Status: *Point in time view as at 01/01/2011.*
Changes to legislation: *There are currently no known outstanding effects for the Legal Services Act 2007, Part 3. (See end of Document for details)*

SCHEDULES

SCHEDULE 4

APPROVED REGULATORS

PART 3

ALTERATION OF APPROVED REGULATOR'S REGULATORY ARRANGEMENTS

Requirement for approval

19 (1) If an alteration is made of the regulatory arrangements of an approved regulator, the alteration does not have effect unless it is approved for the purposes of this Act.

(2) An alteration is approved for the purposes of this Act if—

(a) it is approved by virtue of paragraph 18 (approval of proposed regulatory arrangements on designation by order as approved regulator),

(b) it is approved by the Board under this Part of this Schedule,

(c) it is an exempt alteration,

(d) it is an alteration made in compliance with a direction under section 32,

(e) it is approved by virtue of paragraph 16 of Schedule 10 (approval of licensing rules on designation by order as licensing authority), or

(f) it is approved by virtue of paragraph 7 of Schedule 18 (approval of proposed regulatory arrangements when granting "qualifying regulator" status for the purposes of Part 5 of the Immigration and Asylum Act 1999 (c. 33)).

(3) An exempt alteration is an alteration which the Board has directed is to be treated as exempt for the purposes of this paragraph.

(4) A direction under sub-paragraph (3) may be specific or general and must be published by the Board.

(5) In this Part of this Schedule, references to an "alteration" of regulatory arrangements include an addition to, or the revocation of any part of, the arrangements.

(6) If a question arises whether approval is required by virtue of this Part of this Schedule, it is for the Board to decide.

(7) Nothing in this Part of this Schedule applies in relation to any alteration of the regulatory arrangements of the Board in its capacity as an approved regulator (or of its licensing rules).

Commencement Information

I1 Sch. 4 para. 19 partly in force; Sch. 4 para. 19 not in force at Royal Assent see s. 211; Sch. 4 para. 19(1)(2)(a)-(e)(3)-(7) in force at 1.1.2010 by S.I. 2009/3250, **art. 2(b)(ii)** (with art. 9)

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Application to Board

20 (1) An application by an approved regulator for the Board to approve an alteration or alterations of its regulatory arrangements must be made in such form and manner as the Board may specify in rules.

(2) The application must be accompanied by—

(a) details of such of the approved regulator's regulatory arrangements as are relevant to the application,

(b) details of the alteration or alterations, and

(c) such explanatory material as the approved regulator considers is likely to be needed for the purposes of this Part of this Schedule.

Initial determination

21 (1) Where the Board has received an application under paragraph 20 it may—

(a) grant the application and give the approved regulator a notice to that effect, or

(b) give the approved regulator a notice stating that the Board is considering whether to refuse the application (a "warning notice").

(2) The Board must publish any notice given by it under sub-paragraph (1)(a) or (b).

(3) If the Board does not give the approved regulator a notice under sub-paragraph (1)(a) or (b) within the initial decision period, the application is deemed to have been granted by the Board.

(4) The "initial decision period" means the period of 28 days beginning with the day on which the application was received by the Board.

(5) The Board may extend the initial decision period—

(a) with the consent of the approved regulator, or

(b) by giving an extension notice to the approved regulator,

before the end of that period (or if it has previously been extended under this sub-paragraph, that period as so extended).

(6) An extension notice—

(a) must specify the period of the extension, and

(b) must state the Board's reasons for extending the initial decision period.

(7) The period specified in the notice under sub-paragraph (6)(a) must end no later than the end of the period of 90 days beginning with the date on which the application was made under paragraph 20.

Advice

22 (1) Where the Board has given the approved regulator a warning notice, the Board may invite such persons as it considers appropriate to give the Board advice regarding whether the application should be granted.

(2) A person ("the consultee") to whom an invitation is given under sub-paragraph (1) may, for the purposes of giving advice to the Board under this paragraph, 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 applicant

23 (1) The Board must give the approved regulator a copy of any advice obtained under paragraph 22.

