" means section 14 of the Legal Services Act 2007 (offence to carry on a reserved legal activity if not entitled) as it applies in relation to an activity which amounts to the carrying on of reserved instrument activities within the meaning of that Act.", and

(b) for subsection (5) substitute—

"(5) Nothing in this section is to be taken to limit any entitlement to prepare deeds conferred on a registered patent attorney by virtue of the Legal Services Act 2007."

Estate Agents Act 1979 (c. 38)

F182 41 . . . . . .

Textual Amendments

F182 Sch. 21 para. 41 repealed (1.10.2015) by Consumer Rights Act 2015 (c. 15), s. 100(5), **Sch. 6 para. 85(h)**; S.I. 2015/1630, art. 3(i) (with art. 8)

Magistrates' Courts Act 1980 (c. 43)

42 The Magistrates' Courts Act 1980 is amended in accordance with paragraphs 43 and 44.

F183 43 . . . . . .

Textual Amendments

F183 Sch. 21 para. 43 repealed (18.9.2012) by The Public Bodies (Abolition of Crown Court Rule Committee and Magistrates' Courts Rule Committee) Order 2012 (S.I. 2012/2398), art. 1(2), **Sch. 2 para. 10**

44 In section 150 (interpretation), in subsection (1), in the definition of "legal representative" for "an authorised advocate" to the end substitute " a person who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to an activity which constitutes the exercise of a right of audience or the conduct of litigation (within the meaning of that Act); ".

Supreme Court Act 1981 (c. 54)

45 The Supreme Court Act 1981 is amended in accordance with paragraphs 46 and 47.

F184 46 . . . . . .

Textual Amendments

F184 Sch. 21 para. 46 repealed (18.9.2012) by The Public Bodies (Abolition of Crown Court Rule Committee and Magistrates' Courts Rule Committee) Order 2012 (S.I. 2012/2398), art. 1(2), **Sch. 1 para. 10**

47 In section 90(3B) (conduct of proceedings by Official Solicitor) for "section 28(2)(a) of the Courts and Legal Services Act 1990" substitute " the fact that he is a person who, for the purposes of the Legal Services Act 2007, is an authorised

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person in relation to an activity which constitutes the conduct of litigation (within the meaning of that Act) ".

Representation of the People Act 1983 (c. 2)

48 The Representation of the People Act 1983 is amended in accordance with paragraphs 49 to 52.

49 In section 86 (authorised excuses for failures as to return and declarations)—

(a) in subsection (1A), for "or solicitor" substitute " , solicitor or authorised person ", and

(b) after that subsection insert—

"(1B) In subsection (1A) "authorised person" means a person (other than a barrister or solicitor) who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to an activity which constitutes the exercise of a right of audience (within the meaning of that Act)."

50 In section 156 (costs of trying election petition)—

(a) in subsection (5), for "or solicitor" substitute " , a solicitor or an authorised person ", and

(b) after that subsection insert—

"(5A) In subsection (5) "authorised person" means a person (other than counsel or a solicitor) who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to an activity which constitutes the exercise of a right of audience (within the meaning of that Act)."

51 In section 162 (member of legal and certain other professions)—

(a) the existing provision becomes subsection (1),

(b) in that subsection—

(i) after "solicitor" insert " , authorised person ", and

(ii) for "or tribunal" (in both places) substitute " , tribunal or other body ", and

(c) after that subsection insert—

"(2) In subsection (1) "authorised person" means a person (other than a barrister or solicitor) who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to an activity which constitutes a reserved legal activity (within the meaning of that Act)."

52 In section 181 (Director of Public Prosecutions)—

(a) in subsection (3), for "or solicitor" substitute " , solicitor or authorised person ", and

(b) after that subsection insert—

"(3A) In subsection (3) "authorised person" means a person (other than a barrister or solicitor) who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to an activity which constitutes the exercise of a right of audience (within the meaning of that Act)."

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Mental Health Act 1983 (c. 20)

53 The Mental Health Act 1983 is amended in accordance with paragraphs 54 to 60.

54 In section 35 (remand to hospital for report on accused's mental condition), in subsection (6) for "counsel or a solicitor and his counsel or solicitor" substitute " an authorised person who ".

55 In section 36 (removal of accused person to hospital for treatment), in subsection (5) for "counsel or a solicitor and his counsel or solicitor" substitute " an authorised person who ".

56 In section 38 (interim hospital orders), in subsection (2) for "counsel or a solicitor and his counsel or solicitor" substitute " an authorised person who ".

57 In section 52 (further provisions as to persons remanded by magistrates' courts), in subsection (7)(b) for "counsel or a solicitor" substitute " an authorised person ".

58 In section 54 (requirements as to medical evidence), in subsection (3)(a)—

(a) for "counsel or a solicitor" substitute " an authorised person ", and

(b) for "his counsel or solicitor" substitute " that authorised person ".

59 In section 55 (interpretation of Part 3), in subsection (1) before the definitions of "child" and "young person" insert—

> ""authorised person" means a person who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to an activity which constitutes the exercise of a right of audience (within the meaning of that Act);".

60 In section 78 (procedure of Mental Health Review Tribunals), in subsection (7) for "counsel or a solicitor" substitute " an authorised person (within the meaning of Part 3) ".

County Courts Act 1984 (c. 28)

61 In section 147 of the County Courts Act 1984 (interpretation), in subsection (1), in the definition of "legal representative" for "an authorised advocate" to the end substitute " a person who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to an activity which constitutes the exercise of a right of audience or the conduct of litigation (within the meaning of that Act); ".

Inheritance Tax Act 1984 (c. 51)

62 In section 219 of the Inheritance Tax Act 1984 (power to require information)—

(a) in subsection (3) for "barrister or solicitor" substitute " relevant lawyer ",

(b) in subsection (4) for "solicitor" (in both places) substitute " relevant lawyer ", and

(c) after that subsection insert—

> "(5) In this section "relevant lawyer" means a barrister, advocate, solicitor or other legal representative communications with whom may be the subject of a claim to professional privilege."

Companies Act 1985 (c. 6)

63 In Schedule 15D of the Companies Act 1985 (disclosures)—

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(a) the existing paragraph 46 becomes sub-paragraph (1) of that paragraph,

(b) in that sub-paragraph for "solicitor, barrister" substitute " relevant lawyer ", and

(c) after that sub-paragraph insert—

"(2) "Relevant lawyer" means—

(a) a person who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to an activity which constitutes a reserved legal activity (within the meaning of that Act),

(b) a solicitor or barrister in Northern Ireland, or

(c) a solicitor or advocate in Scotland."

Prosecution of Offences Act 1985 (c. 23)

64 In section 15 of the Prosecution of Offences Act 1985 (interpretation), in subsection (1), in the definition of "legal representative" for "an authorised advocate" to the end substitute " a person who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to an activity which constitutes the exercise of a right of audience or the conduct of litigation (within the meaning of that Act); ".

Administration of Justice Act 1985 (c. 61)

65 The Administration of Justice Act 1985 is amended in accordance with paragraphs 66 and 67.

66 In section 41 (application of disciplinary provisions to legal aid complaints against barristers), in subsection (2) after "those provisions" insert " and despite section 157 of the Legal Services Act 2007 (approved regulators not to make provision for redress) ".

67 In section 69(2) (commencement) for "Secretary of State" substitute " Lord Chancellor ".

Social Security Act 1986 (c. 50)

68 In section 56 of the Social Security Act 1986 (legal proceedings), in subsection (1) omit "although not a barrister or solicitor".

Building Societies Act 1986 (c. 53)

69 The Building Societies Act 1986 is amended in accordance with paragraphs 70 to 72.

70 In section 52 (powers to obtain information and documents etc)—

(a) in subsection (8) for "barrister, solicitor or advocate" substitute " relevant lawyer ", and

(b) in subsection (13) after the definition of "approved" insert—

""relevant lawyer" means a barrister, advocate, solicitor or other legal representative communications with whom may be the subject of a claim to professional privilege;".

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71 In section 67 (directors, etc, not to accept commission in connection with loans), in subsection (7), in the definition of "solicitor" for "licensed conveyancer" substitute " any person who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to an activity which constitutes a reserved instrument activity (within the meaning of that Act) ".

72 In section 69 (disclosure and record of income of related businesses), in subsection (17), in the definition of "solicitor" for "licensed conveyancer" to the end substitute " any person who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to an activity which constitutes a reserved instrument activity (within the meaning of that Act). "

Ministry of Defence Police Act 1987 (c. 4)

73 In section 4 of the Ministry of Defence Police Act 1987 (representation at disciplinary proceedings)—

(a) in subsection (2) for "either by counsel or by a solicitor" substitute " by a relevant lawyer ",

(b) in subsection (7) for "counsel or a solicitor" substitute " a relevant lawyer ", and

(c) after that subsection insert—

"(8) In this section "relevant lawyer" means—

(a) in relation to Scotland or Northern Ireland, counsel or a solicitor, and

(b) in relation to England and Wales, a person who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to an activity which constitutes the exercise of a right of audience (within the meaning of that Act)."

Income and Corporation Taxes Act 1988 (c. 1)

74 In the Income and Corporation Taxes Act 1988, in section 778 (power to obtain information)—

(a) in subsection (3) for "solicitor" substitute " relevant lawyer ", and

(b) after that subsection insert—

"(4) In subsection (3) "relevant lawyer" means a barrister, advocate, solicitor or other legal representative communications with whom may be the subject of a claim to professional privilege or, in Scotland, protected from disclosure in legal proceedings on the grounds of confidentiality of communication."

Copyright, Designs and Patents Act 1988 (c. 48)

75 The Copyright, Designs and Patents Act 1988 is amended in accordance with paragraphs 76 to 80.

76 In section 276 (persons entitled to describe themselves as patent agents)—

(a) in subsection (1) for "registered patent agent" substitute " registered patent attorney ", and

(b) in subsection (4) for "agent" (in the second place) substitute " attorney ".

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77 In section 280 (privilege for communications with patent agents)—

(a) in subsection (1), after "to" (in the first place) insert "—

(a) ","

(b) at the end of that subsection insert ", and

(b) documents, material or information relating to any matter mentioned in paragraph (a).",

(c) for subsection (2) substitute—

"(2) Where a patent attorney acts for a client in relation to a matter mentioned in subsection (1), any communication, document, material or information to which this section applies is privileged from disclosure in like manner as if the patent attorney had at all material times been acting as the client's solicitor.",

(d) in subsection (3)—

(i) for "agent" (in each place) substitute " attorney ", and

(ii) for "agents" substitute " attorneys ", and

(e) omit subsection (4).

78 In section 281 (power of comptroller to refuse to deal with certain agents) in subsection (2) for "agents" (in both places) substitute " attorneys ".

79 In section 286 (interpretation)—

(a) for "agent"" substitute " attorney "", and

(b) for "(1)" substitute " (2) ".

80 Omit section 292 (rights and duties of registered patent agents in relation to proceedings in patent county courts).

Law of Property (Miscellaneous Provisions) Act 1989 (c. 34)

81 In section 1 of the Law of Property (Miscellaneous Provisions) Act 1989 (deeds and their execution)—

(a) in subsection (5) for "a solicitor" (in the first place) to "conveyancer" (in the second place) substitute " a relevant lawyer, or an agent or employee of a relevant lawyer ", and

(b) in subsection (6) for the definition of "duly certificated notary public" substitute—

""relevant lawyer" means a person who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to an activity which constitutes a reserved instrument activity (within the meaning of that Act)."

Companies Act 1989 (c. 40)

82 In section 87 of the Companies Act 1989 (exceptions from restrictions on disclosure)—

(a) in subsection (2), in paragraph (c)(i), for "solicitor" substitute " relevant lawyer ", and

(b) after that subsection insert—

"(2A) In subsection (2)(c)(i) "relevant lawyer" means—

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(a) a person who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to an activity which constitutes a reserved legal activity (within the meaning of that Act),

(b) a solicitor or barrister in Northern Ireland, or

(c) a solicitor or advocate in Scotland."

