



Legal Services Act 2007

2007 CHAPTER 29

PART 9

GENERAL

Offences

197 Offences committed by bodies corporate and unincorporated bodies

- (1) Where an offence committed by a body corporate is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of an officer of the body corporate, that officer (as well as the body corporate) is guilty of the offence and is liable to be proceeded against and punished accordingly.
- (2) Where the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in connection with the member's functions of management as it applies to an officer of the body corporate.
- (3) Proceedings for an offence alleged to have been committed by an unincorporated body are to be brought in the name of that body (and not in that of any of its members) and, for the purposes of any such proceedings, any rules of court relating to the service of documents have effect as if that body were a corporation.
- (4) A fine imposed on an unincorporated body on its conviction of an offence is to be paid out of the funds of that body.
- (5) If an unincorporated body is charged with an offence, section 33 of the Criminal Justice Act 1925 (c. 86) and Schedule 3 to the Magistrates' Courts Act 1980 (c. 43) (procedure on charge of an offence against a corporation) have effect in like manner as in the case of a corporation so charged.
- (6) Where an offence committed by an unincorporated body (other than a partnership) is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any officer of the body or any member of its governing

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body, that officer or member as well as the unincorporated body is guilty of the offence and liable to be proceeded against and punished accordingly.

- (7) Where an offence committed by a partnership is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner, that partner as well as the partnership is guilty of the offence and liable to be proceeded against and punished accordingly.
- (8) In this section—
- “offence” means an offence under this Act;
 - “officer”, in relation to a body corporate, means—
 - (a) any director, secretary or other similar officer of the body corporate, or
 - (b) any person who was purporting to act in any such capacity.

198 Local weights and measures authorities

- (1) A local weights and measures authority may institute proceedings for an offence under section 14 if the activity which it is alleged that the accused was not entitled to carry on constitutes reserved instrument activities.
- (2) A local weights and measures authority may institute proceedings for an offence under section 16 if the activity which it is alleged that E was not entitled to carry on constitutes reserved instrument activities.
- “E” has the same meaning as in that section.
- (3) In this section—
- “relevant offence” means an offence in relation to which proceedings may be instituted by virtue of subsection (1) or (2);
 - “weights and measures officer” means an officer of a local weights and measures authority who is authorised by the authority to exercise the powers conferred by subsection (4).
- (4) A weights and measures officer who has reasonable cause to suspect that a relevant offence may have been committed may, at any reasonable time—
- (a) enter any premises which are not used solely as a dwelling;
 - (b) require any officer, agent or other competent person on the premises who is, or may be, in possession of information relevant to an investigation of the suspected offence to provide such information;
 - (c) require the production of any document which may be relevant to such an investigation;
 - (d) take copies, or extracts, of any such documents;
 - (e) seize and retain any document which the weights and measures officer has reason to believe may be required as evidence in proceedings for a relevant offence.
- (5) Any person exercising a power given by subsection (4) must, if asked to do so, produce evidence that that person is a weights and measures officer.
- (6) A justice of the peace may issue a warrant under this section if satisfied, on information on oath given by a weights and measures officer, that there is reasonable cause to believe that a relevant offence may have been committed and that—

- (a) entry to the premises concerned, or production of any documents which may be relevant to an investigation of the relevant offence, has been or is likely to be refused to a weights and measures officer, or
 - (b) there is reasonable cause to believe that, if production of any such document were to be required by the weights and measures officer without a warrant having been issued under this section, the document would not be produced but would be removed from the premises or hidden, tampered with or destroyed.
- (7) A warrant issued under this section must authorise the weights and measures officer accompanied, where that officer considers it appropriate, by a constable or other person—
- (a) to enter the premises specified in the information, using such force as is reasonably necessary, and
 - (b) to exercise any of the powers given to the weights and measures officer by subsection (4).
- (8) It is an offence for a person (“P”)—
- (a) intentionally to obstruct a weights and measures officer in the exercise of any power under this section;
 - (b) intentionally to fail to comply with any requirement properly imposed on P by a weights and measures officer in the exercise of any such power;
 - (c) to fail, without reasonable excuse, to give a weights and measures officer any assistance or information which the weights and measures officer may reasonably require of P for the purpose of exercising any such power; or
 - (d) in giving to a weights and measures officer any information which P has been required to give a weights and measures officer exercising any such power, to make any statement which P knows to be false or misleading in a material particular.
- (9) A person who is guilty of an offence under subsection (8) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (10) Nothing in this section is to be taken to require any person to answer any question put to that person by a weights and measures officer, or to give any information to such an officer, if to do so might incriminate that person.

