

SCHEDULES

SCHEDULE 1

Section 2

THE LEGAL SERVICES BOARD

Membership

- 1 (1) The Board is to consist of the following members—
 - (a) a chairman appointed by the Lord Chancellor,
 - (b) the Chief Executive of the Board (see paragraph 13), and
 - (c) at least 7, but not more than 10, other persons appointed by the Lord Chancellor.
- (2) In this Schedule a reference to an “ordinary member” is a reference to a member of the Board other than the Chief Executive.
- (3) Before appointing an ordinary member, the Lord Chancellor must consult the Lord Chief Justice about the process for appointment of the member and about the person selected for appointment.
- (4) The Lord Chancellor may by order amend sub-paragraph (1) by substituting for the limit on the maximum number of persons for the time being specified in paragraph (c) of that sub-paragraph a different limit.
- 2 (1) In appointing persons as ordinary members the Lord Chancellor must ensure that a majority of the members of the Board are lay persons.
- (2) The chairman must be a lay person.
- (3) It is a condition of the appointment of the chairman that the person appointed must not during the appointment—
 - (a) carry on any activity which is a reserved legal activity,
 - (b) provide regulated claims management services (within the meaning of Part 2 of the Compensation Act 2006 (c. 29)), or
 - (c) provide immigration advice or immigration services,for or in expectation of any fee, gain or reward.
- (4) In this Schedule a reference to a “lay person” is a reference to a person who has never been—
 - (a) an authorised person in relation to an activity which is a reserved legal activity;
 - (b) a person authorised, by a person designated under section 5(1) of the Compensation Act 2006, to provide services which are regulated claims management services (within the meaning of that Act);
 - (c) an advocate in Scotland;
 - (d) a solicitor in Scotland;
 - (e) a member of the Bar of Northern Ireland;

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(f) a solicitor of the Court of Judicature of Northern Ireland.

(5) For the purposes of sub-paragraph (4), a person is deemed to have been an authorised person in relation to an activity which is a reserved legal activity if that person has before the appointed day been—

- (a) a barrister;
- (b) a solicitor;
- (c) a public notary;
- (d) a licensed conveyancer;
- (e) granted a certificate issued by the Institute of Legal Executives authorising the person to practise as a legal executive;
- (f) a registered patent attorney, within the meaning given by section 275(1) of the Copyright, Designs and Patents Act 1988 (c. 48);
- (g) a registered trade mark attorney, within the meaning of the Trade Marks Act 1994 (c. 26); or
- (h) granted a right of audience or a right to conduct litigation in relation to any proceedings by virtue of section 27(2)(a) or section 28(2)(a) of the Courts and Legal Services Act 1990 (c. 41) (rights of audience and rights to conduct litigation).

(6) For the purpose of sub-paragraph (5)—

“appointed day” means the day appointed for the coming into force of section 13;

“licensed conveyancer” has the meaning given by section 11(2) of the Administration of Justice Act 1985 (c. 61).

3 In appointing persons to be ordinary members, the Lord Chancellor must have regard to the desirability of securing that the Board includes members who (between them) have experience in or knowledge of—

- (a) the provision of legal services;
- (b) legal education and legal training;
- (c) consumer affairs;
- (d) civil or criminal proceedings and the working of the courts;
- (e) competition matters;
- (f) the maintenance of the professional standards of persons who provide legal services;
- (g) the maintenance of standards in professions other than the legal profession;
- (h) the handling of complaints;
- (i) commercial affairs;
- (j) non-commercial legal services;
- (k) the differing needs of consumers;
- (l) the provision of claims management services (within the meaning of Part 2 of the Compensation Act 2006 (c. 29)).

Terms of appointment and tenure of members

4 An ordinary member is to hold and vacate office in accordance with the terms and conditions of that member’s appointment (subject to this Schedule).

5 (1) An ordinary member must be appointed for a fixed period.

