

2008 No. 222 (C. 6)

LEGAL SERVICES, ENGLAND AND WALES

**The Legal Services Act 2007 (Commencement No.1 and
Transitory Provisions) Order 2008**

<i>Made</i> - - - -	<i>4th February 2008</i>
<i>Laid before Parliament</i>	<i>5th February 2008</i>
<i>Coming into force</i> - -	<i>7th March 2008</i>

The Lord Chancellor makes the following Order in exercise of the powers conferred by sections 208(2) and (4) and 211 of the Legal Services Act 2007^(a):

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Legal Services Act 2007 (Commencement No.1 and Transitory Provisions) Order 2008.

(2) This Order comes into force on 7th March 2008.

(3) In this Order—

- (a) “the 2007 Act” means the Legal Services Act 2007; and
- (b) a reference to a section, a Schedule or a paragraph of a Schedule by number alone is a reference to that section, Schedule or paragraph in the 2007 Act.

Commencement of provisions

2. The following provisions of the 2007 Act shall come into force on 7th March 2008—

- (a) in Part 1, section 1 (the regulatory objectives), subject to article 7(1);
- (b) in Part 2, sections 2 (the Legal Services Board), 3 (the Board’s duty to promote the regulatory objectives etc), 5 (corporate governance), 6 (annual report) and 7 (supplementary powers);
- (c) in Part 4, sections 69 (modification of the functions of approved regulators etc) subject to the modifications set out in article 4, and 70 (procedural requirements relating to recommendations under section 69) subject to the modifications set out in article 5;
- (d) in Part 6, section 114 (the Office for Legal Complaints);
- (e) in Part 7, section 172 (funding);
- (f) in Part 8, sections 177 (the Law Society, solicitors, recognised bodies and foreign lawyers), 180 (functions of the Tribunal) subject to the modifications set out in article 6, 182 (licensed conveyancers) and 187 (claims management services);

(a) 2007 c.29.

- (g) in Part 9, sections 199(1) and (2) (protected functions of the Lord Chancellor), 200(1) (notices and directions), 204(1), (3) and (4)(a) (orders, regulations and rules), 206 (Parliamentary control of orders and regulations), the definitions of “barrister”, “consumers”, “court”, “functions”, “immigration advice”, “immigration services”, “modify”, and “solicitor” in section 207 (interpretation), section 209 (transitional and transitory provision) and section 210 (repeals);
- (h) Schedule 1 (the Legal Services Board);
- (i) paragraphs 1 to 12 of Schedule 15 (the Office for Legal Complaints);
- (j) in Schedule 16 (the Law Society, solicitors, recognised bodies and foreign lawyers)—
 - (i) in Part 1, paragraphs 1, 2(b), 4(b), 7(b), 8(1) and (2), 21, 31(1) and (2)(a) and (d), 34(1), (2)(a) and (3), 38(a) in so far as it substitutes the word “Society” for the word “Council”, 38(b)(i) and (ii), 50(a)(ii), 53, 54(1) and (4)(b), 64(1), (3) and (4), 71, subject to article 7(2), 72(a) and 75(c), in so far as it omits the definition of “articles” and “employee”;
 - (ii) in Part 2, paragraphs 80 and 115; and
 - (iii) in Part 3, paragraphs 124, 126, 128(a) and (c)(i) and 130;
- (k) paragraphs 1 and 11 of Schedule 17 (licensed conveyancing);
- (l) paragraphs 1, 5, 8 and 9 of Schedule 19 (claims management services);
- (m) in Schedule 22 (transitional and transitory provision)—
 - (i) paragraphs 1 to 5; and
 - (ii) paragraph 9 in so far as it allows the exercise of the powers in paragraphs 13, 15 and 16 of Schedule 1 and paragraphs 1 to 9 and 11 of Schedule 15; and
- (n) in Schedule 23 (repeals)—
 - (i) the entries relating to sections 1A(c), 2(3)(a)(i) and (v), 17(1) and (2), 48(2)(b), and the definition of “articles” and “employee” in section 87(1), of the Solicitors Act 1974(a);
 - (ii) the entry relating to section 22(3)(a) of the Administration of Justice Act 1985(b).