Courts and Legal Services Act 1990 (c. 41)

83 The Courts and Legal Services Act 1990 is amended in accordance with paragraphs 84 to 101.

84 Omit the following provisions—

(a) section 17 (the statutory objective and the general principle);

(b) section 18 (the statutory duty);

(c) section 18A (the Consultative Panel);

(d) section 27 (rights of audience);

(e) section 28 (rights to conduct litigation);

(f) section 29 (authorised bodies);

(g) section 31 (barristers and solicitors: rights of audience and rights to conduct litigation);

(h) section 31A (employed advocates).

Commencement Information

I529 Sch. 21 para. 84 wholly in force at 1.1.2010, see s. 211 and S.I. 2009/3250, **art. 2(h)** (subject to art. 6 and with art. 9)

85 In section 31B (advocates and litigators employed by Legal Services Commission) —

(a) for subsection (1) substitute—

"(1) This section applies where a person—

(a) is authorised by a relevant approved regulator ("the regulator") to carry on an activity which constitutes the exercise of a right of audience or the conduct of litigation, and

(b) is employed by the Legal Services Commission, or by any body established and maintained by that Commission.

(1A) Any rules of the regulator which fall within subsection (2) shall not have effect in relation to that person.",

(b) in subsection (2)—

(i) for "body" (in each place) substitute " regulator ", and

(ii) for "rules of conduct" substitute " conduct rules ",

(c) in subsection (3) for "body" substitute " regulator ", and

(d) after subsection (3) insert—

"(4) For the purposes of this section "relevant approved regulator" is to be construed in accordance with section 20(3) of the Legal Services Act 2007."

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Changes to legislation: *Legal Services Act 2007 is up to date with all changes known to be in force on or before 05 December 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

86 In section 31C (change of authorised body)—

(a) for subsection (1) substitute—

"(1) Where a person—

(a) has at any time been authorised by a relevant approved regulator to exercise a right of audience before a court in relation to proceedings of a particular description, and

(b) becomes authorised by another relevant approved regulator to exercise a right of audience before that court in relation to that description of proceedings,

any qualification regulations of the relevant approved regulator mentioned in paragraph (b) which relate to that right are not to have effect in relation to the person.",

(b) in subsection (2) for "the body" substitute " the relevant approved regulator ",

(c) in subsection (3) for "body" (in each place) substitute " relevant approved regulator ", and

(d) after that subsection insert—

"(4) In this section "relevant approved regulator" is to be construed in accordance with section 20(3) of the Legal Services Act 2007."

87 Omit sections 34 to 52 (extension of conveyancing services).

88 Omit sections 54 and 55 (preparation of probate papers etc).

Commencement Information

I530 Sch. 21 para. 88 wholly in force at 1.1.2010, see s. 211 and S.I. 2009/3250, **art. 2(h)** (subject to art. 6 and with art. 9)

89 In section 60 (regulation of right of Scottish and Northern Ireland lawyers to practise in England and Wales)—

(a) in subsection (1) for "Secretary of State" substitute " Lord Chancellor ",

(b) in subsection (2) for "Secretary of State" substitute " Lord Chancellor ",

(c) after subsection (2) insert—

"(2A) Regulations may be made under this section only if—

(a) the Legal Services Board has made a recommendation under section 60A,

(b) draft regulations were annexed to the recommendation, and

(c) the regulations are in the same form as, or a form not materially different from, the draft regulations.", and

(d) in subsection (4) for "Secretary of State" substitute " Lord Chancellor ".

90 After that section insert—

"**60A Procedural requirements relating to recommendations for the purposes of section 60**

(1) Before making a recommendation under this section, the Legal Services Board must publish a draft of—

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(a) the proposed recommendation, and

(b) the proposed draft regulations.

(2) The draft must be accompanied by a notice which states that representations about the proposals may be made to the Board within a specified period.

(3) Before making the recommendation, the Board must have regard to any representations duly made.

(4) If the draft regulations to be annexed to the recommendation differ from the draft regulations published under subsection (1)(b) in a way which is, in the opinion of the Board, material, the Board must, before making the recommendation, publish the draft recommendations along with a statement detailing the changes made and the reasons for the changes."

91 Omit section 63 (legal professional privilege).

92 Omit section 69 (exemption from liability for damages etc).

93 Omit section 70 (offences).

94 In section 71 (qualification for judicial and certain other appointments)—

(a) in subsection (4) for "granted by an authorised body" substitute " exercisable by virtue of an authorisation given by a relevant approved regulator ",

(b) in subsection (6) for "the authorised body concerned" substitute " the relevant approved regulator ", and

(c) after that subsection insert—

"(6A) In this section "relevant approved regulator" is to be construed in accordance with section 20(3) of the Legal Services Act 2007."

95 In section 75 (judges etc barred from legal practice), after paragraph (b) insert—

"(ba) carry on any notarial activities (within the meaning of the Legal Services Act 2007);".

96 Omit section 113 (administration of oaths and taking of affidavits).

Commencement Information

I531 Sch. 21 para. 96 wholly in force at 1.1.2010 see s. 211 and S.I. 2009/3250, **art. 2(h)** (subject to art. 9)

97 (1) Section 119 (interpretation) is amended as follows.

(2) In subsection (1) omit the following definitions—

"authorised advocate"

"authorised body" and "appropriate authorised body"

"authorised litigator"

"authorised practitioner"

"Consultative Panel"

"duly certificated notary public"

"the general principle"

"qualified person"

"the statutory objective".

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(3) In that subsection, for the definition of "court" substitute—

""court" has the same meaning as in the Legal Services Act 2007 (see section 207 of that Act);".

(4) In that subsection, for the definition of "qualification regulations" and "rules of conduct" substitute—

""qualification regulations" and "conduct rules", in relation to a body, have the same meaning as in the Legal Services Act 2007 (see section 21 of that Act);".

(5) In that subsection, in the definition of "right to conduct litigation"—

(a) in paragraph (a) after "court" insert " in England and Wales ",

(b) for "and" at the end of that paragraph substitute—

"(aa) to commence, prosecute and defend such proceedings; and".

(6) In subsection (3) for from "(including" to the end substitute " to conduct rules includes a reference to practice rules (within the meaning of the Legal Services Act 2007 (see section 21 of that Act)). "

98 In section 120 (regulations and orders) omit—

(a) in subsection (4) —

(i) "26(1), 37(10), 40(1)", and

(ii) from "paragraph 24" to "Schedule 9", and

(b) subsection (5).

99 In section 125 (power to make provision consequential on provision made by Part 2 of Administration of Justice Act 1985 etc)—

(a) in subsection (4) for "Secretary of State" substitute " Lord Chancellor ", and

(b) for subsection (5) substitute—

"(5) In subsection (4)—

(a) "relevant enactments" means such enactments or instruments passed or made before or in the same Session as the Legal Services Act 2007 was passed as may be specified in the order, and

(b) the reference to Part 2 is a reference to that Part as amended by that Act or any enactment or instruments passed or made before or in the same Session as that Act was passed."

100 Omit the following provisions—

(a) Schedule 4 (authorised bodies);

(b) Schedule 5 (the Authorised Conveyancing Practitioners Board);

(c) Schedule 6 (the Conveyancing Appeals Tribunals);

(d) Schedule 7 (the Conveyancing Ombudsman Scheme);

(e) in Part 2 of Schedule 8 (amendments of provisions relating to powers of Conveyancing Licensing Council etc), paragraphs 14 to 20 and 21(1)(b);

(f) Schedule 9 (probate).

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Commencement Information

I532 Sch. 21 para. 100 wholly in force at 1.1.2010; Sch. 21 para. 100 not in force at Royal Assent see s. 211; Sch. 21 para. 100(b)-(d) in force at 31.3.2009 by S.I. 2009/503, **art. 2(d)**; s. 100(a)(e)(f) in force at 1.1.2010 by S.I. 2009/3250, **art. 2(h)** (subject to art. 6 and with art. 9)

I533 Sch. 21 para. 100(e) in force at 6.10.2010 in so far as not already in force by S.I. 2010/2089, **art. 2(d)** (with art. 6)

101 In paragraph 17 of Schedule 19 (revocation of appointment under section 1(1) of the Commissioners for Oaths Act 1889) for "Secretary of State" substitute " Lord Chancellor ".

Environmental Protection Act 1990 (c. 43)

102 In section 114 (appointment etc of inspectors), in subsection (4) omit ", although not of counsel or a solicitor,".

Friendly Societies Act 1992 (c. 40)

103 In section 62 of the Friendly Societies Act 1992 (powers to obtain information and documents etc)—

(a) in subsection (7), for paragraphs (a) and (b) substitute—

"(a) by a relevant lawyer of a document or material contained in a privileged communication or, in Scotland, a communication which is protected from disclosure on the ground of confidentiality, made by or to the relevant lawyer in that capacity or the furnishing of information contained in such communication so made;", and

(b) in subsection (12), at the end insert "; and

"relevant lawyer" means a barrister, advocate, solicitor or other legal representative communications with whom may be the subject of a claim to professional privilege or, in Scotland, be protected from disclosure in legal proceedings on grounds of confidentiality of communication."

Trade Union and Labour Relations Consolidation Act 1992 (c. 52)

104 The Trade Union and Labour Relations Consolidation Act 1992 is amended in accordance with paragraphs 105 to 107.

105 In section 194 (offence of failure to notify), in subsection (2) omit ", although not of counsel or a solicitor,".

106 In section 216 (constitution and proceedings of court of inquiry)—

(a) in subsection (6) for "counsel or solicitor" (in both places) substitute " a relevant lawyer ", and

(b) after subsection (6) insert—

"(7) In subsection (6) "relevant lawyer" means—

(a) a person who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to an activity

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which constitutes the exercise of a right of audience or the conduct of litigation within the meaning of that Act, or

(b) an advocate or solicitor in Scotland."

107 In section 288 (restriction on contracting out), in subsection (4B)(a) for "a barrister" (in the first place) to the end substitute " a person who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to an activity which constitutes the exercise of a right of audience or the conduct of litigation (within the meaning of that Act), and ".

Finance Act 1993 (c. 34)

108 F185 . . . . . .

Textual Amendments

F185 Sch. 21 para. 108 omitted (1.4.2010) by virtue of The Finance Act 2009, Section 96 and Schedule 48 (Appointed Day, Savings and Consequential Amendments) Order 2009 (S.I. 2009/3054), art. 3, {Sch. para. 16(f)}

Trade Marks Act 1994 (c. 26)

109 The Trade Marks Act 1994 is amended in accordance with paragraphs 110 to 115.

F186 110 . . . . . .

Textual Amendments

F186 Sch. 21 para. 110 repealed (31.12.2020) by The Trade Marks (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/269), reg. 1(1), **Sch. 5 para. 6** (as amended by S.I. 2020/1050, regs. 1(2), **12**); 2020 c. 1, **Sch. 5 para. 1(1)**

111 In section 84 (unregistered persons not to be described as registered trade mark agents)—

(a) in subsection (1)—

(i) for "agent" (in the first place) substitute " attorney ",

(ii) in paragraph (a) after "agent"" insert " or registered trade mark attorney ", and

(iii) in paragraph (b) after "agent" insert " or a registered trade mark attorney ",

(b) in subsection (2)—

(i) in paragraph (a) after "agent"" insert " or registered trade mark attorney ", and

(ii) in paragraph (b) after "agents"" insert " or registered trade mark attorneys ", and

(c) in subsection (3)—

(i) in paragraph (a) after "agent"" insert " or registered trade mark attorney ", and

(ii) in paragraph (b) after "agent" insert " or a registered trade mark attorney ".

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112 In section 86 (use of the term "trade mark attorney") in subsection (1) for "agent" substitute " attorney ".

