



Legal Services Act 2007

2007 CHAPTER 29

PART 4

REGULATION OF APPROVED REGULATORS

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.

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—
- (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.
- (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.