3. The provisions in the first column of the following table come into force on 7th March 2008 in so far as they define the term in the second column of the table for the purpose of the provisions mentioned in the third column—

<i>Provision</i>	<i>Defined Term</i>	<i>Purpose</i>
Section 12 and Schedule 2	Reserved legal activity	Section 1 The definition of “consumers” in section 207 Section 69(4) as modified by this Order Paragraph 2(3) to (5) of Schedule 1 Paragraph 2(3) and (4) of Schedule 15 Paragraph 2(6) and 2(7)(b) of Schedule 22
Section 20(2)	Approved regulator	Section 69(4) as modified by this Order Section 69(7) Section 172(1)(a)

(a) 1974 c. 47.
(b) 1985 c. 61.

Section 73(1)	Licensing authority	Paragraph 2(6), 2(7)(b) and 5 of Schedule 22 Sections 69(7)(a) and 172(1)(a), Schedule 1 and paragraph 2(7)(b) of Schedule 22
Section 207	Non-commercial legal services	Schedule 1 and paragraph 4(g) of Schedule 15

Modification of provisions

4. Until paragraph 1 of Schedule 4 comes into force, section 69 shall have effect as if—
- (a) for the words “an approved regulator” in subsection (1) and (8) there were substituted the words “a designated regulator (as defined in paragraph 2(2) and (3) of Schedule 22)”;
 - (b) for paragraphs (a) to (e) of subsection (3) there were substituted—
 - “(a) to become a body to which paragraph 2(3) of Schedule 22 applies;
 - (b) to grant its members rights for the purposes of section 27 or 28 of the Courts and Legal Services Act 1990(a), to exempt its members for the purposes of section 55 of that Act or to authorise its members for the purposes of section 113 of that Act;
 - (c) if it is or becomes a designated regulator (as defined in paragraph 2(2) and (3) of Schedule 22), to regulate its members more effectively and efficiently;
 - (d) if it is or becomes a designated regulator (as defined in paragraph 2(2) and (3) of Schedule 22), to expand the categories of person who are eligible to be members of the body;
 - (e) to do any of the things mentioned in paragraphs (a) to (e) of section 69(3) (as originally enacted) at a time after paragraph 1 of Schedule 4 comes into force.”;
 - (c) for subsections (4) and (5) there were substituted—

“(4) An order under this subsection may make provision in relation to the body to which the order relates, and members of that body, corresponding to the provision which by virtue of subsection (4) and (5) of section 69 (as originally enacted) may be made by an order under that section in relation to an approved regulator and persons authorised by that regulator to carry on reserved legal activities or to provide immigration advice or immigration services.”.
5. Until paragraph 1 of Schedule 4 comes into force, section 70 shall have effect as if for subsection (1) there were substituted—
- “(1) A recommendation may be made under section 69 (as modified by article 4 of the Legal Services Act 2007 (Commencement No.1 and Transitory Provisions) Order 2008) only with the consent of the designated regulator (as defined in paragraph 2(2) and (3) of Schedule 22) or other body to which the recommendation relates.”.
6. Until paragraph 1 of Schedule 4 comes into force, section 180 shall have effect—
- (a) to apply sections 69 and 70 as they are modified by articles 4 and 5 of this Order;
 - (b) as if for the words “an approved regulator” there were substituted “a designated regulator (as defined in paragraph 2(2) and (3) of Schedule 22)”;
 - (c) as if “(5)” were omitted from paragraph (b).

(a) 1990 c.41; sections 27 and 28 have been substantially amended by sections 40, 42, 43 and 106 of, paragraphs 4, 6 and 7 of Schedule 6 to, and Schedule 15 to the Access to Justice Act 1999 (c. 22). Section 113 is amended by section 106 of and Schedule 15 to that Act.

Transitory provision

7.—(1) Until section 13 (Entitlement to carry on a reserved legal activity) comes into force a reference to an authorised person in section 1 and in the definition of “consumers” in section 207 is to be treated as a reference to a person who will be an authorised person on the coming into force of section 13.