113 In section 87 (privilege for communications with registered trade mark agents)—

(a) in subsection (1), after "to" (in the first place) insert "—

(a) ",

(b) at the end of that subsection insert ", and

(b) documents, material or information relating to any matter mentioned in paragraph (a).",

(c) for subsection (2) substitute—

"(2) Where a trade mark attorney acts for a client in relation to a matter mentioned in subsection (1), any communication, document, material or information to which this section applies is privileged from disclosure in like manner as if the trade mark attorney had at all material times been acting as the client's solicitor.", and

(d) in subsection (3)—

(i) for "agent" (in each place) substitute " attorney ", and

(ii) for "agents" substitute " attorneys ".

114 In section 88 (power of registrar to refuse to deal with certain agents)—

(a) in paragraph (b) for "agents" substitute " attorneys ", and

(b) in paragraph (c) for "agents" substitute " attorneys ".

115 In section 104 (index of defined expressions, in the entry for "registered trade mark agent"—

(a) for "agent" substitute " attorney ", and

(b) for "(1)" substitute " (2) ".

Criminal Justice and Public Order Act 1994 (c. 33)

116 In section 38 of the Criminal Justice and Public Order Act 1994 (interpretation and savings for sections 34 to 37 of that Act) in subsection (1), in the definition of "legal representative" for "an authorised advocate" to the end substitute " a person who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to an activity which constitutes the exercise of a right of audience or the conduct of litigation (within the meaning of that Act); and ".

Environment Act 1995 (c. 25)

117 In section 54 of the Environment Act 1995 (appearance in legal proceedings), omit "although not of counsel or a solicitor".

F187 ...

Textual Amendments

F187 Sch. 21 para. 118 crossheading repealed (1.10.2010) by 2010 c. 15, Sch. 27 Pt. 1 (as substituted by The Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010 (S.I. 2010/2279), art. 1(2), **Sch. 2)**

F188 118 . . . . . .

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Textual Amendments

F188 Sch. 21 para. 118 repealed (1.10.2010) by 2010 c. 15, Sch. 27 Pt. 1 (as substituted by The Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010 (S.I. 2010/2279), art. 1(2), **Sch. 2**)

PROSPECTIVE

Police Act 1996 (c. 16)

119 F189 . . . . . .

Textual Amendments

F189 Sch. 21 para. 119 repealed (1.12.2008) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 149, 153, **Sch. 28 Pt. 8**; S.I. 2008/2993, **art. 2(1)(k)(iii)** (subject to art. 3)

Employment Rights Act 1996 (c. 18)

120 In section 203 of the Employment Rights Act 1996 (restrictions on contracting out), in subsection (4)(a) for "a barrister" (in the first place) to the end substitute " a person who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to an activity which constitutes the exercise of a right of audience or the conduct of litigation (within the meaning of that Act), and ".

Family Law Act 1996 (c. 27)

121 In Schedule 4 of the Family Law Act 1996—

(a) for paragraph 1 substitute—

"1 In this Schedule "legal representative" means a person who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to an activity which constitutes a reserved instrument activity (within the meaning of that Act).",

(b) in paragraph 3(3) for "solicitor" substitute " legal representative ", and

(c) in paragraph 5(2)(a) for "solicitor" substitute " legal representative ".

Civil Procedure Act 1997 (c. 12)

122 In section 2 of the Civil Procedure Act 1997 (Civil Procedure Rule Committee)—

(a) in subsection (2), in paragraph (f) for from "granted" to "right" substitute " authorised by a relevant approved regulator ", and

(b) after that subsection insert—

"(2A) In subsection (2)(f) "relevant approved regulator" is to be construed in accordance with section 20(3) of the Legal Services Act 2007."

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Sexual Offences (Protected Material) Act 1997 (c. 39)

123 In section 2 of the Sexual Offences (Protected Material) Act 1997 (meaning of other expressions), in subsection (1) in the definition of "legal representative" for "any authorised advocate" to "Act 1990)" substitute " a person who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to an activity which constitutes the exercise of a right of audience or the conduct of litigation (within the meaning of that Act) and who is ".

National Minimum Wage Act 1998 (c. 39)

124 The National Minimum Wage Act 1998 is amended in accordance with paragraphs 125 and 126.

125 In section 33 (proceedings for offences)—

(a) in subsection (1) omit paragraph (a), and

(b) after that subsection insert—

"(1A) The persons who may conduct proceedings for an offence under this Act in England and Wales, before a magistrates' court, shall include any person authorised for the purpose by the Secretary of State."

126 In section 49 (restrictions on contracting out) for subsection (7)(a) substitute—

"(a) as regards England and Wales, a person who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to an activity which constitutes the exercise of a right of audience or the conduct of litigation (within the meaning of that Act);".

Access to Justice Act 1999 (c. 22)

127 The Access to Justice Act 1999 is amended in accordance with paragraphs 128 to 131.

F190 128 . . . . . .

Textual Amendments

F190 Sch. 21 para. 128 repealed (1.4.2013) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 5 Pt. 2**; S.I. 2013/453, art. 3(h) (with savings and transitional provisions in S.I. 2013/534, art. 6)

129 In section 44 (barristers employed by solicitors)—

(a) in subsection (1)—

(i) omit "is employed by",

(ii) for paragraphs (a) and (b) substitute—

"(a) is employed by an authorised person, or

(b) is a manager of such a person,", and

(iii) for "his employer" substitute " the authorised person of which the barrister is an employee or a manager ",

(b) in subsection (2) after "employees" insert " or managers of an authorised person ", and

(c) after that subsection insert—

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"(3) In this section—

"authorised person" means a person who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to an activity which is a reserved legal activity (within the meaning of that Act), and

"manager" has the same meaning as in that Act (see section 207 of that Act)."

F191 130 . . . . . .

Textual Amendments

F191 Sch. 21 para. 130 repealed (31.1.2013) by Statute Law (Repeals) Act 2013 (c. 2), s. 3(2), **Sch. 1 Pt. 5**

131 In section 46 (Bar practising certificates)—

(a) omit subsection (2)(b) and the "but" immediately preceding it, and

(b) omit subsections (3) to (6).

Youth Justice and Criminal Evidence Act 1999 (c. 23)

132 In section 63 of the Youth Justice and Criminal Evidence Act 1999 (general interpretation etc of Part 2), in subsection (1), in the definition of "legal representative" for "any authorised advocate" to the end substitute " a person who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to an activity which constitutes the exercise of a right of audience or the conduct of litigation (within the meaning of that Act); ".

Criminal Justice and Court Services Act 2000 (c. 43)

133 In section 15 of the Criminal Justice and Court Services Act 2000 (right to conduct litigation and right of audience)—

(a) in subsection (2) for "section 28(2)(a) of the Courts and Legal Services Act 1990" substitute " the fact that he is a person who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to that activity ", and

(b) in subsection (3) for "section 27(2)(a) of the Courts and Legal Services Act 1990" substitute " the fact that he is a person who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to that activity ".

Finance Act 2002 (c. 23)

134 The Finance Act 2002 is amended in accordance with paragraphs 135 and 136.

135 In Schedule 34 (stamp duty: withdrawal of group relief: supplementary provisions), in paragraph 10—

(a) in sub-paragraph (2) for "A barrister or solicitor" substitute " A relevant lawyer ", and

(b) after that sub-paragraph insert—

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"(2A) "Relevant lawyer" means a barrister, advocate, solicitor or other legal representative communications with whom may be the subject of a claim to professional privilege."

F192 136 . . . . . .

Textual Amendments

F192 Sch. 21 para. 136 omitted (with effect in accordance with Sch. 39 para. 10(1) of the amending Act) by virtue of Finance Act 2012 (c. 14), **Sch. 39 para. 5(2)(f)** (with Sch. 39 paras. 11-13)

Income Tax (Earnings and Pensions) Act 2003 (c. 1)

137 In section 343 of the Income Tax (Earnings and Pensions) Act 2003 (deduction for professional membership fees), in the table in subsection (2)—

(a) for "patent agent" and "patent agents" (in each place) substitute " patent attorney " and " patent attorneys " respectively, and

(b) for "trade mark agent" and "trade mark agents" (in each place) substitute " trade mark attorney " and " trade mark attorneys " respectively.

Finance Act 2003 (c. 14)

138 In Schedule 13 to the Finance Act 2003 (stamp duty land tax: information powers) —

(a) in paragraph 22, in sub-paragraphs (1) and (2), for "barrister, advocate or solicitor" substitute " relevant lawyer ",

(b) after sub-paragraph (2) of that paragraph insert—

"(3) "Relevant lawyer" means a barrister, advocate, solicitor or other professional legal adviser communications with whom may be the subject of a claim to legal privilege.

(4) "Legal privilege" here has the same meaning as in paragraph 35 of this Schedule.", and

(c) in paragraph 25 for "barrister, advocate or solicitor" substitute " relevant lawyer (within the meaning of paragraph 22(3)) ".

Licensing Act 2003 (c. 17)

139 The Licensing Act 2003 is amended in accordance with paragraphs 140 and 141.

140 In section 58 (meaning of "certified copy" in section 57 of that Act), after subsection (3) insert—

"(4) In this section "notary" means a person (other than a solicitor) who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to any activity which constitutes a notarial activity (within the meaning of that Act)."

141 In section 95 (meaning of "certified copy" in section 94 of that Act), after subsection (3) insert—

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"(4) In this section "notary" means a person (other than a solicitor) who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to any activity which constitutes a notarial activity (within the meaning of that Act)."

Courts Act 2003 (c. 39)

142 The Courts Act 2003 is amended in accordance with paragraphs 143 and 144.

143 In section 70 (Criminal Procedure Rule Committee)—

(a) in subsection (2), in paragraph (i)(i) for from "granted" to "right" substitute " authorised by a relevant approved regulator ", and

(b) after that subsection insert—

"(2A) In subsection (2)(i)(i) "relevant approved regulator" is to be construed in accordance with section 20(3) of the Legal Services Act 2007."

144 (1) Section 77 (Family Procedure Rule Committee) is amended as follows.

(2) In subsection (2)—

(a) in paragraph (k) for from "granted" to "right" substitute " authorised by a relevant approved regulator ",

F193(b) . . . . . .

(c) in paragraph (m) for "granted that right" substitute " authorised ".

(3) For subsection (5)(b) substitute—

"(b) is a relevant approved regulator in relation to the exercise of a right of audience or the conduct of litigation (or both)."

(4) After subsection (7) insert—

"(8) In this section "relevant approved regulator" is to be construed in accordance with section 20(3) of the Legal Services Act 2007."

Textual Amendments

F193 Sch. 21 para. 144(2)(b) repealed (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 10 para. 99** Table; S.I. 2014/954, art. 2(d) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

Criminal Justice Act 2003 (c. 44)

145 The Criminal Justice Act 2003 is amended in accordance with paragraphs 146 to 148.

146 In section 56 (interpretation of Part 8), in subsection (1), in the definition of "legal representative", for "an authorised advocate" to the end substitute " a person who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to an activity which constitutes the exercise of a right of audience or the conduct of litigation (within the meaning of that Act), ".

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Textual Amendments

F194 Sch. 21 para. 147 repealed (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

F195 148 . . . . . .

Textual Amendments

F195 Sch. 21 para. 148 repealed (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 28** (with ss. 413(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

Children Act 2004 (c. 31)

149 In section 37 of the Children Act 2004 (Welsh family proceedings officers)—

(a) in subsection (2) for "section 28(2)(a) of the Courts and Legal Services Act 1990 (c 41)" substitute " the fact that he is a person who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to that activity ", and

(b) in subsection (3) for "section 27(2)(a) of the Courts and Legal Services Act 1990" substitute " the fact that he is a person who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to that activity ".

Civil Partnership Act 2004 (c. 33)

150 In section 42 of the Civil Partnership Act 2004 (attempts at reconciliation of civil partners) in subsection (2) for "solicitor" substitute " legal representative ".

Public Services Ombudsman (Wales) Act 2005 (c. 10)

151 In section 13 of the Public Services Ombudsman (Wales) Act 2005 (investigations by Ombudsman)—

(a) in subsection (4)(b), for "counsel, solicitor" substitute " an authorised person ", and

(b) after subsection (4) insert—

"(4A) In subsection (4) "authorised person" means a person who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to an activity which constitutes the exercise of a right of audience or the conduct of litigation (within the meaning of that Act)."

