

SCHEDULES

SCHEDULE 7

Section 33

DIRECTIONS: PROCEDURE

Introductory

- 1 This Schedule applies where the Board proposes giving a direction to an approved regulator under section 32.

Notification of the approved regulator

- 2 (1) The Board must give the approved regulator a notice (“a warning notice”) accompanied by a copy of the proposed direction.
- (2) The warning notice must—
- (a) state that the Board proposes to give the approved regulator a direction in the form of the accompanying draft,
 - (b) specify why the Board is satisfied as mentioned in section 32(1) and (2), and
 - (c) specify a period within which the approved regulator may make representations with respect to the proposal.
- (3) The period specified under sub-paragraph (2)(c)—
- (a) must begin with the date on which the warning notice is given to the approved regulator, and
 - (b) must not be less than 14 days.
- (4) The approved regulator may make to the Board—
- (a) written representations, and
 - (b) if the Board authorises it to do so, oral representations, about the proposed direction.
- (5) The Board must make rules governing the making of oral and written representations.
- (6) The Board must consider any representations duly made by the approved regulator.
- (7) Where oral representations are duly made, the Board must prepare a report of those representations.
- (8) Before preparing that report, the Board must—
- (a) give the approved regulator a reasonable opportunity to comment on a draft of the report, and
 - (b) have regard to any comments duly made.

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Board's duty to seek advice

- 3 (1) After complying with paragraph 2, the Board must give each of the persons listed in sub-paragraph (2)—
- (a) a copy of the warning notice and the accompanying draft direction,
 - (b) a copy of any written representations duly made under paragraph 2 and a copy of the report (if any) prepared under that paragraph, and
 - (c) a notice specifying a period within which any advice under paragraphs 4 to 7 must be given.
- (2) Those persons are—
- (a) the Lord Chancellor,
 - (b) the OFT,
 - (c) the Consumer Panel,
 - (d) the Lord Chief Justice, and
 - (e) such other persons as the Board considers it reasonable to consult in respect of the proposed direction.
- (3) In this Schedule, in relation to a proposed direction, “selected consultee” means a person within sub-paragraph (2)(e).

Advice of the Lord Chancellor

- 4 The Lord Chancellor must give the Board such advice as the Lord Chancellor thinks fit in respect of the proposed direction.

Advice of Office of Fair Trading

- 5 (1) The OFT must give the Board such advice as it thinks fit regarding whether the proposed direction should be given.
- (2) In deciding what advice to give, the OFT must, in particular, have regard to whether giving the proposed direction would (or would be likely to) prevent, restrict or distort competition within the market for reserved legal services to any significant extent.

Advice of the Consumer Panel

- 6 (1) The Consumer Panel must give the Board such advice as it thinks fit regarding whether the proposed direction should be given.
- (2) In deciding what advice to give, the Consumer Panel must, in particular, have regard to the likely impact of the proposed direction on consumers.

Advice of selected consultees

- 7 A selected consultee may give the Board such advice as the selected consultee thinks fit in respect of the proposed direction.

Advice of the Lord Chief Justice

- 8 (1) The Board must give the Lord Chief Justice—
- (a) a copy of any advice duly given under paragraphs 4 to 7, and

- (b) a notice specifying a period within which any advice under this paragraph must be given.
- (2) The Lord Chief Justice must then give such advice as the Lord Chief Justice thinks fit regarding whether the proposed direction should be given.
- (3) In deciding what advice to give, the Lord Chief Justice must, in particular, have regard to the likely impact of the proposed direction on the courts in England and Wales.

Consultees' powers to request information

- 9 A person (“the consultee”) to whom a copy of the warning notice is given under paragraph 3(1) may, for the purposes of giving advice under paragraphs 4 to 8, request the approved regulator or any other person to provide the consultee with such additional information as may be specified by the consultee.

Representations by approved regulator

- 10 (1) The Board must give the approved regulator a copy of any advice duly given under paragraphs 4 to 8.
- (2) The approved regulator may make to the Board—
- (a) written representations, and
 - (b) if the Board authorises it to do so, oral representations, about the advice.
- (3) The Board must make rules governing the making of oral and written representations.
- (4) Representations under this paragraph must be made within—
- (a) the period of 28 days beginning with the day on which the copy of the advice is given to the approved regulator, or
 - (b) such longer period as the Board may specify in a particular case.
- (5) Where oral representations are made, the Board must prepare a report of those representations.
- (6) Before preparing that report, the Board must—
- (a) give the approved regulator a reasonable opportunity to comment on a draft of the report, and
 - (b) have regard to any comments duly made.

Publication of advice etc

- 11 (1) The Board must, as soon as practicable after the end of the period within which representations under paragraph 10 may be made, publish—
- (a) any advice duly given under paragraphs 4 to 8, and
 - (b) any written representations duly made under paragraph 10 and the report (if any) prepared under that paragraph.
- (2) Nothing in sub-paragraph (1) operates—
- (a) to prevent a person who gives advice under paragraphs 4 to 8 from publishing that advice, or

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- (b) to prevent a person who makes representations under paragraph 10 from publishing those representations.
- (3) A person (“the publisher”) publishing any such material (whether under subparagraph (1) or otherwise) must, so far as practicable, exclude any matter which relates to the private affairs of a particular individual the publication of which, in the opinion of the publisher, would or might seriously and prejudicially affect the interests of that individual.

Decision by the Board

- 12 (1) After considering—
- (a) any advice duly given under paragraphs 4 to 8,
 - (b) any representations duly made under paragraph 10, and
 - (c) any other information which the Board considers relevant,
- the Board must decide whether to give the approved regulator the proposed direction.
- (2) The Board must give notice of its decision (“the decision notice”) to the approved regulator.
- (3) Where the Board decides to give the proposed direction, the decision notice must—
- (a) contain the direction,
 - (b) state the time at which the direction is to take effect, and
 - (c) specify the Board’s reasons for the decision to give the direction.
- (4) The Board must publish the decision notice.