
STATUTORY INSTRUMENTS

2011 No. 2866

LEGAL SERVICES, ENGLAND AND WALES

**The Legal Services Act 2007 (Designation
as a Licensing Authority) (No. 2) Order 2011**

Made - - - - *29th November 2011*
Laid before Parliament *1st December 2011*
Coming into force - - *23rd December 2011*

The Law Society, being an approved regulator, has applied to the Legal Services Board under paragraph 1 of Schedule 10 to the Legal Services Act 2007⁽¹⁾ (“the Schedule”).

The Legal Services Board has made a recommendation to the Lord Chancellor under paragraph 14 of the Schedule, having granted the Law Society’s application under Part 1 of the Schedule.

The Lord Chancellor makes the following Order in exercise of the powers conferred by section 208(2) of the Legal Services Act 2007 and paragraph 15 of the Schedule.

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Legal Services Act 2007 (Designation as a Licensing Authority) (No. 2) Order 2011.

(2) This Order comes into force on 23rd December 2011.

(3) In this Order—

“the 1974 Act” means the Solicitors Act 1974⁽²⁾;

“the 2007 Act” means the Legal Services Act 2007;

“licensed body” means a body which holds a licence issued by the Law Society which is in force under Part 5 of the 2007 Act; and

“the Society” means the Law Society.

Designation as a licensing authority

2.—(1) The Society is designated as a licensing authority in relation to the reserved legal activities mentioned in paragraph (2).

(2) The reserved legal activities are—

(1) 2007 c. 29.
(2) 1974 c. 47.

- (a) the exercise of a right of audience;
- (b) the conduct of litigation;
- (c) reserved instrument activities;
- (d) probate activities;
- (e) the administration of oaths.

Accountants' reports for licensed bodies

3.—(1) Where an accountant, during the course of preparing a report in accordance with licensing rules made by the Society—

- (a) discovers evidence of fraud or theft in relation to money held by a licensed body for a client or any other person (including money held on trust) or money held in an account of a client of a licensed body or an account of another person which is operated by the licensed body; or
- (b) obtains information which the accountant has reasonable cause to believe is likely to be of material significance in determining whether a licensed body is a fit and proper person to hold money for clients or other persons (including money held on trust) or to operate an account of a client of the licensed body or an account of another person,

the accountant must immediately give a report of the matter to the Society.

(2) No duty to which an accountant is subject is to be regarded as contravened merely because of any information or opinion contained in a report under paragraph (1).

Bank accounts of licensed bodies

4.—(1) This article applies where a licensed body keeps an account with a bank or a building society in accordance with licensing rules made by the Society.

- (2) The bank or building society—
 - (a) does not incur any liability;
 - (b) is not under any obligation to make any inquiry;
 - (c) is not deemed to have any knowledge of any right of any person to any money paid or credited to the account,

which it would not incur, or be under, or be deemed to have, in the case of an account kept by a person entitled absolutely to all the money paid or credited to it.

(3) The bank or building society has no recourse or right against money standing to the credit of the account, in respect of any liability of the licensed body to the bank or society, other than a liability in connection with the account.

- (4) In this article—
 - (a) “bank” means—
 - (i) the Bank of England;
 - (ii) a person (other than a building society) who under Part 4 of the Financial Services and Markets Act 2000⁽³⁾ has permission to accept deposits;
 - (iii) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3⁽⁴⁾ to that Act that has permission under paragraph 15 of that Schedule⁽⁵⁾ (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule⁽⁶⁾) to accept deposits; and

(3) 2000 c. 8.

(4) Paragraph 5(b) is substituted by S.I. 2006/3221.

- (b) “building society” means a building society incorporated (or deemed to be incorporated) under the Building Societies Act 1986(7).

Provision of information as to compliance with licensed body’s licence

5.—(1) The High Court, on the application of the Society, may order a person who does not fall within section 93(2) of the 2007 Act (information) to—

- (a) provide information, or information of a description, specified in the order; or
- (b) produce documents, or documents of a description, specified in the order.

(2) The High Court may make an order under this article only if it is satisfied that—

- (a) it is likely that the information or document is in the possession or custody of, or under the control of, the person; and
- (b) there is reasonable cause to believe that the information or document is likely to be of material significance for the purpose of enabling the Society to ascertain whether the terms of a licensed body’s licence are being, or have been, complied with.