Equality Act 2006 (c. 3)

152 In Schedule 2 to the Equality Act 2006 (representations to Commission in relation to inquiry etc.), in paragraph 8—

(a) in sub-paragraph (2)(b), for "a barrister, an advocate or a solicitor" substitute " a relevant lawyer ", and

(b) after sub-paragraph (2) insert—

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"(2A) "Relevant lawyer" means—

(a) an advocate or solicitor in Scotland, or

(b) a person who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to an activity which constitutes the exercise of a right of audience or the conduct of litigation (within the meaning of that Act)."

Natural Environment and Rural Communities Act 2006 (c. 16)

153 In section 12(2) of the Natural Environment and Rural Communities Act 2006 (power to bring criminal proceedings) omit "even though he is not a barrister or solicitor".

National Health Service Act 2006 (c. 41)

154 In section 194(4) of the National Health Service Act 2006 (conduct of proceedings under section 194) omit ", although he is not a barrister or solicitor,".

National Health Service (Wales) Act 2006 (c. 42)

155 In section 142(4) of the National Health Service (Wales) Act 2006 (conduct of proceedings under section 142) omit ", although he is not a barrister or solicitor,"."

Companies Act 2006 (c. 46)

156 In Schedule 2 to the Companies Act 2006 (exceptions from restrictions on disclosure), in paragraph 67—

(a) for "solicitor, barrister, advocate" substitute " relevant lawyer ", and

(b) for " "Foreign lawyer"" to the end substitute—

"In this paragraph—

"foreign lawyer" means a person (other than a relevant lawyer) who is a foreign lawyer within the meaning of section 89(9) of the Courts and Legal Services Act 1990;

"relevant lawyer" means—

(a) a person who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to an activity which constitutes a reserved legal activity (within the meaning of that Act),

(b) a solicitor or barrister in Northern Ireland, or

(c) a solicitor or advocate in Scotland."

Income Tax Act 2007 (c. 3)

157 The Income Tax Act 2007 is amended in accordance with paragraphs 158 to 161.

158 In section 748 (power to obtain information)—

(a) in subsection (4) for "solicitor" substitute " relevant lawyer ",

(b) after that subsection insert—

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"(4A) In this section "relevant lawyer" means a barrister, advocate, solicitor or other legal representative communications with whom may be the subject of a claim to professional privilege or, in Scotland, protected from disclosure in legal proceedings on grounds of confidentiality of communication.", and

(c) in subsection (5) for "solicitors" substitute " relevant lawyers ".

159 In section 749 (restrictions on particulars to be provided by solicitors)—

(a) in the heading for "solicitors" substitute " relevant lawyers ",

(b) for "solicitor" (in each place) substitute " relevant lawyer ", and

(c) for subsection (7) substitute—

"(7) In this section—

"relevant lawyer" means a barrister, advocate, solicitor or other legal representative communications with whom may be the subject of a claim to professional privilege or, in Scotland, protected from disclosure in legal proceedings on grounds of confidentiality of communication;

"settlement" and "settlor" have the meanings given by section 620 of ITTOIA 2005."

160 In section 771 (power to obtain information)—

(a) in subsections (5) and (6) for "solicitor" (in each place) substitute " relevant lawyer ", and

(b) after subsection (6) insert—

"(7) In this section "relevant lawyer" means a barrister, advocate, solicitor or other legal representative communications with whom may be the subject of a claim to professional privilege or, in Scotland, protected from disclosure in legal proceedings on grounds of confidentiality of communication."

PROSPECTIVE

161 F196 . . . . . .

Textual Amendments

F196 Sch. 21 para. 161 omitted (13.8.2009) by virtue of The Finance Act 2009, Schedule 47 (Consequential Amendments) Order 2009 (S.I. 2009/2035), art. 2, {Sch. para. 60(o)}

Tribunals, Courts and Enforcement Act 2007 (c. 15)

162 (1) Section 51 of the Tribunals, Courts and Enforcement Act 2007 (meaning of "relevant qualification") is amended as follows.

(2) In subsection (2), for from "awarded" to the end substitute " awarded by a body which, for the purposes of the Legal Services Act 2007, is an approved regulator in relation to the exercise of a right of audience or the conduct of litigation (within the meaning of that Act). "

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(3) In subsection (4)—

(a) in paragraph (b), for "(2)(b)" substitute " (2) ",

(b) in paragraph (c), for from "the body" to "of that Act" substitute ", for the purposes of the Legal Services Act 2007, the body—

(i) is not an approved regulator in relation to the exercise of a right of audience (within the meaning of that Act), and

(ii) is not an approved regulator in relation to the conduct of litigation (within the meaning of that Act),", and

(c) for from "paragraph 33(1)" to the end substitute " section 46 of the Legal Services Act 2007 (transitional etc. provision in consequence of cancellation of designation as approved regulator). "

SCHEDULE 22

Section 209

TRANSITIONAL AND TRANSITORY PROVISION

Transitory power to modify the functions of bodies

1 (1) Paragraphs 2 to 4 have effect until such time as the Board is first constituted in accordance with paragraph 1 of Schedule 1.

(2) Where an order under paragraph 2 has effect immediately before that time, it is to be treated from that time as if it were an order made by the Lord Chancellor under section 69 (and in accordance with that section and section 70).

(3) Where that order is made by virtue of paragraph 4, the reference in sub-paragraph (2) to section 69 is a reference to that section as modified by section 180.

2 (1) The Lord Chancellor may by order modify, or make any other provision relating to, the functions of a designated regulator or any other body.

(2) For this purpose "designated regulator" means—

(a) The Law Society;

(b) The General Council of the Bar;

(c) The Master of the Faculties;

(d) The Institute of Legal Executives;

(e) The Council for Licensed Conveyancers;

(f) The Chartered Institute of Patent Attorneys;

(g) The Institute of Trade Mark Attorneys;

(h) The Association of Law Costs Draftsmen;

(i) any other body which is a body to which sub-paragraph (3) applies.

(3) This sub-paragraph applies to—

(a) a body designated as an authorised body for the purposes of section 27 or 28 of the Courts and Legal Services Act 1990 (c. 41) (rights of audience and rights to conduct litigation);

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(b) a body approved under Schedule 9 to that Act (approval of body to grant exemption from prohibition on preparation of probate papers etc);

(c) a body prescribed by regulations under section 113 of that Act (administration of oaths and taking of affidavits).

(4) The Lord Chancellor may make an order under sub-paragraph (1) only if—

(a) the body to which the order relates has made a recommendation under this paragraph to which was annexed a draft order, and

(b) the body to which the order relates consents to the order which is made.

(5) The Lord Chancellor may make an order under this paragraph only for the purpose of enabling the body to which it relates to do one or more of the following—

(a) to become a body within sub-paragraph (3);

(b) to grant its members rights for the purposes of section 27 or 28 of the Courts and Legal Services Act 1990, to exempt its members for the purposes of section 55 of that Act or to authorise its members for the purposes of section 113 of that Act;

(c) if it is or becomes a designated regulator, to regulate its members more effectively or efficiently;

(d) if it is or becomes a designated regulator, to expand the categories of persons who are eligible to be members of the body;

(e) to do any of the things mentioned in paragraphs (a) to (e) of section 69(3) at a time after paragraph 1 of Schedule 4 comes into force.

(6) An order under this paragraph may make provision in relation to the body to which the order relates, and members of that body, corresponding to the provision which by virtue of subsection (4) or (5) of section 69 may be made by an order under that section in relation to an approved regulator and persons authorised by that regulator to carry on reserved legal activities or to provide immigration advice or immigration services.

(7) Any provision made by an order under this paragraph may be expressed to be conditional upon—

(a) the coming into force of paragraph 1 of Schedule 4;

(b) the body to which the order relates being designated by an order under Part 2 of that Schedule as an approved regulator, or by an order under Part 1 of Schedule 10 as a licensing authority, in relation to one or more reserved legal activities specified in the order;

(c) the body to which the order relates becoming a designated qualifying regulator under section 86A of the Immigration and Asylum Act 1999 (c. 33).

(8) An order under this paragraph may modify provisions made by or under any enactment (including this Act or any Act passed after this Act), prerogative instrument or other instrument or document.

(9) The powers to make an order conferred by this paragraph are without prejudice to any powers (statutory or non-statutory) which a designated regulator or other body may have apart from this section.

(10) In this paragraph "member" in relation to a body includes any person who is not a member of the body but who may be subject to disciplinary sanctions for failure to comply with any of its rules.

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3 (1) This paragraph applies where a body makes a recommendation under paragraph 2.

(2) The Lord Chancellor must publish a document containing—

(a) the recommendation, and

(b) the draft order annexed to it.

(3) The document must be accompanied by a notice which states that representations about it may be made to the Lord Chancellor within a specified period.

(4) The Lord Chancellor must give a copy of the document to the Office of Fair Trading and the Lord Chief Justice, and invite each of them to provide advice on it within that period.

(5) The Lord Chancellor may give a copy of the document to the Legal Services Consultative Panel or any other person, and invite them to provide advice on it within that period.

(6) The Lord Chancellor must have regard to any representations and advice duly given.

(7) If the order which the Lord Chancellor proposes to make differs from the draft order published under sub-paragraph (2), the Lord Chancellor must, before making the order, publish the revised draft order along with a statement detailing the changes made and the reasons for those changes.

4 Paragraphs 2 and 3 apply in relation to the Solicitors Disciplinary Tribunal as they apply in relation to a designated regulator, but as if in paragraph 2—

(a) in sub-paragraph (4)(a) the reference to the body to which the order relates were a reference to the Solicitors Disciplinary Tribunal or the Law Society, and

(b) for sub-paragraph (5) of that paragraph there were substituted—

"(5) The Lord Chancellor may make an order under this paragraph only for the purpose of enabling the Solicitors Disciplinary Tribunal to carry out its role more effectively or efficiently.", and

(c) sub-paragraphs (6) and (7) of that paragraph were omitted.

Approved regulators

5 (1) Sub-paragraph (2) applies where during the pre-commencement period—

(a) an Order in Council is made designating a body as an authorised body for the purposes of section 27 of the Courts and Legal Services Act 1990 (c. 41) (rights of audience) and that body's qualification regulations and rules of conduct (within the meaning of that section) have been approved for the purposes of that section,

(b) an Order in Council is made designating a body as an authorised body for the purposes of section 28 of that Act (right to conduct litigation) and that body's qualification regulations and rules of conduct (within the meaning of that section) have been approved for the purposes of that section,

(c) an order is made under paragraph 4 of Schedule 9 to that Act (approval of body to grant exemption from prohibition on preparation of probate papers etc), or

(d) regulations are made prescribing a body for the purposes of section 113 of that Act (administration of oaths and taking of affidavits).

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(2) The Lord Chancellor may by order modify the Table in paragraph 1 of Schedule 4 (existing regulators) so as—

(a) to insert, in the first column, a reference to the body and, in the second column, a reference to the relevant activities, or

(b) if the body is already listed in the first column, to add a reference to the relevant activities to the corresponding entry in the second column.

(3) Sub-paragraph (4) applies where during the pre-commencement period—

(a) an Order in Council is made revoking the designation of a body as an authorised body for the purposes of section 27 of the Courts and Legal Services Act 1990,

(b) an Order in Council is made revoking the designation of a body as an authorised body for the purposes of section 28 of that Act,

(c) an order is made under paragraph 6 of Schedule 9 to that Act revoking a body's approval, or

(d) regulations prescribing a body for the purposes of section 113 of that Act are revoked.

(4) The Lord Chancellor may by order modify the Table in paragraph 1 of Schedule 4 so as to—

(a) remove any reference to the relevant activities from the entry in the second column of that Table corresponding to the entry for the body in the first column, and

(b) if there are no other activities in that entry in the second column, remove the reference to the body from the first column of that Table.