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- (2) The period for which an ordinary member is appointed must not exceed 5 years.
- (3) A person who has held office as an ordinary member may be re-appointed, once only, for a further period (whether consecutive or not) not exceeding 5 years.
- 6 If an ordinary member who is a lay person becomes a person within paragraphs (a) to (f) of paragraph 2(4) that person ceases to be a member of the Board.
- 7 (1) An ordinary member may at any time—
- (a) resign from office by giving notice to the Lord Chancellor;
 - (b) be removed from office by the Lord Chancellor.
- (2) The Lord Chancellor may not under sub-paragraph (1)(b) remove an ordinary member from office unless sub-paragraph (3) or (4) applies.
- (3) This sub-paragraph applies if the Lord Chancellor is satisfied that the member—
- (a) has failed without reasonable excuse to discharge the functions of the office for a continuous period of at least 6 months,
 - (b) has been convicted of an offence,
 - (c) is an undischarged bankrupt, or
 - (d) is otherwise unfit to hold the office or unable to discharge its functions.
- (4) This sub-paragraph applies if the member is the chairman and has breached the condition imposed on his appointment by paragraph 2(3).
- (5) Before removing any ordinary member under sub-paragraph (1)(b), the Lord Chancellor must consult—
- (a) the Lord Chief Justice, and
 - (b) if the ordinary member is not the chairman, the chairman.
- (6) The Lord Chancellor may not remove an ordinary member on the ground mentioned in paragraph (a) of sub-paragraph (3) more than 3 months after the end of the period mentioned in that paragraph.
- 8 The chairman ceases to be chairman upon ceasing to be a member of the Board.
- 9 Where a person ceases to be employed as Chief Executive, that person ceases to be a member of the Board.

Remuneration etc of members

- 10 The chairman and other ordinary members are to be paid by the Board in accordance with provision made by or under their terms of appointment.
- 11 The terms of appointment of the chairman or any other ordinary member may provide for the Board to pay, or make payments towards the provision of, a pension, allowance or gratuity to or in respect of that person.
- 12 If the Lord Chancellor thinks there are circumstances that make it right for a person ceasing to hold office as chairman or another ordinary member to receive compensation, the Board may pay that person such compensation as the Lord Chancellor may determine.

Staff

- 13 The Board must appoint a person as its Chief Executive.

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- 14 The Board may appoint such other staff as it considers appropriate to assist in the performance of its functions.
- 15 The Chief Executive and other staff are to be—
- (a) appointed on terms and conditions determined by the Board, and
 - (b) paid by the Board in accordance with provision made by or under the terms of appointment.
- 16 The terms and conditions on which the Chief Executive or any other member of staff is appointed may provide for the Board to pay, or make payments towards the provision of, a pension, allowance or gratuity to or in respect of that person.
- 17 The Board may pay compensation for loss of employment to or in respect of a member (or former member) of staff.
- 18 A member of staff appointed under paragraph 14 may be a member (but not chairman) of the Board.

Arrangements for assistance

- 19 (1) The Board may make arrangements with such persons as it considers appropriate for assistance to be provided to it.
- (2) Arrangements may include the paying of fees to such persons.

Committees

- 20 (1) The Board may establish committees.
- (2) Any committee so established may establish sub-committees.
- (3) Only members of the Board may be members of a committee or sub-committee.
- (4) A majority of the members of a committee or sub-committee must be lay persons.

Proceedings

- 21 (1) The Board may regulate its own procedure, and the procedure of its committees and sub-committees, including quorum.
- (2) But the quorum of a committee or sub-committee must not be less than 3.
- (3) The Board must publish any rules of procedure made under this paragraph.
- (4) This paragraph is without prejudice to any other power the Board has under this Act to make rules.
- 22 The validity of any act of the Board is not affected—
- (a) by a vacancy in the office of chairman or amongst the other members, or
 - (b) by a defect in the appointment or any disqualification of a person as chairman or another member of the Board.

Delegation of functions

- 23 (1) The Board may authorise—
- (a) the chairman, the Chief Executive or any other member of the Board,
 - (b) a committee or sub-committee of the Board, or

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- (c) a member of staff appointed under paragraph 14,
to exercise, on behalf of the Board, such of its functions, in such circumstances, as it may determine.
- (2) A committee may delegate functions (including functions delegated to the committee) to—
 - (a) a sub-committee,
 - (b) the chairman, the Chief Executive or any other member of the Board, or
 - (c) a member of staff appointed under paragraph 14.
- (3) Sub-paragraphs (1) and (2) are subject to—
 - (a) any provision made by an order under section 62 by virtue of section 64(2)(k) (powers to authorise the Board to delegate to any person functions conferred on it in its capacity as an approved regulator), and
 - (b) section 73(3)(a) (power to delegate to any person functions conferred on the Board in its capacity as a licensing authority).
- (4) Sub-paragraph (1) does not apply to any power or duty the Board has to make rules (other than excluded rules) under this Act.
- (5) In sub-paragraph (4) “excluded rules” means—
 - (a) rules of procedure made under paragraph 21 in relation to any committee or sub-committee of the Board, and
 - (b) rules made by the Board in its capacity as an approved regulator or a licensing authority.

