
STATUTORY INSTRUMENTS

2008 No. 3149 (C. 137)

LEGAL SERVICES, ENGLAND AND WALES

The Legal Services Act 2007 (Commencement
No. 3 and Transitory Provisions) Order 2008

<i>Made</i>	- - - -	<i>6th December 2008</i>
<i>Laid before Parliament</i>		<i>10th December 2008</i>
<i>Coming into force</i>	- -	<i>1st January 2009</i>

The Lord Chancellor makes the following Order in exercise of the powers conferred by sections 204, 208(2) and (4) and 211(2) of the Legal Services Act 2007⁽¹⁾:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Legal Services Act 2007 (Commencement No. 3 and Transitory Provisions) Order 2008.

(2) This Order comes into force on 1st January 2009.

(3) In this Order—

- (a) “the 2007 Act” means the Legal Services Act 2007; and
- (b) a reference to a section, Schedule or 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 come into force on 1st January 2009—

- (a) in Part 2, sections 8 (The Consumer Panel) subject to article 3, 9 (Committees and the procedure of the Consumer Panel), 10 (Representations by the Consumer Panel) and 11 (Advice and research functions of the Consumer Panel);
- (b) in Part 3—
 - (i) sections 20(5) (Approved regulators and relevant approved regulators), 24(3) (Extension of the reserved legal activities) and 26(2) (Recommendations that activities should cease to be reserved legal activities);
 - (ii) Schedule 4 (Approved regulators), paragraphs 3(1), (3) and (4), 4(2), 11(3), 13, 20 and 23(3); and

- (iii) Schedule 6 (Alteration of reserved legal activities), paragraphs 12(1) to (3), 13 and 14;
- (c) in Part 4—
 - (i) sections 27 (Regulatory and representative functions of approved regulators), 29 (Prohibition on the Board interfering with representative functions), 30 (Rules relating to the exercise of regulatory functions), 33 (Directions: procedure), 37(4) and (5) (Financial penalties), 41(4) and (5) (Intervention directions), 42(6) to (10) (Intervention directions: further provision), 44(2) (Revocation of intervention directions), 45(3)(b) and (c), (4) and (7) (Cancellation of designation as approved regulator), 48(6) to (9) (Cancellation of designation: powers of entry etc), 49 (The Board's policy statements), 50 (Policy statements: procedure) and 51(1), (3), (4) and (6) to (8) (Control of practising fees charged by approved regulators);
 - (ii) Schedule 7 (Directions: procedure), paragraphs 1, 2(5) and 10(3);
 - (iii) Schedule 8 (Intervention directions: procedure), paragraphs 1, 2(5), 10(5), 13(2)(a) and 21(5); and
 - (iv) Schedule 9 (Cancellation of designation as approved regulator), paragraphs 1, 2(5) and 9(5);
- (d) in Part 5—
 - (i) sections 74 (Designation of approved regulator as licensing authority), 76(3)(b) and (c), (4) and (7) (Cancellation of designation as licensing authority by order), 79(6) to (10) (Cancellation of designation: powers of entry etc), 84(2) (Application for licence) in so far as it introduces Schedule 12, 87(4) and (5) (Registers of licensed bodies), 89 (Ownership of licensed bodies), 95(3) and (4) (Financial penalties) and 96(1) (Appeals against financial penalties);
 - (ii) Schedule 10 (Designation of approved regulators as licensing authorities), paragraphs 1(1), (4) and (5), 2(2), 9(3), 11, 17, 18(5) and 25(5);
 - (iii) Schedule 12 (Entitlement to make an application for a licence to the Board), paragraphs 2(4) and (5) and 4; and
 - (iv) Schedule 13 (Ownership of licensed bodies), paragraph 8 and, in so far as they relate to the exercise of powers by virtue of paragraph 8, paragraphs 17(4)(b) and (5), 18(1) and (3), 19(3)(b) and (4), 20(1) and (3), 25(2), 28(5)(b) and (6), 29(1) and (3), 31(4) (b) and (5), 32(1) and (3), 33(2)(b), (5)(b) and (6), 34(1) and (3), 36(2), (5)(b) and (6), 37(1) and (4), 43(3), 44(4)(b), 46(3), 49(4)(b) and (5) and 50(1) and (3);
- (e) in Part 6—
 - (i) sections 112(2) and (4) (Complaints procedures of authorised persons), 115 to 124 (which are about the Office for Legal Complaints and the ombudsmen), 126(3) (Complaints excluded because respondent's complaints procedures not used), 127 (Complaints excluded by scheme rules), 128(3)(b), (4)(d) and (5)(c) (Parties), 130 (Orders under section 128), 132 (Continuity of complaints), 133 (Operation of the ombudsman scheme), 136 (Charges payable by respondents), 137(4) (Determination of complaints), 140(6)(c) (Acceptance or rejection of determination), 141(5), (6) and (7) (Enforcement by complainant of directions under section 137), 144(1) and (3) to (7) (Duties to share information) subject to the modifications set out in article 3, 145(2) and (3) (Duties of authorised persons to co-operate with investigations), 155 (Consent requirements for rules), 156 (The Board's powers in respect of rules) and 160 (Interpretation of Part 6); and
 - (ii) Schedule 15 (The Office for Legal Complaints), paragraphs 13 to 34;