(5) An order under sub-paragraph (2) in relation to a body may—

(a) in a case within sub-paragraph (1)(a) or (b), modify Part 1 of Schedule 5 (authorised persons: continuity of rights) so as to ensure the continuity of any authority given by the body to a person to exercise rights of audience or, as the case may be, to conduct litigation;

(b) in a case within sub-paragraph (1)(c), modify Part 1 of that Schedule (authorised persons: continuity of rights) to provide for exemptions granted by a body by virtue of section 55 of the Courts and Legal Services Act 1990 (c. 41) (persons exempt from prohibition on preparation of probate papers etc) which have effect immediately before paragraph 1 of Schedule 4 comes into force to be deemed to be authorisations to carry on probate activities granted by that body at the time that paragraph comes into force;

(c) in a case within sub-paragraph (1)(d), modify Part 2 of Schedule 5, to provide during the transitional period for members of the body to be deemed to be authorised by the body to carry on the administration of oaths.

(6) An order under sub-paragraph (4) in relation to a body may—

(a) in a case within sub-paragraph (3)(a) or (b), modify Part 1 of Schedule 5 (authorised persons: continuity of rights) so as to remove provision made to ensure the continuity of any authority given by the body to a person to exercise rights of audience or, as the case may be, to conduct litigation;

(b) in a case within sub-paragraph (3)(c), modify Part 1 of that Schedule so as to remove any provision deeming persons to have been authorised by the body to carry on probate activities;

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(c) in a case within sub-paragraph (3)(d), modify Part 2 of that Schedule so as to remove any provision deeming persons to have been authorised by the body to carry on the administration of oaths.

(7) No order under this paragraph may be made after the end of the pre-commencement period.

(8) In this paragraph—

"pre-commencement period" means the period before the coming into force of paragraph 1 of Schedule 4 (including any period before the passing of this Act);

"relevant activities" means—

(a) in a case within sub-paragraph (1)(a) or (3)(a), the exercise of a right of audience;

(b) in a case within sub-paragraph (1)(b) or (3)(b), the conduct of litigation;

(c) in a case within sub-paragraph (1)(c) or (3)(c), probate activities;

(d) in a case within sub-paragraph (1)(d) or (3)(d), the administration of oaths;

"the transitional period" has the meaning given by paragraph 3 of Schedule 5.

Licensed Conveyancers

6 (1) In this paragraph the transitional period means the period which—

(a) begins with the day on which paragraph 29 of Schedule 17 (which amends Schedule 3 to the Administration of Justice Act 1985 (c. 61)) comes into force, and

(b) ends with the day on which members of the new Council are first appointed in accordance with a scheme approved by the Legal Services Board under Schedule 3 to that Act (as amended by that paragraph).

(2) During the transitional period, the Council for Licensed Conveyancers is to be constituted in accordance with Schedule 3 to that Act as it had effect immediately before paragraph 29 of Schedule 17 came into force.

(3) The term of office of persons who are members of the Council for Licensed Conveyancers by virtue of sub-paragraph (2) immediately before the end of the transitional period ends at the same time as the transitional period.

7 (1) This paragraph applies to any licence issued by the Council for Licensed Conveyancers under section 15 of the Administration of Justice Act 1985 (c. 61) which—

(a) is endorsed under section 15(7) of that Act, and

(b) is in force when paragraph 4(4) of Schedule 17 (which repeals subsections (7) and (8) of section 15 of that Act (endorsement of licences)) comes into force.

(2) Notwithstanding the repeal of those subsections, until the licence expires—

(a) the licence continues to have effect in accordance with the endorsement, and

(b) rules made under section 15(8) of that Act continue to have effect in relation to the licence.

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8 Until the repeal of paragraphs 17 and 19 of Schedule 8 to the Courts and Legal Services Act 1990 (c. 41) by Schedule 23 to this Act comes into force, those paragraphs have effect as if—

(a) in paragraph 17 (inadequate professional services: failure to comply with direction), after sub-paragraph (2) there were inserted—

"(3) In relation to proceedings before the Discipline and Appeals Committee in respect of such a complaint, the Committee may make such order as they consider fit as to the payment of costs by—

(a) the Council;

(b) the licensed conveyancer against whom the complaint was made;

(c) if the person on whose complaint the proceedings were brought was heard (in person, or through a representative) by the Committee in the course of the proceedings, that person.", and

(b) paragraph 19(b) (inadequate professional services: costs) were omitted.

Exercise of Board's functions pending appointment of Chief Executive

9 (1) Until the first Chief Executive of the Board is appointed under paragraph 13 of Schedule 1, the Board's functions under—

(a) Schedule 1,

(b) Schedule 15, and

(c) paragraph 10(8) of this Schedule,

may be exercised by the ordinary members of the Board.

(2) For that purpose "ordinary member" has the same meaning as in Schedule 1.

Commencement Information

I534 Sch. 22 para. 9 partly in force; Sch. 22 para. 9 not in force at Royal Assent see s. 211; Sch. 22 para. 9 in force for certain purposes at 7.3.2008 by S.I. 2008/222, **art. 2(m)(ii)**

PROSPECTIVE

Interim Chief Executive of the OLC

10 (1) The Lord Chancellor may appoint a person as the Interim Chief Executive of the OLC.

(2) The Interim Chief Executive is to be—

(a) appointed on terms and conditions determined by the Lord Chancellor, and

(b) paid by the Lord Chancellor in accordance with provision made by or under the terms of appointment.

(3) Appointment as the Interim Chief Executive does not confer the status of Crown servant.

(4) In this paragraph—

"the first interim period" means the period which—

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(a) begins when sub-paragraph (5) comes into force, and

(b) ends when the chairman of the Board, and at least 7 other ordinary members of the Board (within the meaning of Schedule 1), have been appointed in accordance with paragraph 1 of Schedule 1;

"the second interim period" means the period which—

(a) begins when the chairman of the Board, and at least 7 other ordinary members of the Board (within the meaning of Schedule 1), have been appointed in accordance with paragraph 1 of Schedule 1, and

(b) ends when the membership of the OLC is first constituted in accordance with paragraph 1 of Schedule 15.

(5) The Interim Chief Executive may incur expenditure and do other things in the name of and on behalf of the OLC—

(a) from the beginning of the first interim period, and

(b) after that time until the OLC determines otherwise.

(6) The things which may be done under sub-paragraph (5)—

(a) include the appointment of staff under paragraph 13 of Schedule 15 and making arrangements for assistance under paragraph 18 of that Schedule, but

(b) do not include the appointment of an ombudsman under section 122 or the making of scheme rules.

(7) During the first interim period, the Interim Chief Executive must comply with any supervisory directions given by the Lord Chancellor.

(8) During the second interim period, the Interim Chief Executive must comply with any supervisory directions given by the Board.

(9) The supervisory directions are—

(a) a direction requiring the Interim Chief Executive to provide the person giving the direction with a report on, or information relating to, such matters as are specified in the direction;

(b) a direction requiring the Interim Chief Executive to obtain the approval of the person giving the direction before incurring expenditure in such circumstances as are specified in the direction;

(c) any other direction relating to the exercise of the Interim Chief Executive's functions which the person giving the direction considers appropriate.

(10) Paragraph 34 of Schedule 15 (exemption from liability in damages) applies to the Interim Chief Executive as it applies to a member of the OLC.

1 Solicitors

11 (1) Until such time as section 59(1) of the Constitutional Reform Act 2005 (c. 4) comes into force, the reference in section 207(1), in the definition of "solicitor", to the Senior Courts is to be read as a reference to the Supreme Court.

(2) Until such time as section 59(2) of that Act (renaming of Supreme Court of Judicature of Northern Ireland as Court of Judicature of Northern Ireland) comes into force, the references in sections 8(5) and 190(5)(e), paragraph 2(4)(f) of Schedule 1, paragraphs 1(9) and 2(5) of Schedule 3 and paragraph 2(3)(e) of Schedule 15 to the Court of Judicature of Northern Ireland are to be read as references to the Supreme Court of Judicature of Northern Ireland.

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Commencement Information

I535 Sch. 22 para. 11 partly in force: Sch. 22 para. 11 not in force at Royal Assent see s. 211; Sch. 22 para. 11(1) in force at 31.3.2009 by S.I. 2009/503, **art. 2(e)**

Solicitors Act 1974 (c. 47)

PROSPECTIVE

12 (1) During the transitional period, the reference to an authorised person in section 1A(d) of the Solicitors Act 1974 (practising certificates: employed solicitors) is to be read as a reference to a person listed in paragraph 15(1), other than a person listed in paragraph (b) or (c) of that paragraph.

(2) For this purpose "the transitional period" means the period which—

(a) begins with the day on which section 1A(d) of the Solicitors Act 1974 (as inserted by Schedule 16) comes into force, and

(b) ends with the day appointed for the coming into force of section 13 (entitlement to carry on a reserved legal activity).

13 (1) During the transitional period, section 44B of the Solicitors Act 1974 (provision of information and documents by solicitors etc) has effect as if the list of persons in subsection (2) of that section included a legal partnership (within the meaning of paragraph 7 of Schedule 5).

(2) For this purpose "the transitional period" means the period which—

(a) begins with the day on which section 44B of the Solicitors Act 1974 (as substituted by Schedule 16) comes into force, and

(b) ends with the day appointed for the coming into force of section 13 (entitlement to carry on a reserved legal activity).

14 (1) During the transitional period, section 69 of the Solicitors Act 1974 (action to recover solicitor's costs) has effect as if—

(a) after subsection (2A)(a) of that section there were inserted—

"(aa) in a case where the costs are due to a firm, signed by a partner of the firm, either in his own name or in the name of the firm, or on his behalf by any employee of the firm authorised by him to sign, or", and

(b) in subsection (2A)(b), after "paragraph (a)" there were inserted " or (aa) ".

(2) For this purpose "the transitional period" means the period which—

(a) begins with the day on which subsections (2) to (2F) of that section (as substituted by Schedule 16) come into force, and

(b) ends with the day appointed for the coming into force of section 13 (entitlement to carry on a reserved legal activity).

(3) This paragraph does not apply in relation to section 69 of the Solicitors Act 1974 as it has effect by virtue of paragraph 29 of Schedule 2 to the Administration of Justice Act 1985.

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Recognised bodies

15 (1) During the transitional period, any reference in sections 9, 9A or 32A of, or Schedule 2 or 6 to, the Administration of Justice Act 1985 (c. 61) (recognition of legal services bodies and conveyancing services bodies) to an authorised person is to be read as a reference to—

(a) a person who has in force a certificate issued by the General Council of the Bar authorising the person to practise as a barrister,

(b) a person who is qualified under section 1 of the Solicitors Act 1974 (c. 47) to act as a solicitor,

(c) a recognised body under section 9 of the Administration of Justice Act 1985,

(d) a registered European lawyer (within the meaning of the European Communities (Lawyer's Practice) Regulations 2000 (S.I. 2000/1119)),

(e) a person who has in force a certificate issued by the Institute of Legal Executives authorising the person to practise as a legal executive,

(f) licensed conveyancers (within the meaning of section 11(2) of the Administration of Justice Act 1985),

(g) a recognised body under section 32 of that Act,

(h) a duly certificated notary (within the meaning of paragraph 12(4) of Schedule 5),

(i) a person who (having regard to section 15) carries on notarial activities through an employee or manager of the person who is within paragraph (h),

(j) a registered patent attorney within the meaning given by section 275(1) of the Copyright, Designs and Patents Act 1988 (c. 48),

(k) a patent attorney body (within the meaning of paragraph 14(7) of Schedule 5),

(l) a registered trade mark attorney within the meaning of the Trade Marks Act 1994 (c. 26),

(m) a trade mark attorney body (within the meaning of paragraph 16(7) of Schedule 5),

(n) an authorised member of the Association of Law Costs Draftsmen (within the meaning of paragraph 17(2) of Schedule 5), or

(o) a person who (having regard to section 15) carries on an activity which is a reserved legal activity within paragraph 18(2) of Schedule 5 through an employee or manager of the person who is within paragraph (n).