Protected functions of the Lord Chancellor

199 Protected functions of the Lord Chancellor

- (1) Schedule 7 to the Constitutional Reform Act 2005 (c. 4) (protected functions of the Lord Chancellor) is amended as follows.
- (2) After paragraph 3 insert—

“3A Any function of the Lord Chancellor under the Legal Services Act 2007.”
- (3) Part A of paragraph 4 is amended in accordance with subsections (4) to (7).
- (4) After the entry for the Juries Act 1974 (c. 23), insert—

“*Solicitors Act 1974 (c. 47)*
Section 56”.

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- (5) After the entry for the Reserve Forces (Safeguard of Employment) Act 1985 (c. 17), insert—

“Administration of Justice Act 1985 (c. 61)

Section 9(7)

Section 69(2)

Schedule 3”.

- (6) In the entry for the Courts and Legal Services Act 1990 (c. 41)—

- (a) after “Section 1” insert—

“Section 53

Section 60”, and

- (b) after “Section 72” insert—

“Section 89

Section 125(4)

Schedule 19, paragraph 17”.

- (7) After the entry for the Finance Act 1999 (c. 16), insert—

“Access to Justice Act 1999 (c. 22)

Section 45”.

Notices etc

200 Notices and directions

- (1) A requirement or power under this Act to give a notice (or to notify) is a requirement or power to give notice in writing.
- (2) A requirement or power under this Act to give a direction (or to direct) is a requirement or power to give a direction in writing.
- (3) Any power conferred by this Act to give a direction includes power to revoke the direction.
- (4) Subsection (3) does not apply to the power conferred on an ombudsman to give a direction under section 137 (directions on a determination of a complaint).

201 Documents

- (1) In this Act “document” includes anything in which information is recorded in any form.
- (2) In relation to a document in which information is recorded otherwise than in a legible form, any reference to the production of the document is a reference to the production of the information in a legible form or in a form from which it can readily be produced in a legible form.

202 The giving of notices, directions and other documents

- (1) This section applies where provision made (in whatever terms) by or under this Act authorises or requires a notice, direction or any other document (including a copy of a document) to be given to a person.
- (2) The notice, direction or document may be given to the person—
 - (a) by delivering it to the person,
 - (b) by leaving it at the person's proper address, or
 - (c) by sending it by post to the person at that address.
- (3) The notice, direction or document may be given to a body corporate by being given to the secretary or clerk of that body.
- (4) The notice, direction or document may be given to a partnership by being given to—
 - (a) a partner in the partnership, or
 - (b) a person having the control or management of the partnership business.
- (5) The notice, direction or document may be given to any other unincorporated body by being given to a member of the governing body of the unincorporated body.
- (6) For the purposes of this section, and section 7 of the Interpretation Act 1978 (c. 30) (service of documents by post) in its application to this section, the proper address of a person is—
 - (a) in the case of a body corporate, the address of the registered or principal office of the body;
 - (b) in the case of a partnership, or any other unincorporated body, the address of the principal office of the partnership or body;
 - (c) in the case of a person to whom the notice or other document is given in reliance on any of subsections (3) to (5), the proper address of the body corporate, partnership or other unincorporated body in question;
 - (d) in any other case, the last known address of the person in question.
- (7) In the case of—
 - (a) a company registered outside the United Kingdom,
 - (b) a partnership carrying on business outside the United Kingdom, or
 - (c) any other unincorporated body with offices outside the United Kingdom,the references in subsection (6) to its principal office include references to its principal office within the United Kingdom (if any).
- (8) This section has effect subject to section 203 (notices, directions and documents in electronic form).

203 The giving of notices, directions and other documents in electronic form

- (1) This section applies where—
 - (a) section 202 authorises the giving of a notice, direction or other document by its delivery to a particular person ("the recipient"), and
 - (b) the notice, direction or other document is transmitted to the recipient—
 - (i) by means of an electronic communications network, or
 - (ii) by other means but in a form that nevertheless requires the use of apparatus by the recipient to render it intelligible.

