
STATUTORY INSTRUMENTS

2009 No. 3250

**The Legal Services Act 2007 (Commencement No. 6,
Transitory, Transitional and Saving Provisions) Order 2009**

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Legal Services Act 2007 (Commencement No. 6, Transitory, Transitional and Saving Provisions) Order 2009.

(2) This Order comes into force on 1st January 2010.

(3) In this Order—

- (a) “the 1974 Act” means the Solicitors Act 1974⁽¹⁾;
- (b) “the 1990 Act” means the Courts and Legal Services Act 1990⁽²⁾;
- (c) “the 1999 Act” means the Access to Justice Act 1999⁽³⁾;
- (d) “the 2007 Act” means the Legal Services Act 2007; and
- (e) a reference to a section, Schedule or paragraph of a Schedule by number alone is a reference to that section, Schedule or paragraph in the 2007 Act.

Commencement of provisions

2. The following provisions of the 2007 Act, to the extent that they are not already in force, come into force on 1st January 2010—

- (a) in Part 2 (the Legal Services Board), section 4;
- (b) in Part 3 (Reserved legal activities)—
 - (i) sections 12 to 17, 18(1)(a) subject to article 3, 19, 20, 21 except for subsection (1)(j), 22 to 24, 25 in so far as it does not relate to Schedule 10 and subject to article 3, and 26, and
 - (ii) Schedules 2 (The reserved legal activities), 3 (Exempt persons), 4 (Approved regulators) except for paragraph 19(2)(f), 5 (Authorised persons) subject to article 4 and 6 (Alteration of reserved legal activities);
- (c) in Part 4 (Regulation of approved regulators)—
 - (i) sections 28, 31, 32, 34 to 48, 51, 52 to 63, 64(1), (2), (4), (5) subject to article 3 and (6) and 65 to 68, and
 - (ii) Schedules 7 (Directions: procedure), 8 (Intervention directions: procedure) and 9 (Cancellation of designation as approved regulator);
- (d) in Part 6 (Legal complaints), sections 151 and 152 for the purpose only of enabling the Lord Chancellor to make orders under section 152(3)(g) and 152(5);

(1) 1974 c. 47.
(2) 1990 c. 41.
(3) 1999 c. 22.

- (e) in Part 7 (Further provisions relating to the Board and the OLC), sections 163, 167 to 169 subject to article 3, 170, 171 subject to article 3, 173, 174 and 175(1)(a), (b), (d), (j) and (l) and (2)(a) and (b);
- (f) in Part 8 (Miscellaneous provisions about lawyers etc)—
 - (i) sections 176(1) and (2), 178, 179, 181, 183 to 185 and 188 to 190, 192 and 193,
 - (ii) in Schedule 16 (The Law Society, solicitors, recognised bodies and foreign lawyers), paragraphs 2(a) and (c), 4(a) and (c), 24 and 25, 26 subject to article 5, 27 subject to article 5, 28 subject to article 5, 29, 31(2)(b), (3) and (4), 32(2)(b), 34(2)(b), 38(a), 54(8) and (9)(a), 55, 56(a) and (b), 57, 58, 59(a) and (b)(i) and (ii), 60, 61, 62(a) to (c), 63, 64(2), 65 to 69, 73 subject to article 9, 75(c) in so far as it omits “duly certificated notary public”, 76, 112(b), 113(a) and (b)(i) and (ii), 128(b) and (e)(i) and 137, and
 - (iii) in Schedule 17 (Licensed conveyancing), paragraphs 2, 3, 10, 23, 27, 30, 34 and 35(2) to (4) and (6);
- (g) in Part 9 (General), sections 197 to 199, 207 and 213;
- (h) Schedule 21 (Minor and consequential amendments) wholly, save that paragraphs 84(f), 88 and 100(a) and (f) are subject to article 6 and paragraph 96 is subject to article 9; and
- (i) in Schedule 23 (Repeals)—
 - (i) the entries relating to the Public Notaries Act 1801(4), the Public Notaries Act 1843(5), the Commissioners for Oaths Act 1889(6), the Children and Young Persons Act 1933(7) and the Poisons Act 1972(8);
 - (ii) the entries relating to the following provisions of the 1974 Act—
 - (aa) section 1A(b);
 - (bb) section 2(1), (4) and (5);
 - (cc) section 19;
 - (dd) sections 22 to 23;
 - (ee) section 26;
 - (ff) section 27;
 - (gg) section 31(1), (3) and (4);
 - (hh) section 33A(1);
 - (ii) section 46(9);
 - (jj) section 70(11);
 - (kk) sections 81 and 81A subject to article 9;
 - (ll) section 89(7);
 - (mm) in Schedule 3, paragraph 9;
 - (iii) the entries relating to the Race Relations Act 1976(9), the Patents Act 1977(10), the Mental Health Act 1983(11), the County Courts Act 1984(12) and the Prosecution of Offences Act 1985(13);