(2) After the end of the transitional period, any reference in section 9, 9A or 32A of, or Schedule 2 or 6 to, the Administration of Justice Act 1985 (c. 61) to an authorised person includes a person who is an exempt person—

(a) by virtue of paragraph 13 of Schedule 5, in relation to the carrying on of an activity which is a notarial activity, or

(b) by virtue of paragraph 18 of that Schedule, in relation to the carrying on of an activity which is a reserved legal activity within sub-paragraph (2) of that paragraph.

(3) For this purpose "the transitional period" means the period which—

(a) begins with the day on which sections 9, 9A, 32 and 32A of the Administration of Justice Act 1985 (as amended and substituted by Schedules 16 and 17) come into force, and

(b) ends with the day appointed for the coming into force of section 13 (entitlement to carry on a reserved legal activity).

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Commencement Information

I536 Sch. 22 para. 15 wholly in force at 31.3.2009 see s. 211 and S.I. 2009/503, **art. 2(c)(i)** (subject to art. 5)

16 (1) During the transitional period (within the meaning of paragraph 15), the Law Society may make rules to which this sub-paragraph applies only with the concurrence of the Lord Chancellor (as well as the Master of the Rolls).

(2) Sub-paragraph (1) applies to —

(a) rules made under section 9 of the Administration of Justice Act 1985 by virtue of subsections (1A), (1C), (2F), (2G) or (2I) of that section or section 9A of that Act, and

(b) any other rules made under section 9 of that Act, in so far as they apply in relation to bodies which have one or more managers who are not legally qualified (within the meaning of section 9A of that Act), or managers or employees of such bodies.

17 (1) During the relevant period, the legal professional privilege provisions apply to a body which—

(a) is recognised under section 9 of the 1985 Act, and

(b) has one or more managers who are not legally qualified (within the meaning of section 9A of that Act),

as if the body were a licensed body.

(2) Sub-paragraph (1) applies whether or not the legal professional privilege provisions have been brought into force for other purposes.

(3) The relevant period is the period which—

(a) begins when section 9A of the 1985 Act comes into force, and

(b) ends when paragraph 7 of Schedule 5 ceases to apply in relation to the body.

(4) The legal professional privilege provisions are—

(a) paragraph 36(4) of Schedule 2 to the 1985 Act (as inserted by Schedule 16 to this Act), and

(b) section 190(3) to (7) of this Act.

(5) During the transitional period (within the meaning of paragraph 15), section 190(5)(h) (as it applies by virtue of this paragraph) applies as if for "an authorised person in relation to an activity which is a reserved legal activity" there were substituted " within paragraph 15(1) of Schedule 22 ".

(6) "The 1985 Act" means the Administration of Justice Act 1985.

Functions transferred to the Lord Chancellor

18 (1) This paragraph applies where, by virtue of an amendment made to an enactment by this Act, a function of the Secretary of State is transferred to the Lord Chancellor.

(2) In this paragraph such a function is referred to as a "transferred function".

(3) Any subordinate legislation made by the Secretary of State in exercise of a transferred function is to have effect as if made or done by the Lord Chancellor.

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(4) So far as is appropriate in consequence of the transfer, anything else done by the Secretary of State in exercise of a transferred function is to be treated as if done by the Lord Chancellor.

SCHEDULE 23

Section 210

REPEALS

Commencement Information

I537 Sch. 23 partly in force: Sch. 23 not in force at Royal Assent see s. 211; Sch. 23 in force for certain purposes at 7.3.2008 by S.I. 2008/222, **art. 2(n)**; Sch. 23 in force for certain further purposes at 30.6.2008 and 1.10.2008 by S.I. 2008/1436, **arts. 2(g)**, **3(c)**; Sch. 23 in force for certain further purposes at 31.3.2009 by S.I. 2009/503, **art. 2(f)**; Sch. 23 in force for certain further purposes at 1.7.2009 by S.I. 2009/1365, **art. 2(c)**; Sch. 23 in force for certain further purposes at 1.1.2010 by S.I. 2009/3250, **art. 2(h)** (subject to art. 6 and with art. 9)

I538 Sch. 23 in force at 6.10.2010 for specified purposes by S.I. 2010/2089, **art. 2(e)**

I539 Sch. 23 in force at 1.1.2011 for specified purposes by S.I. 2010/2089, **art. 3(b)**

I540 Sch. 23 in force at 1.10.2011 for specified purposes by S.I. 2011/2196, **art. 2(1)(h)**

I541 Sch. 23 in force at 31.12.2011 for specified purposes by S.I. 2010/2089, **art. 4(b)**

Short title and chapter	*Extent of repeal*
Public Notaries Act 1801 (c. 79)	In section 1, ", or use and exercise the office of a notary, or do any notarial act,". In section 14, from "proctor" to "any other".
Public Notaries Act 1843 (c. 90)	Section 10.
Commissioners for Oaths Act 1889 (c. 10)	In section 1(3), from "in which" (in the first place) to "solicitor, or".
Children and Young Persons Act 1933 (c. 12)	In section 49(11), the definition of "legal representative".
Public Records Act 1958 (c. 51)	In Schedule 1, "The Legal Services Ombudsman."
Parliamentary Commissioner Act 1967 (c. 13)	In Schedule 2, "Authorised Conveyancing Practitioners Board." and "The Legal Services Complaints Commissioner."
Superannuation Act 1972 (c. 11)	In Schedule 1, "Employment by the Legal Services Ombudsman" and "The office of the Legal Services Ombudsman".
Poisons Act 1972 (c. 66)	In section 9(7), "notwithstanding that he is not of counsel or a solicitor".
Solicitors Act 1974 (c. 47)	In section 1A— (a) "or" at the end of paragraph (b), and (b) in paragraph (c) "by the Council of the Law Society". In section 2—

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(a) in subsection (1), ", with the concurrence of the Secretary of State, the Lord Chief Justice and the Master of the Rolls,",
(b) in subsection (3)(a)(i), ", whether by service under articles or otherwise,",
(c) in subsection (3)(a)(v), "articles may be discharged or", and
(d) subsections (4) and (5).

Section 6(2) to (4).
Section 8(5).
Section 12.
Section 12A.
Section 14.
In section 17(1) and (2), "in the London Gazette".
Section 19.
Sections 22 to 23.
In section 26, ", 22 or 23".
Section 27.
In section 28—
(a) in subsection (1), ", with the concurrence of the Secretary of State and the Lord Chief Justice,",
(b) in subsection (1)(c), "and applications for them",
(c) subsections (2) and (3),
(d) in subsection (3A), the "and" at the end of paragraph (b), and
(e) subsections (4) and (5).

In section 31—
(a) in subsection (1) ", with the concurrence of the Master of the Rolls,", and
(b) subsections (3) and (4).

In section 32(1)—
(a) ", with the concurrence of the Master of the Rolls,", and
(b) from "and the rules" to the end.

Section 32(2).
In section 32(4) "or (2)".
Section 32(6).
In section 33(2), "and the rules" to the end.
In section 33A(1) ", with the concurrence of the Master of the Rolls,".
Section 34(7) and (8).
Section 37A.
Section 40.
Section 41(5).
In section 43(5)—
(a) "by any solicitor", and
(b) from "but" to the end.

Section 46(6) to (8).

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	In section 46(9) ", with the concurrence of the Master of the Rolls,". In section 47— (a) in subsection (2)(c), "not exceeding £5,000", and (b) subsections (4) and (5). In section 48(2)(b) "in the London Gazette". In section 49(4) "and the Master of the Rolls". Section 49(7). Section 70(11). Sections 76 to 78. Section 80(2). Sections 81 and 81A. In section 87(1) the definitions of— (a) "articles", (b) "controlled trust", (c) "duly certificated notary public", (d) "employee", (e) "indemnity conditions", (f) "replacement date", and (g) "training conditions". Section 89(7). In Schedule 1— (a) in paragraph 1(1)(h), "sole", and (b) paragraph 1(2). Schedule 1A. Schedule 2. In Schedule 3, paragraph 9.
House of Commons Disqualification Act 1975 (c. 24)	In Part 2 of Schedule 1, "The Authorised Conveyancing Practitioners Board." In Part 3 of Schedule 1, "The Legal Services Complaints Commissioner." and "The Legal Services Ombudsman."
Northern Ireland Assembly Disqualification Act 1975 (c. 25)	In Part 2 of Schedule 1, "The Authorised Conveyancing Practitioners Board." In Part 3 of Schedule 1, "The Legal Services Complaints Commissioner." and "The Legal Services Ombudsman."
Race Relations Act 1976 (c. 74)	In Schedule 1A, in Part 2, "The Legal Services Consultative Panel."
Patents Act 1977 (c. 37)	Section 102A.
Solicitors (Scotland) Act 1980 (c. 46)	Section 3A(5)(a) and (ad). Section 15(2)(j). In section 20(2) ", 53A(2)(ba)". Section 24C(2)(i). Section 34(4), (4C) and (4D). Sections 38, 39, 42A and 42B. In section 42C(1)— (a) paragraphs (a) and (c),

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	(b) "to the solicitor or his firm or", and (c) "or, where" to the end. In section 42C(2)(a) and (b) "solicitor, firm or" (in each place). In section 42C(3)— (a) in paragraph (a) "the solicitor or his firm or, as the case may be,", and (b) in paragraph (b) from "of which the solicitor" to "be,". In section 42C(4) "38," (in each place). Section 42C(5). In section 51(2)— (a) "a solicitor may have been guilty" to "Fund) or", and (b) "or a solicitor" to "services". Section 51(2A). In section 52(2)(aa) "42A(7) or". Section 53(3), (10) and (11). Sections 53A, 53B and 53C. Section 54(1), (2B) and (2C). Section 55(8). Section 56A. In section 62A(1) and (2) "38," (in each place). In section 65— (a) in subsection (1), the definition of "inadequate professional services", and (b) subsection (5). In Schedule 3, in Part 2, in paragraph 5(1), (2) and (3) "38," (in each place). In Schedule 4, in Part 2— (a) in paragraph 9(a) and (b) "or, as the case may be, of provision of inadequate professional services" (in each place), (b) paragraph 16(f) and (g), and (c) in paragraph 23 ", 42A(7)". In the side-note to section 62A "38,".
Mental Health Act 1983 (c. 20)	In Schedule 4, paragraph 38(a).
County Courts Act 1984 (c. 28)	In Schedule 2, paragraph 49.
Prosecution of Offences Act 1985 (c. 23)	Section 4(6).
Administration of Justice Act 1985 (c. 61)	Section 2. Section 4. Sections 6 and 7. In section 9— (a) in subsection (1)(c) "corporate", (b) subsection (4), (c) in subsection (5) "corporate", (d) in subsection (8) the definition of "officer", and in the definition of "recognised body", "corporate", and (e) subsection (9).

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In section 10—
(a) in subsection (1) "corporate" (in both places), and
(b) in subsection (2) "corporate".

Section 11(4).

Section 12(2).

Section 15(7) and (8).

In section 20(1) ", in pursuance of its general duty referred to in section 12(2),".

In section 22(3)(a) "qualified".

In section 24—
(a) in subsection (1), paragraph (b) and the "or" immediately preceding it,
(b) in that subsection the words from "with a view" to the end,
(c) subsection (2),
(d) in subsection (3), "or (2)", "or complaint" (in both places) and "or paragraph (b)", and
(e) in subsection (5), "or complaint" (in both places).

Section 26(2)(g), (5) and (6).

In section 29(1), "or" at the end of paragraph (b).

In section 31—
(a) in subsection (2), "or complaint" (in each place) and "or paragraph (b)", and
(b) in subsection (4), "or complaint".

In section 32—
(a) in subsection (2) "corporate",
(b) subsection (3)(d),
(c) in subsection (3)(e) "corporate",
(d) subsections (4) and (5), and
(e) in subsection (6)(a) "corporate".

Section 34(2)(c) to (e).

In section 35(2), "corporate".

Section 38(1).

In section 39(1)—
(a) in the definition of "client", in paragraph (a) "or his firm",
(b) the definitions of "director" and "officer", and
(c) in the definition of "recognised body", "corporate".