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- (2) The transmission has effect for the purposes of this Act as a delivery of the notice, direction or other document to the recipient, but only if the requirements imposed by or under this section are complied with.
- (3) Where the recipient is the Board, the OLC or an ombudsman—
 - (a) the recipient must have indicated its willingness to receive the notice, direction or other document in a manner mentioned in subsection (1)(b),
 - (b) the transmission must be made in such manner, and satisfy such other conditions as the recipient may require, and
 - (c) the notice, direction or other document must take such form as the recipient may require.
- (4) Where the person making the transmission is the Board, the OLC or an ombudsman, that person may (subject to subsection (5)) determine—
 - (a) the manner in which the transmission is made, and
 - (b) the form in which the notice, direction or other document is transmitted.
- (5) Where the recipient is a person other than the Board, the OLC or an ombudsman—
 - (a) the recipient, or
 - (b) the person on whose behalf the recipient receives the notice, direction or other document,

must have indicated to the person making the transmission the recipient’s willingness to receive notices, directions or other documents transmitted in the form and manner used.
- (6) An indication to any person for the purposes of subsection (5)—
 - (a) must be given to that person in such manner as that person may require;
 - (b) may be a general indication or one that is limited to notices or documents of particular descriptions;
 - (c) must state the address to be used and must be accompanied by such other information as that person requires for the making of the transmission;
 - (d) may be modified or withdrawn at any time by a notice given to that person in such manner as that person may require.
- (7) An indication, requirement or determination given, imposed or made by the Board, the OLC or an ombudsman for the purposes of this section is to be given, imposed or made by being published by that person.
- (8) In this section “electronic communications network” has the same meaning as in the Communications Act 2003 (c. 21).

Orders, rules etc

204 Orders, regulations and rules

- (1) Any order or regulations made by the Lord Chancellor under this Act must be made by statutory instrument.
- (2) Any rules made by the Board under section 37(4), 95(3) or 173 must be made by statutory instrument, and the Statutory Instruments Act 1946 (c. 36) applies to the Board’s powers to make rules under those sections as if the Board were a Minister of the Crown.

- (3) An instrument to which this subsection applies may—
- (a) provide for a person to exercise a discretion in dealing with any matter;
 - (b) include incidental, supplementary and consequential provision;
 - (c) make transitory or transitional provision and savings;
 - (d) make provision generally or subject to exceptions or only in relation to specified cases;
 - (e) make different provision for different cases or circumstances or for different purposes.
- (4) Subsection (3) applies to—
- (a) any order or regulations made by the Lord Chancellor,
 - (b) any rules or regulations made by the Board, and
 - (c) any rules made by the OLC,
- under or by virtue of this Act.

205 Consultation requirements for rules

- (1) This section applies in relation to—
- (a) rules made by the Board under this Act, and
 - (b) rules made by the OLC under Part 6,
- other than excluded rules.
- (2) If the Board or the OLC (“the rule-making body”) proposes to make any rules, it must publish a draft of the proposed rules.
- (3) The draft must be accompanied by a notice which states that representations about the proposals may be made to the rule-making body within the period specified in the notice.
- (4) Before making the rules, the rule-making body must have regard to any representations duly made.
- (5) If the rules differ from the draft published under subsection (2) in a way which is, in the opinion of the rule-making body, material, it must publish details of the differences.
- (6) The rule-making body must publish any rules it makes, and rules may not take effect before the time they are published.
- (7) Subsection (6) does not apply to rules made by the Board under section 37(4), 95(3) or 173.
- (8) The rule-making body may make a reasonable charge for providing a person with a copy of—
- (a) a draft published under subsection (2), or
 - (b) rules published under subsection (6).
- (9) In this section “excluded rules” means—
- (a) rules of procedure made by the Board for the purposes of paragraph 21 of Schedule 1,
 - (b) rules made by the Board in its capacity as an approved regulator or a licensing authority, and

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(c) rules of procedure made by the OLC for the purposes of paragraph 20 of Schedule 15;

and references to making rules include references to modifying the rules and, in relation to any modifications of rules, references to the proposed rules are to be read as references to the proposed modifications.

(10) This section is subject to section 156(3) (which disapplies this section to OLC rules made in response to a Board direction under section 156(1)(b)).

206 Parliamentary control of orders and regulations

(1) A statutory instrument containing an order or regulations made by the Lord Chancellor under this Act is subject to annulment in pursuance of a resolution of either House of Parliament.

(2) Subsection (1) is subject to subsections (3) and (4).

