

SCHEDULES

SCHEDULE 9

Section 55.

PROBATE

Advice from the Advisory Committee

- 1 (1) Where the Lord Chancellor receives an application from a professional or other body (“the applicant”) for approval under this Schedule, he shall refer the application to the Advisory Committee.
- (2) It shall be the duty of the Advisory Committee to consider the application and to give to the Lord Chancellor such advice as it considers appropriate.

Advice from the President of the Family Division

- 2 (1) When the Lord Chancellor has received the Advisory Committee’s advice he shall refer the application, together with that advice, to the President of the Family Division.
- (2) It shall be the duty of the President to consider the application, in the light of that advice, and to give to the Lord Chancellor such advice as he considers appropriate.
- (3) If the President asks the Committee to give him advice with respect to the application, it shall be the duty of the Committee to do so.

Information to be supplied by applicant

- 3 The applicant shall provide the Lord Chancellor, the Advisory Committee and the President with any information that they may reasonably require.

Approval by Lord Chancellor

- 4 Having considered the advice given to him by the Advisory Committee and by the President, the Lord Chancellor may by order approve the application if, but only if, he is satisfied that the applicant has in force suitable arrangements—
- (a) for training; and
 - (b) for ensuring that any person to whom the applicant grants the exemption mentioned in section 55(1) will at all times, while exempt, comply with the requirements of section 55(2)(a) to (e).

Refusal to approve

- 5 (1) If the Lord Chancellor proposes to refuse the application he shall give the applicant written notice of his proposal.
- (2) The notice shall—

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- (a) give the Lord Chancellor’s reasons for proposing to refuse the application; and
 - (b) inform the applicant of the effect of sub-paragraph (3).
- (3) Where such a notice is served, it shall be the duty of the Lord Chancellor, before determining whether to grant or refuse the application, to consider any representations duly made by the applicant.
- (4) For the purposes of sub-paragraph (3), representations are duly made if—
- (a) they are made to the Lord Chancellor before the end of the period of 28 days beginning with the day on which the notice is served; and
 - (b) unless the Lord Chancellor directs in a particular case, they are in writing.
- (5) If the Lord Chancellor refuses the application he shall give notice to the applicant in writing.
- (6) Any notice given under sub-paragraph (5) must give the Lord Chancellor’s reasons for refusing the application.

Revocation of approval

- 6 (1) The revocation of any approval given under this Schedule shall be by order (“a revoking order”) made by the Lord Chancellor.
- (2) A revoking order may only be made if—
- (a) the approved body has made a written request to the Lord Chancellor asking for it to be made;
 - (b) the approved body has agreed in writing to its being made; or
 - (c) the Lord Chancellor is satisfied that the circumstances at the time when he is considering the question are such that, had that body then been applying to become an approved body, its application would have failed.
- (3) A revoking order may make such transitional and incidental provision as the Lord Chancellor considers necessary or expedient.
- (4) Where a revoking order is made—
- (a) the exemption granted to any person by the body with respect to whom the order is made shall cease to have effect, subject to any transitional provision made by the order; and
 - (b) the Lord Chancellor shall—
 - (i) give the body with respect to whom the order is made written notice of the making of the order;
 - (ii) take such steps as are reasonably practicable to bring the making of the order to the attention of members of that body; and
 - (iii) publish notice of the making of the order in such manner as he considers appropriate for bringing it to the attention of persons (other than those members) who, in his opinion, are likely to be affected by the order.

Role of the Advisory Committee

- 7 (1) Where the Lord Chancellor is considering whether to make a revoking order by virtue of paragraph 6(2)(c)—

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- (a) he shall seek the advice of the Advisory Committee; and
 - (b) the Advisory Committee shall carry out such investigations with respect to the approved body as it considers appropriate.
- (2) Where—
- (a) the Lord Chancellor has not sought the advice of the Advisory Committee under sub-paragraph (1); but
 - (b) the Advisory Committee has reason to believe that there may be grounds for recommending that a revoking order be made under paragraph 6(2)(c) with respect to an approved body,
- it may carry out such investigations with respect to the approved body as it considers appropriate.
- (3) If, on concluding any investigation carried out under sub-paragraph (1) or (2), the Advisory Committee considers that there are grounds for recommending the making of a revoking order with respect to the approved body concerned, it shall advise the Lord Chancellor accordingly.

Duty to comply with requests for information

- 8
- (1) Where the Advisory Committee is carrying out an investigation under paragraph 7 it may require the approved body concerned to provide it with such information, including copies of such documents, as it may reasonably require for the purposes of the investigation.
 - (2) No person shall be required under sub-paragraph (1) to provide any information, or produce any copy of a document, which he could not be compelled to provide or produce in civil proceedings before a court.
 - (3) Where an approved body fails, without reasonable excuse, to comply with a request made to it by the Committee under sub-paragraph (1), paragraph 6(2)(c) shall be taken to have been satisfied in relation to that body.

Notice to approved body

- 9
- (1) If the Advisory Committee advises the Lord Chancellor that there are grounds for recommending the making of a revoking order with respect to an approved body, the Lord Chancellor shall send written notice of that advice, and of the effect of such an order, to that body.
 - (2) Any such notice shall invite the approved body to make representations in writing to the Lord Chancellor or such person as he may appoint for the purpose.
 - (3) Any such representations must be made before the end of the period of three months beginning with the date on which the notice was given.

Notice to members of approved body

- 10
- (1) Where—
 - (a) the Lord Chancellor has given notice to an approved body under paragraph 9(1); or
 - (b) is proposing to make a revoking order with respect to an approved body, by virtue of paragraph 6(2)(a) or (b),

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he shall take such steps as are reasonably practicable to bring the matter to the attention of the members of the approved body and of any other persons who, in his opinion, are likely to be affected by any revoking order made with respect to that body.

- (2) Any such steps shall include inviting those members and other persons to make representations to the Lord Chancellor or (as the case may be) to the person appointed by him for the purpose.
- (3) Any such representations—
 - (a) shall, except in such circumstances as the Lord Chancellor may specify, be in writing; and
 - (b) must be made before the end of the period of three months beginning with such date as may be fixed by the Lord Chancellor.

Consideration by Lord Chancellor and President

- 11 (1) It shall be the duty of the Lord Chancellor to consider—
 - (a) any advice given to him by the Advisory Committee under paragraph 7; and
 - (b) any representations duly made under paragraph 9 or 10.
- (2) Having done so, the Lord Chancellor shall—
 - (a) send to the President a copy of any such advice and of any such representations (including a note of any oral representations); and
 - (b) inform the President of his view as to whether or not a revoking order with respect to the approved body concerned should be made.
- (3) It shall be the duty of the President—
 - (a) to consider the information sent to him by the Lord Chancellor;
 - (b) to inform the Lord Chancellor of his own decision in the matter; and
 - (c) to give his reasons, in writing, for his decision.
- (4) No revoking order shall be made with respect to the approved body unless the Lord Chancellor and the President agree that it should be made.