In Schedule 1 paragraphs 5, 8(3), 9 and 14.

In Schedule 2—
(a) in paragraph 1(1) "corporate",
(b) in paragraph 1(2)—
(i) paragraph (b) and the "or" immediately preceding it,
(ii) "corporate", and
(iii) "or application",
(d) paragraph 1(3),

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	(e) in paragraph 1(4) from ", and for those purposes" to the end, (f) paragraph 4(2), (g) paragraphs 11, 12 and 13, (h) in paragraph 16(1), in paragraph (a) "in the United Kingdom", (i) in paragraph 17(a) "11(1), 15(2) or" and "13(3) or", (j) paragraph 18(1)(d) and the "or" immediately preceding it, (k) in paragraph 18(2) "not exceeding £3,000", (l) paragraph 18(3) and (4), (m) paragraph 20(2), (n) in paragraph 31 "or (2)", (o) paragraph 32(2), (p) in paragraph 34(1), "corporate" (in both places), and (q) in paragraph 35, in paragraph (a) "corporate" and the "and" at the end of paragraph (b). In Schedule 3, paragraphs 2(3) and 3. In Schedule 4, paragraphs 1(3) and (4) and 3. In Schedule 5, paragraph 1(2). In Schedule 6— (a) in paragraph 1 "corporate" (in both places), and in sub-paragraph (2) "or complaint" (in both places) and "or (b)", (b) in paragraph 3(1), in paragraph (a)(i) "by any court in the United Kingdom", paragraph (b), and from "with a view" to the end, (c) paragraph 3(2), (d) paragraph 4(2)(c), (e) paragraph 4(3), (3A) and (4), (f) in paragraph 7(1) and (2) "corporate", (g) in paragraph 8(1), "corporate", (h) paragraph 9(2), (i) paragraph 10(2), (j) in paragraph 12(1), "corporate" (in both places), (k) in paragraph 13, in paragraph (a) "corporate", and the "and" at the end of paragraph (b), (l) paragraph 15. In Schedule 9, paragraphs 2, 4 and 6.
Insolvency Act 1985 (c. 65)	In Schedule 8, paragraph 25.
Social Security Act 1986 (c. 50)	In section 56(1), "although not a barrister or solicitor".
Building Societies Act 1986 (c. 53)	In Schedule 18, paragraph 11(2) and (3).

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Copyright, Designs and Patents Act 1988 (c. 48)	Section 279. In section 280— (a) in subsection (3) "or" at the end of paragraph (b), and (b) subsection (4). Section 292.
Law of Property (Miscellaneous Provisions) Act 1989 (c. 34)	In Schedule 1, paragraph 8.
Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40)	Section 33.
Courts and Legal Services Act 1990 (c. 41)	Sections 17, 18 and 18A. Sections 21 to 29. Sections 31 and 31A. Sections 34 to 52. In section 53— (a) subsection (5), and (b) subsection (9)(e). Sections 54 and 55. Section 63. Sections 68 to 70. Section 73(5)(d). Section 86 to 88. Section 90. Section 93. Section 94(1) and (2). Section 96. Section 113. In section 119(1), the definitions of— (a) "authorised advocate", (b) "authorised body" and "appropriate authorised body", (c) "authorised litigator", (d) "authorised practitioner", (e) "Consultative Panel", (f) "duly certificated notary public", (g) "the general principle", (h) "qualified person", and (i) "the statutory objective". In section 120— (a) in subsection (4), "26(1), 37(10), 40(1)", and from "paragraph 24" to "Schedule 9", and (b) subsection (5). Schedules 3 to 7. In Schedule 8, paragraphs 7, 11, 13 to 20, 21(1)(b) and 23. Schedule 9. In Schedule 10, paragraph 64. In Schedule 14— (a) in paragraph 1, the definitions of "controlled trust" and "the Council",

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	(b) paragraph 2(3) and (5), (c) in paragraph 5— (i) in sub-paragraph (3)(a) and (b), "by virtue of his being a member of that partnership", and (ii) sub-paragraph (4), (c) paragraph 14(2), (d) in paragraph 14(3) "to him", (e) in paragraph 15, in sub-paragraph (4) (c) "not exceeding £5,000", and sub-paragraph (5), (f) in paragraph 17(2), "and the Master of the Rolls", and (g) paragraph 17(4). Schedule 15. In Schedule 17, paragraphs 4, 8, 10 and 20. In Schedule 18— (a) in paragraph 1(1), " "The Authorised Conveyancing Practitioners Board"" and " "The Conveyancing Ombudsman"", (b) paragraph 1(2), and (c) paragraphs 9 to 12, 18, 20 and 56.
Environmental Protection Act 1990 (c. 43)	In section 114(4), ", although not of counsel or a solicitor,".
Friendly Societies Act 1992 (c. 40)	In Schedule 21, paragraph 5.
Trade Union and Labour Relations (Consolidation) Act 1992 (c. 52)	In section 194(2), ", although not of counsel or a solicitor,".
Statute Law (Repeals) Act 1993 (c. 50)	In Schedule 2, paragraph 3.
Trade Marks Act 1994 (c. 26)	Section 85. In Schedule 4, paragraph 5.
Agricultural Tenancies Act 1995 (c. 8)	Section 35.
Environment Act 1995 (c. 25)	In section 54, "although not of counsel or a solicitor".
Bank of England Act 1998 (c. 11)	Section 41(4). In Schedule 5, paragraph 67.
National Minimum Wage Act 1998 (c. 39)	Section 33(1)(a).
Access to Justice Act 1999 (c. 22)	Sections 35(2) to (4), 36, 37 and 40 to 42. In section 44(1), "is employed by". In section 46— (a) subsection (2)(b) and the word "but" immediately preceding it, and (b) subsections (3) to (6). Section 47. Sections 49 to 52. In Schedule 4, paragraph 46. Schedule 5.

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	In Schedule 6, paragraphs 1 to 3, 5 to 8 and 11. In Schedule 7, paragraphs 7(2)(a) and 10 to 12. Schedule 8. In Schedule 14, paragraph 14.
Immigration and Asylum Act 1999 (c. 33)	In section 86— (a) subsections (1)(a), (d) and (e), (b) subsection (4)(b), (c) in subsection 5(a), "England and Wales or", and (d) subsection (6)(a). In Schedule 5— (a) paragraph 3(6)(b), (b) paragraph 4(2)(b), (c) in paragraph 4(3)(a) "England and Wales or", and (d) paragraph 4(4)(a).
Trustee Act 2000 (c. 29)	In Schedule 2, paragraph 37.
Freedom of Information Act 2000 (c. 36)	In Part 6 of Schedule 1— (a) "The Authorised Conveyancing Practitioners Board.", (b) "The Legal Services Complaints Commissioner.", (c) "The Legal Services Consultative Panel.", and (d) "The Legal Services Ombudsman."
Enterprise Act 2002 (c. 40)	In Schedule 25, paragraph 23(2) to (6) and (10).
Pensions Act 2004 (c. 35)	In Schedule 4, paragraph 21.
Constitutional Reform Act 2005 (c. 4)	In Schedule 4, paragraphs 92 and 202. [F197]In Schedule 11, paragraphs . . . 21(3) and 23(2) and (3).
Mental Capacity Act 2005 (c. 9)	In Schedule 6, paragraph 22(2).
Serious Organised Crime and Police Act 2005 (c. 15)	In Part 3 of Schedule 7, paragraph 42(2).
Natural Environment and Rural Communities Act 2006 (c. 16)	In section 12(2) "even though he is not a barrister or solicitor".
Compensation Act 2006 (c. 29)	Section 5(3), (4)(c) and (5). Section 15(6).
National Health Service Act 2006 (c. 41)	In section 194(4), ", although he is not a barrister or solicitor,".
National Health Service (Wales) Act 2006 (c. 42)	In section 142(4), ", although he is not a barrister or solicitor,".
Legal Profession and Legal Aid (Scotland) Act 2007 (asp 5)	Section 77.

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Textual Amendments

F197 Words in Sch. 23 repealed (12.11.2009) by Coroners and Justice Act 2009 (c. 25), ss. 177, 178, 182(1)(j)(v), Sch. 21 para. 97, **Sch. 23 Pt. 9**

SCHEDULE 24

Section 213

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[F199CMA	section 207]
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[F198conveyancing services body	paragraph 11 of Schedule 5]
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Textual Amendments

F198 Words in Sch. 24 inserted (29.6.2015) by Deregulation Act 2015 (c. 20), s. 115(6)(b), **Sch. 19 para. 17**; S.I. 2015/1402, art. 2(b)

F199 Words in Sch. 24 inserted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 123(a)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)

F200 Words in Sch. 24 omitted (1.4.2014) by virtue of Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 123(b)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)

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Changes and effects yet to be applied to :

- s. 60(9) words inserted by 2024 c. 13 Sch. 30 para. 31(a)
- s. 60(9) words substituted by 2024 c. 13 Sch. 30 para. 31(b)
- s. 111(2) modified by S.I. 2019/375 Sch. para. 13(3) (This amendment not applied to legislation.gov.uk. S.I. 2019/375 revoked (24.11.2020) before it comes into force by S.I. 2020/1342, regs. 1(2), 3(c))
- s. 111(2)(d) words substituted by S.I. 2019/375 Sch. para. 13(2)(b) (This amendment not applied to legislation.gov.uk. S.I. 2019/375 revoked (24.11.2020) before it comes into force by S.I. 2020/1342, regs. 1(2), 3(c))
- s. 111(3) omitted by S.I. 2019/375 Sch. para. 13(2)(c) (This amendment not applied to legislation.gov.uk. S.I. 2019/375 revoked (24.11.2020) before it comes into force by S.I. 2020/1342, regs. 1(2), 3(c))
- s. 190(5) modified by S.I. 2019/375 Sch. para. 13(5) (This amendment not applied to legislation.gov.uk. S.I. 2019/375 revoked (24.11.2020) before it comes into force by S.I. 2020/1342, regs. 1(2), 3(c))
- s. 190(5) modified by S.I. 2019/375, Sch. para. 13(5) (as substituted) by S.I. 2019/695 reg. 3(12)(m)(ii) (This amendment not applied to legislation.gov.uk. S.I. 2019/695 revoked (24.11.2020) before it comes into force by S.I. 2020/1342, regs. 1(2), 3(d))
- s. 190(5) word inserted by S.I. 2019/375 Sch. para. 13(4)(a) (This amendment not applied to legislation.gov.uk. S.I. 2019/375 revoked (24.11.2020) before it comes into force by S.I. 2020/1342, regs. 1(2), 3(c))
- s. 190(5) words inserted by S.I. 2019/375, Sch. para. 13(4) (as substituted) by S.I. 2019/695 reg. 3(12)(m)(i) (This amendment not applied to legislation.gov.uk. S.I. 2019/695 revoked (24.11.2020) before it comes into force by S.I. 2020/1342, regs. 1(2), 3(d))
- s. 190(5)(i) and word omitted by S.I. 2019/375 Sch. para. 13(4)(b) (This amendment not applied to legislation.gov.uk. S.I. 2019/375 revoked (24.11.2020) before it comes into force by S.I. 2020/1342, regs. 1(2), 3(c))
- Sch. 3 para. 7 omitted by S.I. 2019/375 Sch. para. 13(6) (This amendment not applied to legislation.gov.uk. S.I. 2019/375 revoked (24.11.2020) before it comes into force by S.I. 2020/1342, regs. 1(2), 3(c))
- Sch. 3 para. 7 words inserted by S.I. 2019/375, Sch. para. 13(6)(a) (as substituted) by S.I. 2019/695 reg. 3(12)(m)(iii) (This amendment not applied to legislation.gov.uk. S.I. 2019/695 revoked (24.11.2020) before it comes into force by S.I. 2020/1342, regs. 1(2), 3(d))
- Sch. 3 para. 7 words inserted by S.I. 2019/375, Sch. para. 13(6)(b) (as substituted) by S.I. 2019/695 reg. 3(12)(m)(iii) (This amendment not applied to legislation.gov.uk. S.I. 2019/695 revoked (24.11.2020) before it comes into force by S.I. 2020/1342, regs. 1(2), 3(d))
- Sch. 5 para. 5 modified by S.I. 2019/375 Sch. para. 13(7)(b) (This amendment not applied to legislation.gov.uk. S.I. 2019/375 revoked (24.11.2020) before it comes into force by S.I. 2020/1342, regs. 1(2), 3(c))
- Sch. 5 para. 7(4) modified by S.I. 2019/375 Sch. para. 13(7)(d) (This amendment not applied to legislation.gov.uk. S.I. 2019/375 revoked (24.11.2020) before it comes into force by S.I. 2020/1342, regs. 1(2), 3(c))