(2) Until section 1159 of the Companies Act 2006(a) comes into force for all purposes, the reference to “wholly owned subsidiary” in section 79 of the Solicitors Act 1974(b), as substituted by paragraph 71 of Schedule 16, is to be read as a reference to that term as defined in section 736 of the Companies Act 1985(c).

8. Until the appointment of a Chief Executive under paragraph 13 of Schedule 1 the powers of the Board in paragraph 10 of Schedule 1 (remuneration etc of members) and paragraph 10 of Schedule 15 (remuneration etc of members) to make payments may be exercised by the Lord Chancellor.

Signed by authority of the Lord Chancellor

Bridget Prentice
Parliamentary Under Secretary of State
Ministry of Justice

4th February 2008

EXPLANATORY NOTE

(This note is not part of the Order)

This Order commences the provisions of the Legal Services Act 2007 (c.29) (“the 2007 Act”) which establish the Legal Services Board (“the Board”) and the Office for Legal Complaints (“the OLC”). It also allows the Lord Chancellor to modify the functions of legal services regulators pending the establishment of the new regulatory regime under the 2007 Act. In addition it commences other minor and consequential provisions. This Order comes into force on 7th March 2008.

Article 2 brings into force various provisions of the 2007 Act. The following table shows the effect of those provisions—

<i>Article of Order</i>	<i>Provisions Commenced</i>	<i>Effect</i>
2(a)	Section 1, subject to article 7(1)	Sets out the regulatory objectives to which the Board, the OLC, the approved regulators and licensing authorities must have regard when exercising their functions.
2(b) and (h)	Sections 2, 3, 5, 6, 7 and Schedule 1	Section 2 introduces Schedule 1 and establishes the Board. Schedule 1 makes detailed provision about the Board. The Board is not established until the chairman, the Chief Executive and at least 7 other members have been appointed (see paragraph 1 of Schedule 1). Sections 3 to 7 set out the Board’s duty to promote the regulatory objectives, its governance and annual report requirements, and supplementary powers.
2(c) and (f)(part)	Sections 69, 70 and 180 subject to the modifications set out in articles 4, 5 and 6	Sections 69 and 70 permit the Lord Chancellor to modify the functions of approved regulators on the recommendation of the Board. The modifications to

(a) 2006 c.46; section 1159 is brought into force for limited purposes only by article 3(4) of S.I. 2007/3495.

(b) 1974 c.47; section 79 was substituted by section 97 of the Courts and Legal Services Act 1990 (c.41).

(c) 1985 c. 6; section 736 was substituted by section 144(1) of the Companies Act 1989 (c. 40).