(3) An order under this article may direct the Society to pay to a person specified in the order such reasonable costs as may be incurred by that person in connection with the provision of any information, or production of any document, by that person pursuant to the order.

(4) An order under this article—

- (a) may specify the time and place at which, and the manner and form in which, the information is to be provided or the document is to be produced;
- (b) must specify the period within which the information is to be provided or the document produced;
- (c) may require the information to be provided, or the document to be produced, to the Society or to a person specified in the order.

(5) Paragraphs 10, 12, 13 and 15 to 17 of Schedule 14 to the 2007 Act apply in relation to an order under this article as they apply in relation to an order under paragraph 9 of that Schedule, except that for this purpose, each reference to the licensing authority in paragraph 13(1) and (2) of that Schedule is to be construed as including a reference to any person specified under paragraph (4) (c) of this article.

Powers of Solicitors Disciplinary Tribunal in respect of legal aid complaints

6. Where the Solicitors Disciplinary Tribunal makes an order under section 47(2A) of the 1974 Act(8) in the case of a solicitor who is a manager or employee of a licensed body, the Solicitors Disciplinary Tribunal may, if it thinks fit, order that any other solicitor who is for the time being a manager or employee of that body shall also be excluded (either permanently or for a specified period) from providing representation funded by the Legal Services Commission as part of the Criminal Defence Service.

Application of Part 3 of the Solicitors Act 1974 to licensed bodies

7. Schedule 1 (which applies provisions of Part 3 of the 1974 Act to licensed bodies) has effect.

(5) Paragraph 15 is amended by paragraph 40(1) and (19)(a) of Schedule 25 to the Enterprise Act 2002 (c. 40), section 33(9) of the Consumer Credit Act 2006 (c. 14), S.I. 2003/2066 and S.I. 2007/3253.

(6) There are amendments to paragraph 12 which are not relevant to this Order.

(7) 1986 c. 53.

(8) Section 47(2A) was inserted by sections 44 and 69(5) of the Administration of Justice Act 1985 (c. 61).

Application of existing legislation to licensed bodies

8.—(1) The modifications set out in paragraph (2) apply to the provisions listed in Schedule 2 to this Order.

(2) In any provision to which this paragraph applies—

- (a) any reference to a solicitor or solicitors shall be construed as including a reference to a licensed body;
- (b) any reference to a person’s solicitor shall be construed as including a reference to a licensed body which is acting for that person;
- (c) any reference to a solicitor’s employee shall be construed as including a reference to an employee of a licensed body;
- (d) any reference to the address, place of business or office of a solicitor shall be construed, in relation to a licensed body, as a reference to the address specified by the licensed body as its address in the matter in question or, in the absence of a specified address, to its registered office and any reference to notices or other documents being sent or delivered to or served on a solicitor shall be construed accordingly;
- (e) “he”, “him” or “his” shall be construed in relation to a licensed body as meaning “it” or “its”.

(3) The modifications set out in the second column of the table in Schedule 3 to this Order apply to the enactments and instruments to the extent specified in that Schedule.

Signed by authority of the Lord Chancellor

29th November 2011

J Djanogly
Parliamentary Under Secretary of State
Ministry of Justice

SCHEDULE 1

Article 7

Application of Part 3 of the Solicitors Act 1974 to licensed bodies

Application

1. The provisions of Part 3 of the 1974 Act applied by virtue of this Schedule apply in relation to any activity of a licensed body which is an activity regulated by the Society in accordance with a licence issued to it under Part 5 of the 2007 Act.

Interpretation

2.—(1) Subject to sub-paragraph (2), any expression used in this Schedule which is also used in the 1974 Act has the same meaning as in that Act.

(2) In section 87(1)(9) of the 1974 Act the definitions of “client”, “contentious business” and “non-contentious business” apply for the purposes of—

- (a) this Schedule; and
- (b) any provision of the 1974 Act in so far as it has effect in relation to a licensed body by virtue of this Schedule,

as if for any reference to a solicitor there were substituted a reference to a licensed body.