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- Sch. 5 para. 8 modified by S.I. 2019/375 Sch. para. 13(7)(f) (This amendment not applied to legislation.gov.uk. S.I. 2019/375 revoked (24.11.2020) before it comes into force by S.I. 2020/1342, regs. 1(2), 3(c))
- Sch. 5 para. 5 modified by S.I. 2019/375, Sch. para. 13(7)(b) (as substituted) by S.I. 2019/695 reg. 3(12)(m)(iv) (This amendment not applied to legislation.gov.uk. S.I. 2019/695 revoked (24.11.2020) before it comes into force by S.I. 2020/1342, regs. 1(2), 3(d))
- Sch. 5 para. 7(4) modified by S.I. 2019/375, Sch. para. 13(7)(d) (as substituted) by S.I. 2019/695 reg. 3(12)(m)(iv) (This amendment not applied to legislation.gov.uk. S.I. 2019/695 revoked (24.11.2020) before it comes into force by S.I. 2020/1342, regs. 1(2), 3(d))
- Sch. 5 para. 8 modified by S.I. 2019/375, Sch. para. 13(7)(f) (as substituted) by S.I. 2019/695 reg. 3(12)(m)(iv) (This amendment not applied to legislation.gov.uk. S.I. 2019/695 revoked (24.11.2020) before it comes into force by S.I. 2020/1342, regs. 1(2), 3(d))
- Sch. 5 para. 5 omitted by S.I. 2019/375 Sch. para. 13(7)(a) (This amendment not applied to legislation.gov.uk. S.I. 2019/375 revoked (24.11.2020) before it comes into force by S.I. 2020/1342, regs. 1(2), 3(c))
- Sch. 5 para. 8 omitted by S.I. 2019/375 Sch. para. 13(7)(e) (This amendment not applied to legislation.gov.uk. S.I. 2019/375 revoked (24.11.2020) before it comes into force by S.I. 2020/1342, regs. 1(2), 3(c))
- Sch. 5 para. 5(3) words inserted by S.I. 2019/375, Sch. para. 13(7)(a)(ii)(aa) (as substituted) by S.I. 2019/695 reg. 3(12)(m)(iv) (This amendment not applied to legislation.gov.uk. S.I. 2019/695 revoked (24.11.2020) before it comes into force by S.I. 2020/1342, regs. 1(2), 3(d))
- Sch. 5 para. 7(4) words inserted by S.I. 2019/375, Sch. para. 13(7)(c) (as substituted) by S.I. 2019/695 reg. 3(12)(m)(iv) (This amendment not applied to legislation.gov.uk. S.I. 2019/695 revoked (24.11.2020) before it comes into force by S.I. 2020/1342, regs. 1(2), 3(d))
- Sch. 5 para. 8(3) words inserted by S.I. 2019/375, Sch. para. 13(7)(e)(ii)(aa) (as substituted) by S.I. 2019/695 reg. 3(12)(m)(iv) (This amendment not applied to legislation.gov.uk. S.I. 2019/695 revoked (24.11.2020) before it comes into force by S.I. 2020/1342, regs. 1(2), 3(d))
- Sch. 5 para. 7(4) words omitted by S.I. 2019/375 Sch. para. 13(7)(c)(i) (This amendment not applied to legislation.gov.uk. S.I. 2019/375 revoked (24.11.2020) before it comes into force by S.I. 2020/1342, regs. 1(2), 3(c))
- Sch. 5 para. 7(4) words omitted by S.I. 2019/375 Sch. para. 13(7)(c)(ii) (This amendment not applied to legislation.gov.uk. S.I. 2019/375 revoked (24.11.2020) before it comes into force by S.I. 2020/1342, regs. 1(2), 3(c))
- Sch. 5 para. 5(1)(b) words substituted by S.I. 2019/375, Sch. para. 13(7)(a)(i) (as substituted) by S.I. 2019/695 reg. 3(12)(m)(iv) (This amendment not applied to legislation.gov.uk. S.I. 2019/695 revoked (24.11.2020) before it comes into force by S.I. 2020/1342, regs. 1(2), 3(d))
- Sch. 5 para. 5(3) words substituted by S.I. 2019/375, Sch. para. 13(7)(a)(ii)(bb) (as substituted) by S.I. 2019/695 reg. 3(12)(m)(iv) (This amendment not applied to legislation.gov.uk. S.I. 2019/695 revoked (24.11.2020) before it comes into force by S.I. 2020/1342, regs. 1(2), 3(d))
- Sch. 5 para. 8(1)(b) words substituted by S.I. 2019/375, Sch. para. 13(7)(e)(i) (as substituted) by S.I. 2019/695 reg. 3(12)(m)(iv) (This amendment not applied to legislation.gov.uk. S.I. 2019/695 revoked (24.11.2020) before it comes into force by S.I. 2020/1342, regs. 1(2), 3(d))
- Sch. 5 para. 8(3) words substituted by S.I. 2019/375, Sch. para. 13(7)(e)(ii)(bb) (as substituted) by S.I. 2019/695 reg. 3(12)(m)(iv) (This amendment not applied to legislation.gov.uk. S.I. 2019/695 revoked (24.11.2020) before it comes into force by S.I. 2020/1342, regs. 1(2), 3(d))
- Sch. 18 para. 20 modified by S.I. 2019/375 Sch. para. 13(8)(b) (This amendment not applied to legislation.gov.uk. S.I. 2019/375 revoked (24.11.2020) before it comes into force by S.I. 2020/1342, regs. 1(2), 3(c))

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- Sch. 18 para. 22 modified by S.I. 2019/375 Sch. para. 13(8)(d) (This amendment not applied to legislation.gov.uk. S.I. 2019/375 revoked (24.11.2020) before it comes into force by S.I. 2020/1342, regs. 1(2), 3(c))
- Sch. 18 para. 20 modified by S.I. 2019/375, Sch. para. 13(8)(b) (as substituted) by S.I. 2019/695 reg. 3(12)(m)(v) (This amendment not applied to legislation.gov.uk. S.I. 2019/695 revoked (24.11.2020) before it comes into force by S.I. 2020/1342, regs. 1(2), 3(d))
- Sch. 18 para. 22 modified by S.I. 2019/375, Sch. para. 13(8)(d) (as substituted) by S.I. 2019/695 reg. 3(12)(m)(v) (This amendment not applied to legislation.gov.uk. S.I. 2019/695 revoked (24.11.2020) before it comes into force by S.I. 2020/1342, regs. 1(2), 3(d))
- Sch. 18 para. 20 omitted by S.I. 2019/375 Sch. para. 13(8)(a) (This amendment not applied to legislation.gov.uk. S.I. 2019/375 revoked (24.11.2020) before it comes into force by S.I. 2020/1342, regs. 1(2), 3(c))
- Sch. 18 para. 22 omitted by S.I. 2019/375 Sch. para. 13(8)(c) (This amendment not applied to legislation.gov.uk. S.I. 2019/375 revoked (24.11.2020) before it comes into force by S.I. 2020/1342, regs. 1(2), 3(c))
- Sch. 18 para. 20(3) words inserted by S.I. 2019/375, Sch. para. 13(8)(a)(ii)(aa) (as substituted) by S.I. 2019/695 reg. 3(12)(m)(v) (This amendment not applied to legislation.gov.uk. S.I. 2019/695 revoked (24.11.2020) before it comes into force by S.I. 2020/1342, regs. 1(2), 3(d))
- Sch. 18 para. 22(3) words inserted by S.I. 2019/375, Sch. para. 13(8)(c)(ii)(aa) (as substituted) by S.I. 2019/695 reg. 3(12)(m)(v) (This amendment not applied to legislation.gov.uk. S.I. 2019/695 revoked (24.11.2020) before it comes into force by S.I. 2020/1342, regs. 1(2), 3(d))
- Sch. 18 para. 20(1) words substituted by S.I. 2019/375, Sch. para. 13(8)(a)(i) (as substituted) by S.I. 2019/695 reg. 3(12)(m)(v) (This amendment not applied to legislation.gov.uk. S.I. 2019/695 revoked (24.11.2020) before it comes into force by S.I. 2020/1342, regs. 1(2), 3(d))
- Sch. 18 para. 20(3) words substituted by S.I. 2019/375, Sch. para. 13(8)(a)(ii)(bb) (as substituted) by S.I. 2019/695 reg. 3(12)(m)(v) (This amendment not applied to legislation.gov.uk. S.I. 2019/695 revoked (24.11.2020) before it comes into force by S.I. 2020/1342, regs. 1(2), 3(d))
- Sch. 18 para. 22(1) words substituted by S.I. 2019/375, Sch. para. 13(8)(c)(i) (as substituted) by S.I. 2019/695 reg. 3(12)(m)(v) (This amendment not applied to legislation.gov.uk. S.I. 2019/695 revoked (24.11.2020) before it comes into force by S.I. 2020/1342, regs. 1(2), 3(d))
- Sch. 18 para. 22(3) words substituted by S.I. 2019/375, Sch. para. 13(8)(c)(ii)(bb) (as substituted) by S.I. 2019/695 reg. 3(12)(m)(v) (This amendment not applied to legislation.gov.uk. S.I. 2019/695 revoked (24.11.2020) before it comes into force by S.I. 2020/1342, regs. 1(2), 3(d))
- Sch. 21 para. 73 repealed by 2008 c. 4 Sch. 28 Pt. 8
- Sch. 22 para. 15(1)(d) modified by S.I. 2019/375 Sch. para. 13(9)(b) (This amendment not applied to legislation.gov.uk. S.I. 2019/375 revoked (24.11.2020) before it comes into force by S.I. 2020/1342, regs. 1(2), 3(c))
- Sch. 22 para. 15(1)(d) modified by S.I. 2019/375, Sch. para. 13(9)(b) (as substituted) by S.I. 2019/695 reg. 3(12)(m)(vi) (This amendment not applied to legislation.gov.uk. S.I. 2019/695 revoked (24.11.2020) before it comes into force by S.I. 2020/1342, regs. 1(2), 3(d))
- Sch. 22 para. 15(1)(d) omitted by S.I. 2019/375 Sch. para. 13(9)(a) (This amendment not applied to legislation.gov.uk. S.I. 2019/375 revoked (24.11.2020) before it comes into force by S.I. 2020/1342, regs. 1(2), 3(c))
- Sch. 22 para. 15(1)(d) words inserted by S.I. 2019/375, Sch. para. 13(9)(a) (as substituted) by S.I. 2019/695 reg. 3(12)(m)(vi) (This amendment not applied to legislation.gov.uk. S.I. 2019/695 revoked (24.11.2020) before it comes into force by S.I. 2020/1342, regs. 1(2), 3(d))

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:
Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 111(2)(c)(ca) substituted for s. 111(2)(c) by S.I. 2019/375 Sch. para. 13(2)(a) (This amendment not applied to legislation.gov.uk. S.I. 2019/375 revoked (24.11.2020) before it comes into force by S.I. 2020/1342, regs. 1(2), 3(c))
- Sch. 12 para. 110 repealed by S.I. 2019/269 Sch. 5 para. 6 (This amendment not applied to legislation.gov.uk. Amending words substituted immediately before IP completion day by S.I. 2020/1050, regs.1(2), 12)