- (f) in Part 7, sections 162 (Guidance), 173(1) and (3) to (11) (The levy) subject to article 3, 174(1), (3), (4), (6) and (7) (The levy: supplementary provisions) subject to article 3 and 175(1)(c), (k), (m) and (n) (Amounts payable into the Consolidated Fund); and
- (g) in Part 9, sections 200(2) to (4) (Notices and directions), 201 (Documents), 202 (The giving of notices, directions and other documents), 203 (The giving of notices, directions and other documents in electronic form), 204 (Orders, regulations and rules) to the extent that it is not already in force and 205 (Consultation requirements for rules).

Transitory provisions

- 3.—(1) Until section 13 comes into force, section 8 shall have effect as if—
- (a) the references to “reserved legal activities” in subsection (4)(a) and “reserved legal activity” in subsection (5)(d) were read as if the definitions in section 12 and Schedule 2 were in force;
 - (b) a reference to “authorised persons” in subsection (4)(a) and “authorised person” in subsection (5)(d) were read as if the definitions in section 18 were in force; and
 - (c) for the words “approved regulator” in subsection (5)(c) there were substituted “designated regulator (as defined in paragraph 2(2) and (3) of Schedule 22)”.
- (2) Until paragraph 1 of Schedule 4 comes into force, section 144 shall have effect as if—
- (a) subsection (4) were read excluding the reference to subsection (2); and
 - (b) in subsection (7) for the words “approved regulator” there were substituted “designated regulator (as defined in paragraph 2(2) and (3) of Schedule 22)”.
- (3) Until section 13 comes into force, sections 173 and 174 shall have effect as if for the words “approved regulator” in section 173(5)(a) there were substituted “designated regulator (as defined in paragraph 2(2) and (3) of Schedule 22)”.

Signed by authority of the Lord Chancellor

6th December 2008

Bridget Prentice
Parliamentary Under Secretary of State
Ministry of Justice

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

EXPLANATORY NOTE

(This note is not part of the Order)

This Order is the third commencement order made under the Legal Services Act 2007 (c. 29) (“the 2007 Act”).

This Order brings into force the provisions of the 2007 Act set out in the following table. The table also shows the effect of those provisions:

<i>Article of Order</i>	<i>Provisions Commenced</i>	<i>Effect</i>
2(a)	Sections 8 (subject to modifications set out in article 3), 9, 10 and 11	Requires the Legal Services Board (“the Board”) to set up and maintain a Consumer Panel (“the Panel”). Enables the Panel to make arrangements for committees established by it to provide advice to it. Provides that the Board must consider representations made to it by the Panel. Allows the Panel to carry out research and provide the Board with advice.
2(b)	Sections 20(5), 24(3) and 26(2); Schedule 4, paragraphs 3(1), (3) and (4), 4(2), 11(3), 13, 20 and 23(3); Schedule 6, paragraphs 12(1) to (3), 13 and 14	Introduce Schedules 4 and 6. Schedule 4 allows the Board to make rules about an application for designation as an approved regulator and requires it to make rules about representations and to make rules about an application for alteration of regulatory arrangements and requires it to make rules about representations. Schedule 6 allows the Board to make rules about the making of recommendations for alteration of reserved legal services.
2(c)(i) (part)	Sections 27, 29 and 30	Requires the Board to make rules about the regulatory and representative functions of approved regulators.
2(c)(i) (part) and (ii)	Section 33 and Schedule 7, paragraphs 1, 2(5) and 10(3)	Introduces Schedule 7, which requires the Board to make rules about the procedure which must be complied with before a direction is given under section 32.
2(c)(i) (part)	Section 37(4) and (5)	Requires the Board to make rules prescribing the maximum financial penalty under this section.
2(c)(i) (part) and (iii)	Sections 41(4) and (5), 42(6) to (10) and 44(2) and Schedule 8, paragraphs 1, 2(5), 10(5), 13(2)(a) and 21(5)	Sections 41(4) and 44(2) introduce Schedule 8. The Schedule makes requirements about the procedure for giving and revoking intervention directions. Section 41(5) requires the Board to make rules about persons nominated to exercise regulatory functions in the event of an intervention direction. Section 42(6) to (10) requires the Lord Chancellor to make regulations as to the issue of a warrant by virtue of this section in the event of an intervention.