	respectively	these powers in articles 4 to 6 permit their exercise pending the introduction of the new regulatory regime by allowing the modification of the powers of existing legal services regulators. Section 180 permits the Lord Chancellor to exercise the same functions in relation to the Solicitors Disciplinary Tribunal.
2(d) and (i)	Section 114 and Schedule 15, paragraphs 1 to 12	Section 114 establishes the OLC and introduces Schedule 15. Paragraphs 1 to 12 of Schedule 15 permit the Board to appoint and remunerate (subject to article 8) the members of the OLC. The OLC is not established until the chairman and at least 6 other members have been appointed.
2(e)	Section 172	Provides for the Lord Chancellor to pay the Board and the OLC monies for the purpose of meeting its expenditure.
2(f) (part), (g) (part), (j)(i)(part) and 2(n)(i) (part)	Sections 177, 210 and Schedule 16, paragraphs 1, 2(b), 7(b), 8(1) and (2), 31(1) and (2)(a) and (d), 34(1), (2)(a) and (3), 38(a) (part), 38(b)(i) and (ii), 54(1) and (4)(b) and the entry relating to section 1A(c) of the 1974 Act in Schedule 23	Sections 177 and 210 introduce Schedules 16 and 23 respectively. The paragraphs of Schedule 16 amend the Solicitors Act 1974 (c.47) (“the 1974 Act”) to replace references to “Council” with “Society”. Further such references will be replaced as the 2007 Act is further implemented.
2(j)(i) (part) and 2(n)(i) (part)	Schedule 16, paragraphs 4(b), 53 and 75(c) (Part) and the entries relating to sections 2(3)(a)(i) and (v), and the definitions of “articles” and “employee” in section 87(1) of the 1974 Act in Schedule 23	Amends the 1974 Act so as to remove references to “articles” and “employee” and repeals the definitions of the same.
2(j)(i) (part) and 2(n)(i) (part)	Schedule 16, paragraphs 21 and 50(a)(ii) and the entries relating to sections 17(1) and (2) and 48(2)(b) of the 1974 Act in Schedule 23	Removes the references to the London Gazette in the 1974 Act.
2(j)(i) (part) and (ii) and 2(n)(i) (part)	Schedule 16, paragraphs 64(1), (3) and (4), 80 and 115	Amends the 1974 Act and the Administration of Justice Act 1985 (c.61) (“the 1985 Act”) to allow solicitors and regulated foreign lawyers to bill electronically.
2(j)(i) (part)	Schedule 16, paragraphs 71 and 72(a)	Amends the powers of the Law Society and its Council to delegate the discharge of their functions.
2(j)(iii)	Schedule 16, paragraphs 124, 126, 128(a) and (c)(i) and 130	Amends the Courts and Legal Services Act 1990 (c.40) to replace references to “Council” with “Society”.
2(f) (part), (k) and (n)(ii)	Section 182, Schedule 17, paragraphs 1 and 11, and the entry relating to section 22(3)(a) of the 1985 Act in Schedule 23	Section 182 introduces Schedule 17. Paragraph 11 of Schedule 17 amends the 1985 Act so as to provide that reports in relation to the accounts of licensed conveyancers must be given by accountants who meet the requirements prescribed by rules.
2(f) (part) and (l)	Section 187 and Schedule 19 paragraphs 1, 5, 8 and 9	Amends the Compensation Act 2006 (“the 2006 Act”) so that the sentencing provisions in sections 7 and 11 of the 2006 Act are consistent with the

		general criminal law. The Claims Management Services Tribunal provisions are also amended so that appeals from the Tribunal to the Court of Appeal may only be brought on a point of law.
2(g) (part)	Sections 199(1) and (2), 200(1), 204(1), (3) and (4)(a), 206, 207 (part) and 209	These provisions commence minor, technical and consequential provisions of the 2007 Act, including provisions necessary to the operation of other provisions commenced by this Order.
2(m)(i) (part)	Schedule 22 paragraphs 1 to 4	Enables the powers similar to those exercisable under sections 69, 70 and 180 to be exercised by the Lord Chancellor prior to the establishment of the Board in respect of current legal services regulators.
2(m)(i) (part)	Schedule 22 paragraph 5	Allows the Lord Chancellor to amend the table of approved regulators in Schedule 4.
2(m)(ii)	Schedule 22 paragraph 9 for certain purposes	Allows the Board's Chairman and other ordinary members to carry out the Board's functions under the specified provisions of Schedule 1 and Schedule 15, before the appointment of the Chief Executive.

Article 3 brings into force for limited purposes certain terms used in the 2007 Act, to allow for the proper interpretation of those provisions, pending the establishment of the new regulatory system in full.

Articles 4 to 6 modify sections 69, 70 and 180, which are brought into force by article 2, to allow those functions to be exercised before the establishment of the new regulatory regime.

Article 7(1) modifies the meaning of authorised person in section 1 and in the definition of “consumers” in section 207 so that it is clear that, pending the establishment of the new regulatory regime, the regulatory objectives relate to those who will be authorised under the new regime on the day when it is fully in force. Article 7(2) makes transitional provision about the meaning of “wholly owned subsidiary” pending the coming into force of the relevant provisions of the Companies Act 2006 (c.6).

Article 8 ensures that there is a mechanism for paying the Board and members of the Office for Legal Complaints pending the establishment of Board on the appointment of its Chief Executive.

A regulatory impact assessment (“RIA”) has not been prepared for this Order, but a full RIA was prepared for the Legal Services Bill in November 2006, supplemented in 2007. Copies of those documents are annexed to the Explanatory Memorandum which is available alongside this instrument on the OPSI website.

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The Legal Services Act 2007 (Commencement No.1 and
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£3.00

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E1910 2/2008 181910T 19585