

SCHEDULE 2

Article 4

Transitional provisions relating to Schedule 5 to the Act

1. In this Schedule, unless the context otherwise requires—

“the 1990 Act” means the Courts and Legal Services Act 1990;

“the commencement date” means 1st January 2000;

“the existing Schedule 4” and “the new Schedule 4” mean respectively Schedule 4 to the 1990 Act prior to and subsequent to the commencement date(1);

“the Advisory Committee” means the Lord Chancellor’s Advisory Committee on Legal Education and Conduct established by section 19 of the 1990 Act(2);

“the Consultative Panel” means the Legal Services Consultative Panel established by section 18A of the 1990 Act(3); and

other words and expressions have the meanings ascribed to them by section 119 of the 1990 Act.

Qualification regulations and rules of conduct

2. Where before the commencement date an authorised body has begun but has not completed the procedure for obtaining approval under the 1990 Act for an alteration to its qualification regulations or rules of conduct, the procedure set out in paragraphs 3 to 5 of this Schedule shall apply, and:—

(a) a proposal under paragraph 6(1) of the existing Schedule 4 shall be treated as a case within paragraph 8(1) of the new Schedule 4;

(b) a proposal under paragraph 6(2) of the existing Schedule 4 shall be treated as a case within paragraph 8(2) of the new Schedule 4.

3.—(1) Where at the commencement date proposals have been submitted to the Advisory Committee under paragraph 6(1) or (2) of the existing Schedule 4, but no advice has been received under paragraph 7(2) of that Schedule, Part II of the new Schedule 4 shall apply in its entirety.

(2) Where at the commencement date an application has been submitted to the Lord Chancellor under paragraph 8 of the existing Schedule 4, but—

(a) it has not been referred for advice to the Advisory Committee under that paragraph and to the Director under paragraph 9 of the existing Schedule 4, or

(b) it has been so referred, but no advice has been received either from the Advisory Committee or from the Director, the application shall be treated as an application under paragraph 9 of the new Schedule 4, and Part II of that Schedule shall apply in its entirety.

4.—(1) Where an application has been submitted to the Lord Chancellor under paragraph 8 of the existing Schedule 4 and at the commencement date the Lord Chancellor has received advice from the Advisory Committee but not from the Director, Part II of the new Schedule 4 shall apply with the following modifications:—

(a) the advice of the Advisory Committee shall for the purposes of paragraphs 13 to 15 of the new Schedule 4 be treated as if it were additional advice of the Consultative Panel; and

(b) the Lord Chancellor shall consider whether it would nevertheless be appropriate also to seek the advice of the Consultative Panel and (if he has not already sought it) of the Director.

(1) Schedule 5 to the Access to Justice Act 1999 (c. 22) substitutes new provisions for Schedule 4 to the Courts and Legal Services Act 1990.

(2) Section 19 is repealed by Part II of Schedule 15 to the Access to Justice Act 1999.

(3) Section 18A is inserted in the 1990 Act by section 35(2) of the Access to Justice Act 1999.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(2) Where an application has been submitted to the Lord Chancellor under paragraph 8 of the existing Schedule 4 and at the commencement date the Lord Chancellor has received advice from the Director but not from the Advisory Committee, Part II of the new Schedule 4 shall apply in its entirety, save that the Lord Chancellor shall not be required a second time to seek the advice of the Director.

5.—(1) Where an application has been submitted to the Lord Chancellor under paragraph 8 of the existing Schedule 4 and at the commencement date the Lord Chancellor has received advice both from the Advisory Committee and from the Director, the following provisions of this paragraph shall apply.

(2) If the Lord Chancellor has acted under paragraph 11(4) of the existing Schedule 4, the remaining provisions of that paragraph shall apply.

(3) Subject to sub-paragraph (4) below, if the Lord Chancellor has not acted under paragraph 11(4) of the existing Schedule 4, he shall (if he has not already done so) send to the applicant a copy of the advice of the Advisory Committee and of that of the Director, and thereafter paragraphs 13(2) to 16 of the new Schedule 4 shall apply, references to the Consultative Panel being treated as references to the Advisory Committee.

(4) If the Lord Chancellor is minded to refuse the application he shall before reaching a decision seek the advice of the Consultative Panel, and thereafter paragraphs 11 and 13 to 16 of the new Schedule 4 shall again apply.

Authorisation of bodies

6. Where any professional or other body wishes to become an authorised body for the purposes of section 27 (grant of rights of audience) or section 28 (grant of rights to conduct litigation) of the 1990 Act, and before the commencement date it has begun but has not completed the procedure set out in Part I of the existing Schedule 4, the procedure set out in paragraphs 7 to 9 of this Schedule shall apply.

7.—(1) Where at the commencement date drafts of the proposed qualification regulations and rules of conduct have been submitted to the Advisory Committee under paragraph 1(1) of the existing Schedule 4, but no advice has been received under paragraph 1(5) of that Schedule, Part I of the new Schedule 4 shall apply in its entirety.

(2) Where at the commencement date an application has been submitted to the Lord Chancellor under paragraph 2 of the existing Schedule 4, but—

- (a) it has not been referred for advice to the Advisory Committee under that paragraph and to the Director under paragraph 3 of the existing Schedule 4, or
- (b) it has been so referred, but no advice has been received either from the Advisory Committee or from the Director,

the application shall be treated as an application under paragraph 1 of the new Schedule 4, and Part I of that Schedule shall apply in its entirety.

8.—(1) Where an application has been submitted to the Lord Chancellor under paragraph 2 of the existing Schedule 4 and at the commencement date the Lord Chancellor has received advice from the Advisory Committee but not from the Director, Part I of the new Schedule 4 shall apply with the following modifications:—

- (a) the advice of the Advisory Committee shall, for the purposes of paragraphs 4 to 6 of the new Schedule 4, be treated as if it were additional advice of the Consultative Panel;
- (b) the Lord Chancellor shall consider whether it would nevertheless be appropriate also to seek the advice of the Consultative Panel; and

(c) the Lord Chancellor shall (if he has not already done so) seek the advice of the Director.

(2) Where an application has been submitted to the Lord Chancellor under paragraph 2 of the existing Schedule 4 and at the commencement date the Lord Chancellor has received advice from the Director but not from the Advisory Committee, Part I of the new Schedule 4 shall apply in its entirety, save that the Lord Chancellor shall not be required a second time to seek the advice of the Director.

9.—(1) Where an application has been submitted to the Lord Chancellor under paragraph 2 of the existing Schedule 4 and at the commencement date the Lord Chancellor has received advice both from the Advisory Committee and from the Director, the following provisions of this paragraph shall apply.

(2) If the Lord Chancellor has acted under paragraph 5(4) of the existing Schedule 4, the remaining provisions of that paragraph shall apply.

(3) Subject to sub-paragraph (4) below, if the Lord Chancellor has not acted under paragraph 5(4) of the existing Schedule 4, he shall (if he has not already done so) send to the applicant a copy of the advice of the Advisory Committee and of that of the Director, and thereafter paragraphs 4(2) to 7 of the new Schedule 4 shall apply, references to the Consultative Panel being treated as references to the Advisory Committee.

(4) If the Lord Chancellor is minded to refuse the application he shall before reaching a decision seek the advice of the Consultative Panel and thereafter paragraphs 2 and 4 to 7 of the new Schedule 4 shall again apply.