(3) Subsection (1) does not apply to an order if it contains only provision made under one or more of the following—

- (a) section 23(3)(b) (day appointed as end of transitional period relating to non-commercial bodies);
- (b) section 30(4) (appointed day before which first set of rules must be made under section 30);
- (c) section 211 (commencement);
- (d) paragraph 3(1)(b) of Schedule 5 (day appointed as end of transitional period during which rights conferred by virtue of Part 2 of that Schedule);
- (e) paragraph 18(1)(b) of Schedule 18 (day appointed as end of transitional period during which rights conferred by virtue of Part 3 of that Schedule).

(4) Subsection (1) does not apply to an order or regulations which contains (whether alone or together with other provision) provision made under any of the following—

- (a) section 24(1) (orders adding to reserved legal activities);
- (b) section 25(1) or (3) (provisional designation of approved regulators);
- (c) section 42(6) (regulations relating to warrants under section 42);
- (d) section 45(1) (cancellation of designation as approved regulator);
- (e) section 46 (transitional arrangements following cancellation under section 45);
- (f) section 48(6) (regulations relating to warrants under section 48);
- (g) section 62(1) (power to designate Board as an approved regulator, modify its functions or cancel its designation);
- (h) section 69(1) (modification of functions of approved regulators etc);
- (i) section 76(1) (cancellation of designation as licensing authority);
- (j) section 77 (transitional arrangements following cancellation under section 76);
- (k) section 79(6) (regulations relating to warrants under section 79);
- (l) section 80(1) (order establishing appellate body etc);
- (m) section 106(1)(e) (power to prescribe bodies as bodies to which section 106 applies);
- (n) section 109 (power to modify application of Part 5 to foreign bodies);
- (o) section 173(5)(c) (power to prescribe persons as leviable bodies);

- (p) section 207(5) (power to modify definition of “manager” in its application to foreign bodies);
 - (q) section 208(3) (power to make consequential provision etc by amending enactments);
 - (r) paragraph 9(1) of Schedule 3 (modification of exempt persons);
 - (s) paragraph 17 of Schedule 4 (designation of approved regulators);
 - (t) paragraph 9 of Schedule 13 (power to modify definitions of “material interest” and “associates”);
 - (u) paragraph 2 of Schedule 22 (transitory power to modify functions of designated regulators etc).
- (5) An order or regulations within subsection (4) may not be made unless a draft of the order or regulations has been laid before, and approved by a resolution of, each House of Parliament.
- (6) A statutory instrument containing rules made by the Board under section 37(4), 95(3) or 173 is subject to annulment in pursuance of a resolution of either House of Parliament.

Interpretation

207 Interpretation

- (1) In this Act, except where the context otherwise requires—
- “barrister” means an individual who—
 - (a) has been called to the Bar by an Inn of Court, and
 - (b) is not disbarred by order of an Inn of Court;
 - “consumers” means (subject to subsection (3)) persons—
 - (a) who use, have used or are or may be contemplating using, services within subsection (2),
 - (b) who have rights or interests which are derived from, or are otherwise attributable to, the use of such services by other persons, or
 - (c) who have rights or interests which may be adversely affected by the use of such services by persons acting on their behalf or in a fiduciary capacity in relation to them;
 - “conveyancing services” has the same meaning as in Part 2 of the Administration of Justice Act 1985 (c. 61) (licensed conveyancing) (see section 11(3) of that Act);
 - “court” includes—
 - (a) a tribunal that is (to any extent) a listed tribunal for, or for any of, the purposes of Schedule 7 to the Tribunals, Courts and Enforcement Act 2007 (functions etc of Administrative Justice and Tribunals Council);
 - (b) a court-martial;
 - (c) a statutory inquiry within the meaning of section 16(1) of the Tribunals and Inquiries Act 1992 (c. 53);
 - (d) an ecclesiastical court (including the Court of Faculties);
 - “functions” includes powers and duties;

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“immigration advice” and “immigration services” have the meaning given by section 82 of the Immigration and Asylum Act 1999 (c. 33) (interpretation of Part 5) (see also subsection (4) below);

“independent trade union” has the same meaning as in the Trade Union and Labour Relations (Consolidation) Act 1992 (c. 52) (see section 5 of that Act);

“manager”, in relation to a body, means (subject to subsection (5)) a person who—

