

LEGAL SERVICES ACT 2007

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 8: Miscellaneous and General Provisions about Lawyers

Section 182: Licensed conveyancers

439. This section introduces **Schedule 17** which makes a number of amendments to provisions relating to licensed conveyancers, conveyancing services, and the CLC, which is an approved regulator and is listed in Part 1 of Schedule 4. Schedule 17 amends the Administration of Justice Act 1985 and the Courts and Legal Services Act 1990.
440. **Paragraphs 1 to 7** deal with the issuing of conveyancing licences. Paragraph 2 amends the definition of conveyancing services to ensure that it includes all the activities contained in the definition of “reserved instrument activities” in the Legal Services Act 2007. The CLC is an approved regulator under the 2007 Act in relation to reserved instrument activities. Paragraph 4 amends section 15 of the 1985 Act so as to allow the CLC discretion as to the duration of a conveyancing licence. Paragraph 4 further amends section 15 of the 1985 Act so as to allow the CLC 42 days in which to determine applications for licences (prior to the 2007 Act, the period was 21 days).
441. **Paragraphs 5 to 8** deal with the imposition of conditions on a licence. Conditions can, for example, be imposed where the Council has required an accountants report to be delivered within a specified time-frame and this has not been done. Provision is made enabling the CLC to impose an additional fee in certain cases to recover the additional costs in dealing with certain applications. In addition amendments made here allow for a condition to be put on a licence as a result of an order made by the Investigating Committee under their new powers. Paragraph 7 amends section 17 of the 1985 Act by prescribing additional circumstances in which the Council may direct that a licensed conveyancer’s licence shall have effect subject to conditions.
442. **Paragraph 8** inserts a new section into the 1985 Act to allow the CLC to remove or vary conditions on a licensed conveyancer’s licence.
443. **Paragraph 9** amends section 18 of the 1985 Act, in order to provide for the immediate suspension of a licensed conveyancer’s licence in instances where the Council exercises certain powers of intervention in respect of a licensed conveyancer’s practice in certain defined circumstances.
444. **Paragraphs 12 and 13** operate to amend the provisions that provide for the CLC’s current disciplinary arrangements. The effect of these paragraphs is to allow the Investigating Committee, which previously had only an investigative role, to make a determination on minor infractions of the Council’s rules and to fine a licensed conveyancer an amount to be specified in the Council’s rules (not to exceed the sum of £1,000). Paragraph 32 makes similar amendments to the equivalent provisions relating to recognised bodies.
445. **Paragraph 12** (sub-paragraph (8)), paragraph 13 paragraph 15 (sub-paragraph (4)), paragraph 16, paragraph 17, paragraph 32 (sub-paragraphs (5), (6), (7), (9) and (10))

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and paragraph 35 (sub-paragraph (7)) amend the 1985 Act and the 1990 Act, in order to enable the Investigating Committee and the Discipline and Appeals Committee to make orders for the payment of costs. The order may relate to all or part of the costs. A successful party would not be entitled to costs as of right: the award will be at the discretion of the committees.

446. Sub-paragraph (3) of paragraph 15 amends section 26 of the 1985 Act, which makes provision regarding the fining power of the CLC. Previously, the CLC could fine a licensed conveyancer no more than £3,000. The amendment to section 26 allows the CLC to make rules setting its own limit (subject to the approval of the Board). At sub-paragraph 6 of paragraph 32 of Schedule 17 to the 2007 Act, an amendment is made to the equivalent provision relating to recognised bodies (paragraph 4 of Schedule 6 to the 1985 Act). Paragraphs 13 and 15 of Schedule 17 to the 2007 Act allow the Investigating Committee and the Discipline and Appeals Committee respectively to make orders for costs in relation to proceedings before them.
447. [Paragraphs 20 to 21](#) make amendments to the CLC's powers that are similar to the amendments to the Law Society's powers under section 9 and new section 9A of the 1985 Act. These paragraphs amend section 32 of the 1985 Act and add new section 32A to allow that the CLC may "recognise" and regulate new forms of bodies, including partnerships and unincorporated bodies, and including bodies that carry out not just conveyancing services but also other legal services carried out by "authorised persons" under the 2007 Act. These amendments also allow the CLC to make rules applicable to managers and employees of the bodies that it recognises, and make consequential changes to a number of related provisions in Schedule 6 (see paragraph 32 of the Schedule). Amendments to Schedule 6 also give the Discipline and Appeals Committee additional order-making powers to reflect the fact that managers and employees may be found in breach of rules applicable to them.
448. [Paragraph 22](#) amends section 33 of the 1985 Act to ensure that the legal professional privilege of clients of recognised bodies that are actually "licensable bodies" (and that will therefore need to be licensed under Part 5 of the 2007 Act), is governed by the same provision as that for other licensed bodies: section 190 of the 2007 Act.
449. [Paragraph 23](#) inserts a new section 33A into the Administration of Justice Act 1985 to confer on the CLC the power to make arrangements for authorising licensed conveyancers to administer oaths. Under the 2007 Act, the CLC is an approved regulator in relation to authorising persons to administer oaths (see part 1 of Schedule 4).
450. [Paragraph 25](#) amends section 35 of the 1985 Act, which relates to the offence of pretending to be a recognised body, to cover the different forms of entity which may now be recognised bodies.
451. [Paragraph 29](#) amends Schedule 3 to the 1985 Act to allow CLC members to be appointed as opposed to "elected or nominated". Paragraph 30 amends paragraph 1 of Schedule 4 to the 1985 Act so as to remove the requirement that the rules made by the CLC regarding the procedure and practice of the Discipline and Appeals Committee shall not come into force until approved by the Lord Chancellor.
452. [Paragraph 31](#) amends Schedule 5 to the 1985 Act, which provides the CLC with intervention powers, to achieve similar outcomes for the CLC as those made to the Law Society's intervention powers by virtue of amendments to Schedule 1 to the 1974 Act and Schedule 2 to the 1985 Act.
453. [Paragraph 32](#), amongst other things, amends paragraph 14 of Schedule 6 to the 1985 Act to allow the CLC to require the production of information to a person appointed by the Investigating Committee for the purpose of investigating an allegation of failing to comply with rules a licensed conveyancer must adhere to.

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454. [Part 2](#) of Schedule 17 amends the 1990 Act to allow the CLC to apply to become an approved regulator of reserved legal activities such as probate activities or the exercise of a right of audience.
455. It also brings the 1990 Act into line with the 1985 Act as amended and the 2007 Act by updating the Council's powers in respect of, for example, the new disciplinary powers conferred on the Investigating Committee and the Discipline and Appeals Committee under sections 24A and 26 of the 1985 Act.