(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.

Commencement Information

I2 Sch. 4 para. 23 wholly in force at 1.1.2010; Sch. 4 para. 23 not in force at Royal Assent see s. 211; Sch. 4 para. 23(3) in force at 1.1.2009 by S.I. 2008/3149, **art. 2(b)(ii)**; Sch. 4 para. 23 in force otherwise at 1.1.2010 by S.I. 2009/3250, **art. 2(b)(ii)** (with art. 9)

Publication of advice and representations etc

24 (1) The Board must, as soon as practicable after the end of the period within which representations under paragraph 23 may be made, publish—

(a) any advice given under paragraph 22, and

(b) any written representations duly made under paragraph 23 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 paragraph 22 from publishing that advice, or

(b) to prevent a person who makes representations under paragraph 23 from publishing those representations.

(3) A person ("the publisher") publishing any such material (whether under sub-paragraph (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

25 (1) After considering—

(a) the application and any accompanying material,

(b) any other information provided by the approved regulator,

(c) any advice obtained under paragraph 22,

(d) any representations duly made under paragraph 23, and

(e) any other information which the Board considers relevant to the application,

the Board must decide whether to grant the application.

(2) The Board may grant the application in whole or in part.

(3) The Board may refuse the application only if it is satisfied that—

(a) granting the application would be prejudicial to the regulatory objectives,

(b) granting the application would be contrary to any provision made by or by virtue of this Act or any other enactment or would result in any of the designation requirements ceasing to be satisfied in relation to the approved regulator,

(c) granting the application would be contrary to the public interest,

(d) the alteration would enable the approved regulator to authorise persons to carry on activities which are reserved legal activities in relation to which it is not a relevant approved regulator,

(e) the alteration would enable the approved regulator to license persons under Part 5 to carry on activities which are reserved legal activities in relation to which it is not a licensing authority, or

(f) the alteration has been or is likely to be made otherwise than in accordance with the procedures (whether statutory or otherwise) which apply in relation to the making of the alteration.

(4) For the purposes of sub-paragraph (3)(b) the designation requirements are—

(a) a requirement that the approved regulator has appropriate internal governance arrangements in place,

(b) a requirement that the applicant is competent, and has sufficient resources to perform the role of approved regulator in relation to the reserved legal activities in respect of which it is designated, and

(c) the requirements of paragraph 13(2)(c) to (e).

(5) Sub-paragraph (3) applies in relation to any part of an application as if references to the application were to the part.

(6) The Board must give notice of its decision ("the decision notice") to the approved regulator.

(7) Where the Board decides to refuse the application (in whole or in part), the decision notice must specify the reasons for that decision.

(8) The Board must publish the decision notice.

Failure to decide application during decision period

26 (1) This paragraph applies where the Board gives an approved regulator a warning notice under paragraph 21 in respect of the approved regulator's application.

(2) If the Board does not give the approved regulator notice of its decision under paragraph 25 within the decision period, the application is deemed to have been granted by the Board at the end of that period.

(3) Subject to sub-paragraphs (4) and (5), "the decision period" means the period of 12 months beginning with the day on which the approved regulator received the warning notice.

(4) The Board may, on one or more occasions, give the approved regulator a notice (an "extension notice") extending the decision period.

(5) But—

(a) an extension notice may only be given before the time when the decision period would end, but for the extension notice, and

(b) the total decision period must not exceed 18 months.

(6) The Board must publish any extension notice given by it.

Effect of grant of application

27 (1) Where an application is granted under paragraph 21(1)(a) or (3), 25(1) or 26(2), the alteration or alterations of the regulatory arrangements to which the application relates are approved.

(2) Where a part of an application is granted under paragraph 25(1), the alteration or alterations of the regulatory arrangements to which the part relates are approved.

(3) Sub-paragraphs (1) and (2) are without prejudice to the Board's power to give directions under section 32 (power to direct an approved regulator to take steps in certain circumstances, including steps to amend its regulatory arrangements).

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Changes to legislation:
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