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<i>Article of Order</i>	<i>Provisions Commenced</i>	<i>Effect</i>
2(c)(i) (part) and (iv)	Section 45(3)(b) and (c), (4) and (7) and Schedule 9, paragraphs 1, 2(5) and 9(5)	Requires the Board to make rules as to an application by a body for cancellation of designation as an approved regulator. Section 45(7) introduces Schedule 9, the relevant paragraphs of which make provision about the making of a recommendation for cancellation of designation by the Board.
2(c)(i) (part)	Section 48(6) to (9)	Requires the Lord Chancellor to make regulations as to the issue of a warrant by virtue of this section in the event of a cancellation of designation of a body as an approved regulator.
2(c)(i) (part)	Sections 49 and 50	Section 49 requires the Board to prepare and issue statements of policy relating to the exercise of certain functions and makes provision as to publication of those statements. Section 50 requires the Board to publish a draft of any proposed statement to enable public consultation.
2(c)(i) (part)	Section 51(1), (3), (4) and (6) to (8)	Requires the Board to make rules specifying the permitted purposes for which amounts raised by practising fees may be applied and rules in relation to applications for approval of those fees.
2(d)(i) (part) and (ii) (part)	Section 74 and Schedule 10, paragraphs 1(1), (4) and (5), 2(2), 9(3) and 11	Section 74 introduces Part 1 of Schedule 10, the relevant paragraphs of which require the Board to make rules relating to applications for designation as a licensing authority.
2(d)(i) (part) and (ii) (part)	Section 76(3)(b) and (c), (4) and (7) and Schedule 10, paragraphs 17, 18(5) and 25(5)	These provisions allow the Board to make rules relating to an application for cancellation of designation as a licensing authority. Section 76(7) introduces Part 2 of Schedule 10, the relevant paragraphs of which require the Board to make rules as to the procedure for cancellation of designation as a licensing authority.
2(d)(i) (part)	Section 79(6) to (10)	Requires the Lord Chancellor to make regulations as to the issue of a warrant by virtue of this section in the event of a cancellation of designation as a licensing authority.
2(d)(i) (part) and (iii)	Section 84(2) partially, Schedule 12, paragraphs 2(4) and (5) and 4	Introduces Schedule 12. Requires the Board to make rules providing for a review of a decision that an application for a licence may be made.
2(d)(i) (part)	Section 87(4) and (5)	Allows the Board to make rules as to the register of licensed bodies kept by a licensing authority or the Board under this section
2(d)(i) (part) and (iv)	Section 89 and Schedule 13, paragraph 8 and remaining paragraphs set out in article 2(d)(iv)	Introduces Schedule 13. Requires the Board to prescribe time periods in the approval procedures or appeals for ownership of licensed bodies

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<i>Article of Order</i>	<i>Provisions Commenced</i>	<i>Effect</i>
2(d)(i) (part)	Sections 95(3) and (4) and 96(1)	Section 95(3) and (4) requires the Board to make rules prescribing the maximum financial penalty which may be imposed by this section on a licensed body. Section 96(1) allows the Board to make rules as to the period in which any appeal against a financial penalty must be brought.
2(e)(i) (part)	Section 112(2) and (4)	Allows the Board to specify requirements for complaints procedures of authorised persons.
2(e)(i) (part)	Sections 115 to 121	These sections make detailed provision about the Office for Legal Complaints' ("OLC") general obligations and powers, corporate governance, reporting obligations, performance targets and monitoring.
2(e)(i) (part)	Sections 122 to 124	These sections set out the appointment process for the Chief Ombudsman and assistant ombudsmen and provide for the Chief Ombudsman's reporting obligations.
2(e)(i) (part)	Sections 126(3), 127, 132 and 133, 137(4), 140(6) (c), 141(5), (6) and (7), 144(1) and (3) to (7) (subject to modifications set out in article 3), 155 and 156	These sections make provision for the scope and content of, and procedural requirements for, ombudsman scheme rules.
2(e)(i) (part)	Sections 128(3)(b), (4)(d) and (5)(c) and 130	These sections empower the Lord Chancellor to make an order for new categories of complainants or complaints to be included or excluded from the scope of the ombudsman scheme's jurisdiction.
2(e)(i) (part)	Section 136	Requires the scheme rules to provide for charges to be payable to the OLC and allows the OLC to make connected provision.
2(e)(i) (part)	Section 145(2) and (3)	Permits the Board to make requirements for the regulatory arrangements of a regulator to ensure authorised persons' co-operation with the Ombudsman's investigation of complaints.
2(e)(i) (part)	Section 160	Defines terms for the purpose of the scheme rules.
2(e)(ii)	Schedule 15, paragraphs 13 to 34	Enable the OLC to appoint staff; make arrangements with other bodies to provide assistance, establish committees to carry out its functions and delegate specified functions while retaining accountability; sets out arrangements for the OLC's budget, restrictions on the OLC's acquisition of interests in land, requirements for the OLC's accounts and status; includes the OLC in legislative provisions which apply to many public