(4) 1801 c. 79.
 (5) 1843 c. 90.
 (6) 1889 c. 10.
 (7) 1933 c. 12.
 (8) 1972 c. 66.
 (9) 1976 c. 74.
 (10) 1977 c. 37.
 (11) 1983 c. 20.

- (iv) the entries relating to the following provisions of the Administration of Justice Act 1985⁽¹⁴⁾—
 - (aa) section 4;
 - (bb) sections 6 and 7;
 - (cc) section 11(4);
 - (dd) section 12(2);
 - (ee) section 20(1);
 - (ff) section 22(3)(a);
 - (gg) section 38(1);
 - (hh) in Schedule 1, paragraphs 5, 8(3), 9 and 14;
 - (ii) in Schedule 4, paragraph 1(3) and (4);
 - (jj) in Schedule 6, paragraph 9(2);
 - (kk) in Schedule 9, paragraphs 4 and 6;
- (v) the entries relating to the Insolvency Act 1985⁽¹⁵⁾, the Social Security Act 1986⁽¹⁶⁾ and the Building Societies Act 1986⁽¹⁷⁾;
- (vi) the entry relating to section 292 of the Copyright, Designs and Patents Act 1988⁽¹⁸⁾;
- (vii) the entry relating to the Law of Property (Miscellaneous Provisions) Act 1989⁽¹⁹⁾;
- (viii) the entries relating to the following provisions of the 1990 Act—
 - (aa) sections 17, 18 and 18A;
 - (bb) sections 27 to 29 subject to article 6;
 - (cc) sections 31 and 31A;
 - (dd) section 53(5), 54 and section 55 subject to article 6;
 - (ee) sections 68 to 70;
 - (ff) section 73(5)(d);
 - (gg) sections 86 to 88;
 - (hh) section 90;
 - (ii) section 93;
 - (jj) section 96;
 - (kk) section 113 subject to article 9;
 - (ll) section 119(1);
 - (mm) section 120(5);
 - (nn) Schedule 4 subject to article 6;
 - (oo) in Schedule 8, paragraph 7;
 - (pp) Schedule 9 subject to article 6;
 - (qq) in Schedule 10, paragraph 64;

(12) 1984 c. 28.
(13) 1985 c. 23.
(14) 1985 c. 61.
(15) 1985 c. 65.
(16) 1986 c. 50.
(17) 1986 c. 53.
(18) 1988 c. 48.
(19) 1989 c. 34.

- (rr) in Schedule 17, paragraphs 4, 8, 10 and 20;
- (ss) in Schedule 18, paragraphs 9 to 12, 18, 20 and 56;
- (ix) the entries relating to the Environmental Protection Act 1990**(20)**, the Friendly Societies Act 1992**(21)**, the Trade Union and Labour Relations (Consolidation) Act 1992**(22)**, the Statute Law (Repeals) Act 1993**(23)**, the Trade Marks Act 1994**(24)**, the Agricultural Tenancies Act 1995**(25)**, the Environment Act 1995**(26)**, the Bank of England Act 1998**(27)** and the National Minimum Wage Act 1999**(28)**;
- (x) the entries relating to the following provisions of the 1999 Act—
 - (aa) sections 35(2) to (4), 36, 37 and 40 to 42;
 - (bb) section 44(1);
 - (cc) section 46(2)(b) and (3) to (6);
 - (dd) section 47;
 - (ee) in Schedule 4, paragraph 46;
 - (ff) Schedule 5;
 - (gg) in Schedule 6, paragraphs 1 to 3, 5 to 8 and 11;
 - (hh) in Schedule 7, paragraphs 7(2)(a) and 10 to 12;
 - (ii) in Schedule 14, paragraph 14;
- (xi) the entries relating to the following provisions of the Immigration and Asylum Act 1999**(29)**—
 - (aa) section 86(1)(a), (d) and (e), (5)(a) and (6)(a);
 - (bb) in Schedule 5, paragraphs 3(6)(b) and 4(2)(b), (3)(a) and (4)(a);
- (xii) the entries relating to the Trustee Act 2000**(30)**, the Enterprise Act 2002**(31)**, the Pensions Act 2004**(32)**, the Constitutional Reform Act 2005**(33)**, the Mental Capacity Act 2005**(34)**, the Serious Organised Crime and Police Act 2005**(35)**, the Natural Environment and Rural Communities Act 2006**(36)**, the Compensation Act 2006**(37)**, the National Health Service Act 2006**(38)** and the National Health Service (Wales) Act 2006**(39)**;
- (j) Schedule 24 (Index of defined expressions).