- (a) if the body is a body corporate whose affairs are managed by its members, is a member of the body,
- (b) if the body is a body corporate and paragraph (a) does not apply, is a director of the body,
- (c) if the body is a partnership, is a partner, and
- (d) if the body is an unincorporated body (other than a partnership), is a member of its governing body;

“modify” includes amend, add to or revoke, and references to “modifications” are to be construed accordingly;

“non-commercial legal services” means—

- (a) legal services carried on otherwise than with a view to profit;
- (b) legal services carried on by a not for profit body, a community interest company or an independent trade union;

“not for profit body” means a body which, by or by virtue of its constitution or any enactment—

- (a) is required (after payment of outgoings) to apply the whole of its income, and any capital which it expends, for charitable or public purposes, and
- (b) is prohibited from directly or indirectly distributing amongst its members any part of its assets (otherwise than for charitable or public purposes);

“the OFT” means the Office of Fair Trading;

“person” includes a body of persons (corporate or unincorporate);

“reserved legal services” means services provided by a person which consist of or include reserved legal activities carried on by, or on behalf of, that person;

“solicitor” means solicitor of the Senior Courts.

(2) The services within this subsection are—

- (a) any services provided by a person who is an authorised person in relation to an activity which is a reserved legal activity, and
- (b) any other services provided by a person which consist of or include a legal activity carried on by, or on behalf of, that person.

(3) For the purposes of the definition of “consumers” in subsection (1)—

- (a) if a person (“A”) is carrying on an activity in A’s capacity as a trustee, the persons who are, have been or may be beneficiaries of the trust are to be treated as persons who use, have used or are or may be contemplating using services provided by A in A’s carrying on of that activity, and
- (b) a person who deals with another person (“B”) in the course of B’s carrying on of an activity is to be treated as using services provided by B in carrying on that activity.

- (4) The references in this Act (other than section 195) to the provision of immigration advice or immigration services are to the provision of such advice or services by a person—
 - (a) in England and Wales (regardless of whether the persons to whom they are provided are in England and Wales or elsewhere), and
 - (b) in the course of a business carried on (whether or not for profit) by the person or another person.
- (5) The Lord Chancellor may by order make provision modifying the definition of “manager” 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.
- (6) In this section “enactment” means a provision of—
 - (a) an Act of Parliament;
 - (b) an Act of the Scottish Parliament;
 - (c) a Measure or Act of the National Assembly for Wales;
 - (d) Northern Ireland legislation.

Miscellaneous and supplementary

208 Minor and consequential provision etc

- (1) Schedule 21 contains minor and consequential amendments.
- (2) The Lord Chancellor may by order make any supplementary, incidental or consequential provision and any transitory, transitional or saving provision which the Lord Chancellor considers necessary or expedient—
 - (a) for the general purposes, or any particular purpose, of this Act, or
 - (b) in consequence of any provision made by or under it or for giving full effect to it.
- (3) An order under this section may make provision amending, repealing or revoking (with or without savings) any provision of—
 - (a) an Act passed before or in the same session as this Act, or
 - (b) an instrument made under an Act before the passing of this Act.
- (4) An order under this section may make such adaptations of provisions of this Act brought into force as appear to be necessary or expedient in consequence of other provisions of this Act not yet having come into force.
- (5) Provision made under this section is additional, and without prejudice, to that made by or under any other provision of this Act.

209 Transitional and transitory provision

Schedule 22 contains transitional and transitory provision.

210 Repeals

Schedule 23 contains repeals (including repeals of spent provisions).

Status: This is the original version (as it was originally enacted).

211 Commencement

- (1) This section and sections 208(2) to (5), 212 and 214 come into force on the day this Act is passed.
- (2) Subject to that, the provisions of this Act come into force on such day as may be appointed by order of the Lord Chancellor.

212 Extent

- (1) Subject to subsections (2) and (3), this Act extends to England and Wales only.
- (2) Sections 195 and 196(1) and Schedule 20 extend to Scotland only (and, for the purposes of those provisions, this Part also extends there).
- (3) An amendment or repeal contained in this Act (and, for the purposes of such an amendment or repeal, this Part) has the same extent as the enactment or relevant part of the enactment to which the amendment or repeal relates.

213 Index of defined expressions

Schedule 24 lists the places where expressions used in this Act are defined or otherwise explained.

214 Short title

This Act may be cited as the Legal Services Act 2007.