Modification of provisions of Part 3 of the 1974 Act

3. In any provision to which this paragraph applies—

- (a) any reference to a solicitor or to a client of a solicitor shall be construed as including a reference to a licensed body or to a client of such a body;
- (b) any reference to a client’s solicitor shall be construed as including a reference to any licensed body acting for a client;
- (c) “he”, “him” or “his” shall be construed in relation to a licensed body as meaning “it” or “its”;
- (d) any reference to any employee of a solicitor who is an authorised person includes a reference to any employee or manager of the licensed body who is such a person;
- (e) except as provided by sub-paragraph (d), any reference to any employee of a solicitor includes a reference to any employee or manager of the licensed body.

4.—(1) Paragraph 3(a), (c) and (e) applies to section 56(10) (except subsections (1)(e) and (5)) of the 1974 Act.

(2) In relation to an order made under section 56 of the 1974 Act prescribing (by virtue of sub-paragraph (1)) general principles to be applied when determining the remuneration of licensed bodies in respect of non-contentious business section 56(5) has effect as if—

- (a) in paragraph (a) for “the solicitor” there were substituted “the licensed body”; and
- (b) in paragraph (d) the reference to the solicitor or any employee of the solicitor who is an authorised person were a reference to any employee or manager of the licensed body who is an authorised person.

(9) In section 87(1), the definition of “client” is amended by Schedule 4 to the Arbitration Act 1996 (c. 23); paragraph 12(a) of Schedule 1 to the Administration of Justice Act 1985 (c. 61) and paragraph 21(1) and (6) of Schedule 11 to the Constitutional Reform Act 2005 (c. 4). There are other amendments to section 87 but none are relevant to this Order.

(10) Section 56 is amended by paragraph 12(1) and (2) of Schedule 11 to the Land Registration Act 2002 (c. 9), and paragraphs 1 and 54 of Schedule 16 to the 2007 Act.

Status: This is the original version (as it was originally made).

5. Paragraph 3, except sub-paragraph (b), applies to sections 57, 59, 61, 62, 64 to 67 and 70 to 74(11) of the 1974 Act.

6.—(1) Paragraph 3(a) and (b) applies to section 60(12) (except subsection (5)) of the 1974 Act.

(2) In relation to a contentious business agreement made between a licensed body and a client section 60(5) of the 1974 Act has effect as if for that subsection there were substituted—

“(5) A provision in the agreement that the body shall not be liable for the negligence of any of its managers or employees shall be void if the client is a natural person who, in entering that agreement, is acting for purposes which are outside his trade, business or profession.

(6) A provision in the agreement that the body shall be relieved from any responsibility to which it would otherwise be subject in the course of carrying on its business as a licensed body shall be void.

(7) A provision in the agreement that any manager of the body shall be relieved from any responsibility to which the manager would otherwise be subject in the course of the carrying on by the body of its business as a licensed body shall be void.”.

7.—(1) Paragraph 3(a) and (c) applies to section 69(13) (except subsection (2A)) of the 1974 Act.

(2) In relation to a bill of costs delivered by a licensed body section 69 has effect as if for subsection (2A) there were substituted—

“(2A) A bill is signed in accordance with this subsection if it is—

(a) signed on behalf of the licensed body by any manager or employee of the body authorised by it to do so, or

(b) enclosed in, or accompanied by, a letter which is so signed and refers to the bill.”.

Effect on contentious business agreement of supervening incapacity of licensed body to act for client

8.—(1) If, after some business has been done under a contentious business agreement made between a licensed body and a client but before the body has wholly performed it, the body ceases to be capable of wholly performing it by reason of one of the following events, namely—

(a) the body ceases (for any reason) to be a licensed body;

(b) a relevant insolvency event occurs in relation to the body; or

(c) the client terminates the retainer or employment of the body in favour of another licensed body, a recognised body or a solicitor (as, notwithstanding the agreement, he shall be entitled to do),

any party to, or the representative of any party to, the agreement may apply to the court, and the court shall have the same jurisdiction as to enforcing the agreement so far as it has been performed, or setting it aside, as the court would have had if the licensed body were still capable of wholly performing it.