(20) 1990 c. 43.
(21) 1992 c. 40.
(22) 1992 c. 52.
(23) 1993 c. 50.
(24) 1994 c. 26.
(25) 1995 c. 8.
(26) 1995 c. 25.
(27) 1998 c. 11.
(28) 1999 c. 39.
(29) 1999 c. 33.
(30) 2000 c. 29.
(31) 2002 c. 40.
(32) 2004 c. 35.
(33) 2005 c. 4.
(34) 2005 c. 9.
(35) 2005 c. 15.
(36) 2006 c. 16.
(37) 2006 c. 29.
(38) 2006 c. 41.
(39) 2006 c. 42.

Transitory and transitional provisions

3.—(1) Until section 18(2) comes into force, section 18(1)(a) is to be read as if the words “(other than by virtue of a licence under Part 5), or” were omitted.

(2) Until section 73 comes into force—

- (a) section 25(3)(a) is to be read as if sub-paragraph (ii) were omitted;
- (b) section 25(3)(b) is to be read as if the words “, or by the Board in its capacity as a licensing authority,” were omitted;
- (c) the definition of “relevant authorised person” in section 64(5) is to have effect as if the words “(other than by the grant of a licence under Part 5)” were omitted;
- (d) section 167(2)(a) is to be read as if the words “or a licensing authority” were omitted;
- (e) section 167(2)(b) is to be read as if the words “or section 73” were omitted;
- (f) sections 168(2) and 169(1) are to be read as if the words “, a licensing authority” were omitted; and
- (g) section 171 is to be read as if the words “or licensing authority” were omitted.

4. Until 1st April 2010, paragraph 4 of Schedule 5 has effect as if the following sub-paragraph were inserted after paragraph 4(4)—

“(5) For the purposes of this paragraph, a barrister will be deemed to have in force a practising certificate issued by the General Council of the Bar if the only reason that a practising certificate has not been issued is that the barrister has not paid the prescribed practising certificate fee.”.

5. Notwithstanding the repeal of sections 22 and 23 of the 1974 Act, those sections and the references to those sections in sections 24 and 26 of that Act will continue to have effect where the offence was committed before 1st January 2010.

6.—(1) Where, at the date this Order comes into force, the Secretary of State is in receipt of an application made under any of the following provisions, that application will continue to be treated, and any question of interpretation or as to consideration of that application will be determined, as if the 2007 Act had not been passed—

- (a) section 55 of the 1990 Act;
- (b) paragraph 1(1) of Schedule 4 to the 1990 Act;
- (c) paragraph 9(1) of Schedule 4 to the 1990 Act.

(2) Where, at the date this Order comes into force, the Secretary of State—

- (a) is considering giving notice to a body under paragraph 17(1) of Schedule 4 to the 1990 Act;
- (b) is considering recommending a revocation of designation under paragraph 25(1) of Schedule 4 to the 1990 Act; or
- (c) is considering making an order under paragraph 6(1) of Schedule 9 to the 1990 Act,

that matter will be treated, and any question of interpretation or as to consideration of that matter will be determined, as if the 2007 Act had not been passed.

(3) Paragraphs (1) and (2) are subject to paragraph (4).

(4) Paragraphs (1) and (2) do not apply in a case where, before the date this Order comes into force—

- (a) (i) the Secretary of State has sought the advice of the Legal Services Consultative Panel, and
- (ii) the Legal Services Consultative Panel has not yet completed its consideration; or

- (b) the Secretary of State has decided that the advice of the Legal Services Consultative Panel is required but has not yet sought that advice.

Modification of provisions relating to the office of the Legal Services Ombudsman

7.—(1) Until section 159 of the 2007 Act comes into force in so far as it relates to the office of the Legal Services Ombudsman, the following provisions of the 1990 Act have effect as modified by this article.

- (2) For section 21(5) substitute—

“(5) The Legal Services Ombudsman must not be an authorised person within the meaning of section 18(1)(a) of the Legal Services Act 2007.”.