Borrowing

- 24 The Board is not to borrow money, except—
- (a) with the consent of the Lord Chancellor, or
 - (b) in accordance with a general authorisation given by the Lord Chancellor.

Accounts

- 25 (1) The Board must—
- (a) keep proper accounts and proper records in relation to the accounts, and
 - (b) prepare in respect of each financial year a statement of accounts.
- (2) Each statement of accounts must comply with any directions given by the Lord Chancellor, with the approval of the Treasury, as to—
- (a) the information to be contained in it and the manner in which it is to be presented;
 - (b) the methods and principles according to which the statement is to be prepared;
 - (c) the additional information (if any) which is to be provided for the information of Parliament.
- (3) The Board must give a copy of each statement of accounts—
- (a) to the Lord Chancellor, and
 - (b) to the Comptroller and Auditor General,

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before the end of the month of August next following the financial year to which the statement relates.

- (4) The Comptroller and Auditor General must—
- (a) examine, certify and report on each statement of accounts which is received under sub-paragraph (3), and
 - (b) give a copy of the Comptroller and Auditor General’s report to the Lord Chancellor.
- (5) In respect of each financial year, the Lord Chancellor must lay before Parliament a document consisting of—
- (a) a copy of the statement of accounts for that year, and
 - (b) a copy of the Comptroller and Auditor General’s report on that statement.
- (6) “Financial year” means—
- (a) the period beginning with the day on which the Board is established and ending with the next following 31 March, and
 - (b) each successive period of 12 months.

Status

- 26 (1) The Board is not to be regarded—
- (a) as the servant or agent of the Crown, or
 - (b) as enjoying any status, immunity or privilege of the Crown.
- (2) Accordingly—
- (a) the Board’s property is not to be regarded as property of or held on behalf of the Crown, and
 - (b) the Board’s staff are not to be regarded as servants or agents of the Crown or as enjoying any status, immunity or privilege of the Crown.

Application of seal and proof of instruments

- 27 The application of the seal of the Board is to be authenticated by the signature of any member of the Board, or of its staff, who has been authorised (whether generally or specifically) by the Board for the purpose.
- 28 Any contract or instrument which, if entered into or executed by an individual, would not need to be under seal may be entered into or executed on behalf of the Board by any person who has been authorised (whether generally or specifically) by the Board for the purpose.
- 29 A document purporting to be duly executed under the seal of the Board or signed on its behalf—
- (a) is to be received in evidence, and
 - (b) is to be taken to be executed or signed in that way, unless the contrary is proved.

Disqualification

- 30 (1) In Part 2 of Schedule 1 to the House of Commons Disqualification Act 1975 (c. 24) (bodies of which all members are disqualified) at the appropriate place insert—

“The Legal Services Board.”

- (2) In Part 2 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (c. 25) (bodies of which all members are disqualified) at the appropriate place insert—

“The Legal Services Board.”

Freedom of information

- 31 In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (c. 36) (other public bodies and offices which are public authorities) at the appropriate place insert—

“The Legal Services Board.”

Public records

- 32 In Schedule 1 to the Public Records Act 1958 (c. 51) (definition of public records) at the appropriate place in Part 2 of the Table at the end of paragraph 3 insert—

“The Legal Services Board.”

Exemption from liability in damages

- 33 (1) This paragraph applies to—
- (a) the Board,
 - (b) a member of the Board,
 - (c) a member of the Board’s staff appointed under paragraph 14,
 - (d) a person to whom the Board (in its capacity as an approved regulator) delegates any of its functions by virtue of provision made under section 64(2)(k), and
 - (e) a person to whom the Board (in its capacity as a licensing authority) delegates any of its functions by virtue of section 73(3)(a).
- (2) A person to whom this paragraph applies is not liable in damages for anything done or omitted in the exercise or purported exercise of the functions of the Board conferred by or by virtue of this or any other enactment.
- (3) But sub-paragraph (1) does not apply—
- (a) if it is shown that the act or omission was in bad faith, or
 - (b) so as to prevent an award of damages made in respect of an act or omission on the ground that the act or omission was unlawful as a result of section 6(1) of the Human Rights Act 1998 (c. 42).