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		bodies; and exempts the OLC and its officers from liability for damages in the exercise of their functions.
2(f) (part)	Section 162	Allows the Board to make and publish guidance.
2(f) (part)	Sections 173(1) and (3) to (11) and 174(1), (3), (4), (6) and (7) (subject to modifications set out in article 3)	Require the Board to make rules about the levy and makes provision as to those rules.
2(f) (part)	Section 175(1)(c), (k), (m) and (n)	Requires monies received by the Board or OLC in connection with provisions commenced by this Order to be paid into the Consolidated Fund.
2(g) (part)	Sections 200(2) to (4), 201, 202 and 203	Defines and stipulates requirements in respect of the service and provision of documents and information.
2(g) (part)	Sections 204 to the extent that it is not already in force and 205	Section 204 commences technical provisions of the 2007 Act, including provisions ensuring that rules relating to financial penalties and the levy are made by statutory instrument. Section 205 sets out consultation requirements for rules.

Article 3 modifies certain provisions which are brought into force in article 2. The terms “reserved legal activity”, “authorised person” and “approved regulator” will not have effect until the Act is more fully in force, but article 3 provides for their interpretation in the interim as they are applied in sections 8, 144(7), 173 and 174 of the Act. The modification of section 144(4) is a reflection of section 144(2) not being in force.

An impact assessment (“IA”) has not been prepared for this Order, but a full IA 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.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

The following provisions of the 2007 Act have been brought into force by commencement orders made before the date of this Order:

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Sections 1 subject to transitory provision, 2, 3, 5, 6, 7, 69 subject to modifications, 70 subject to modifications, 114, 172, 177, 180 subject to modification, 182 and 187	07.03.2008	2008/222
Section 194(8) and (9) and (10) partially	30.06.2008	2008/1436
Section 194 (fully), 195 and 196	01.10.2008	2008/1436
Section 199(1) and (2)	07.03.2008	2008/222

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Provision	Date of Commencement	S.I. No.
Section 199(4), (5) partially and (6) partially	30.06.2008	2008/1436
Section 200(1), 204(1), (3) and (4)(a), 206, 209 and 210	07.03.2008	2008/222
Certain definitions in section 207	07.03.2008 and 30.06.2008	2008/222 and 2008/1436
Schedule 1	07.03.2008	2008/222
Paragraphs 1 to 12 of Schedule 15	07.03.2008	2008/222
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 part, 38(b)(i) and (ii), 50(a)(ii), 53, 54(1) and (4)(b), 64(1), (3) and (4), 71 subject to transitory provision, 72(a) and 75(c) in part, 80, 115, 124, 126, 128(a) and (c)(i) and 130 of Schedule 16	07.03.2008	2008/222
Paragraphs 38(b)(iii), 47, 48 subject to transitory provision, 54(2)(a) and (c), (3), (4)(a), (5), (6)(a) and (9)(b), 56(c), 81(1) and (9), 86(g) (partially), 111, 112(a), (c) and (d) and 113(b) (iii), 125(c), (d), (e), (f) and (g), 128(c)(ii) of Schedule 16	30.06.2008	2008/1436
Paragraphs 1 and 11 of Schedule 17	07.03.2008	2008/222
Paragraphs 1, 5, 8 and 9 of Schedule 19	07.03.2008	2008/222
Paragraphs 6(1) and (2) and 11(1) and (6) of Schedule 19	30.06.2008	2008/1436
Schedule 20	01.10.2008	2008/1436
Paragraphs 1 to 5 and paragraph 9 (for certain purposes) of Schedule 22	07.03.2008	2008/222
Paragraph 18 of Schedule 22	30.06.2008	2008/1436
Schedule 23 in part	07.03.2008, 30.06.2008 and 01.10.2008	2008/222 and 2008/1436