- (3) For section 22(1) substitute—

“(1) Subject to the provisions of this Act, the Legal Services Ombudsman may investigate any allegation which is properly made to him and which relates to the manner in which a complaint made to an approved regulator with respect to—

- (a) a person who is or was authorised to carry on a reserved legal activity by that approved regulator,
- (b) any employee of such a person, or
- (c) if the person is a body, any manager of such a person,

has been dealt with by that approved regulator.”.

(4) In sections 22(4)(c), (5)(a), (6)(a) and (b) and 23(1)(d), (2)(a), (b), (d) and (e) and (2A) and paragraph 7(1) of Schedule 3 for “professional body” substitute “approved regulator”.

(5) In section 22(8)(b) for “a professional body” substitute “an approved regulator”.

(6) In sections 22(5)(b) and 23(2)(d) for “that body” substitute “that regulator”.

(7) In section 22(11)—

- (a) for “In this section” substitute “In this Act”;
- (b) omit the definition of “professional body”;
- (c) before the definition of “recognised body” insert—

““approved regulator” means a body which —

- (a) is designated as an approved regulator by Part 1 of Schedule 4 to the Legal Services Act 2007 (with the exception of the Master of the Faculties); or
- (b) falls within the definition of “approved regulator” in section 20 of the Legal Services Act 2007 and is specified in an order made by the Secretary of State for the purpose of this subsection;”;

(d) after the definition of “recognised body” insert—

““reserved legal activity” has the meaning given in section 12 of, and Schedule 2 to, the Legal Services Act 2007; and”.

(8) In section 23(2A) for “or body” (in both places) substitute “or regulator”.

(9) In section 23(11)—

- (a) for paragraph (a)(ii) substitute—

“(ii) is an authorised person within the meaning of section 18(1)(a) of the Legal Services Act 2007;”;

(b) in paragraph (c) after “an officer” insert “or manager”.

(10) In section 24(1)—

- (a) for “any professional body” substitute “any approved regulator”;
 - (b) for “that body” substitute “that regulator”;
 - (c) for “that body’s” substitute “that regulator’s”.
- (11) In section 24(2) for “any professional body” substitute “any approved regulator”.

Modification of provisions relating to the office of the Legal Services Complaints Commissioner

8.—(1) Until section 159 of the 2007 Act comes into force in so far as it relates to the office of the Legal Services Complaints Commissioner, the following provisions of the 1999 Act have effect as modified by this article.

- (2) For section 51(4) substitute—
- “(4) The Commissioner must not be an authorised person within the meaning of section 18(1)(a) of the Legal Services Act 2007.”.
- (3) In section 52(1)—
- (a) for “members of any professional body” substitute “persons regulated by an approved regulator”;
 - (b) for “the body” substitute “the regulator”.
- (4) In section 52(2)(a) and (e)—
- (a) for “a professional body” substitute “an approved regulator”;
 - (b) for “its members” substitute “persons regulated by that regulator”.
- (5) In section 52(2)(b), (c), and (d) for “the members of a professional body” substitute “the persons regulated by that regulator”.
- (6) In section 52(3)—
- (a) for “a professional body” substitute “an approved regulator”;
 - (b) for “its members” substitute “persons regulated by that regulator”;
 - (c) for “the body” in each place in which it appears substitute “the regulator”.
- (7) In section 52(4) for “a professional body” substitute “an approved regulator”.
- (8) In section 52(6)—
- (a) for “a professional body” substitute “an approved regulator”;
 - (b) for “members of the body” substitute “persons regulated by the regulator”;
 - (c) for “the body” substitute “the regulator”;
 - (d) for “its members” substitute “persons regulated by that regulator” .
- (9) In section 52(8)—
- (a) for “a professional body” substitute “an approved regulator”;
 - (b) for “the body” substitute “the regulator”.
- (10) In section 52(10) and paragraph 7(1) of Schedule 8, for the words “professional body” in each place in which they appear substitute “approved regulator”.

Savings

9. Any instrument made under section 81A of the 1974 Act or section 113 of the 1990 Act that is in force immediately before the day on which this Order comes into force continues in force, and

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any question as to its application or interpretation shall be determined, as if the 2007 Act had not been passed.

Revocations

10. The instruments listed in the Schedule to this Order are revoked.

Signed by authority of the Lord Chancellor

8th December 2009

Bridget Prentice
Parliamentary Under Secretary of State
Ministry of Justice