



# Legal Services Act 2007

## 2007 CHAPTER 29

### PART 5

#### ALTERNATIVE BUSINESS STRUCTURES

##### *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.

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*Status:* This version of this cross heading contains provisions that are prospective.

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- (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,
  - (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);

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- (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—
  - (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;

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(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.

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### Commencement Information

- II** 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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