(11) These provisions are amended as follows: section 57 by paragraphs 1 and 54 of Schedule 16 to the 2007 Act and by section 98(2) to (4) of the Courts and Legal Services Act 1990 (c. 41) (“the 1990 Act”); section 59 by section 98(5) of the 1990 Act; section 61 by section 98(7) of the 1990 Act and paragraphs 1 and 57 of Schedule 16 to the 2007 Act; section 62 by paragraph 22(1) and (3) of Schedule 6 to the Mental Capacity Act 2005 (c. 9) and paragraphs 1 and 58 of Schedule 16 to the 2007 Act; sections 64 to 67 by paragraphs 1 and, respectively, 60, 61, 62 and 63 of Schedule 16 to the 2007 Act; sections 70 to 74 by paragraphs 1 and, respectively, paragraphs 65, 66, 67, 68 and 69 of Schedule 16 to the 2007 Act.

(12) Section 60 is amended by section 98(6) of the Courts and Legal Services Act 1990 and paragraphs 1 and 56 of Schedule 16 to the 2007 Act.

(13) Section 69 is amended by paragraphs 1 and 64 of Schedule 16 to the 2007 Act and [S.I. 1991/724](#).

(2) The court, notwithstanding that it is of the opinion that the agreement is in all respects fair and reasonable, may order the amount due in respect of business under the agreement to be ascertained by assessment, and in that case—

- (a) the costs officer, in ascertaining that amount, shall have regard so far as may be to the terms of the agreement; and
- (b) payment of the amount found by him to be due may be enforced in the same manner as if the agreement had been wholly performed.

(3) If in such a case as is mentioned in sub-paragraph (1)(c) an order is made for the assessment of the amount due to the licensed body in respect of the business done under the agreement, the court shall direct the costs officer to have regard to the circumstances under which the termination of the body's retainer or employment has taken place, and the costs officer, unless he is of the opinion that there has been no default, negligence, improper delay or other conduct on the part of any manager or employee of the body affording the client reasonable ground for terminating its retainer or employment, shall not allow to the body the full amount of the remuneration agreed to be paid to it.

(4) For the purposes of this paragraph a relevant insolvency event occurs in relation to a licensed body if—

- (a) a resolution for a voluntary winding-up of the body is passed without a declaration of solvency under section 89 of the Insolvency Act 1986⁽¹⁴⁾;
- (b) the body enters administration within the meaning of paragraph 1(2)(b) of Schedule B1 to that Act;
- (c) an administrative receiver within the meaning of section 251⁽¹⁵⁾ of that Act is appointed;
- (d) a meeting of creditors is held in relation to the body under section 95⁽¹⁶⁾ of that Act (creditors' meeting which has the effect of converting a members' voluntary winding up into a creditors' voluntary winding up);
- (e) an order for the winding up of the body is made.

Power of court to order delivery of bill of costs, etc

9. Any jurisdiction—

- (a) of the High Court to make any such orders as are referred to in subsection (1) of section 68 of the 1974 Act in relation to a solicitor (whether or not business has been done by him in the High Court); or
- (b) of a county court to make any such orders as are referred to in subsection (2) of that section in relation to a solicitor,

shall be exercisable in relation to a licensed body.

Power of court to order licensed body to pay over clients' money

10.—(1) Any jurisdiction of the High Court to make, in the case of a solicitor who is acting or has acted as such for a client, an order of the kind referred to in sub-paragraph (2) shall be exercisable in the case—

- (a) of a licensed body which is acting or has acted as such for a client; or
- (b) of any manager or employee of such a body.

⁽¹⁴⁾ 1986 c. 45.

⁽¹⁵⁾ Section 251 is inserted by Schedule 16 to the Enterprise Act 2002 (c. 40).

⁽¹⁶⁾ Section 95 is amended, in so far as relevant, by S.I. 2009/864 and S.I. 2010/18.

Status: This is the original version (as it was originally made).

(2) The order referred to in sub-paragraph (1) is an order requiring the payment or delivery up of, or otherwise relating to, money or securities which the solicitor has in his possession or control on behalf of the client.

SCHEDULE 2

Article 8(1)

<i>Listed Provisions(17)</i>	
<i>Short title</i>	<i>Extent</i>
Land Clauses Consolidation Act 1845 (c. 18)	Section 134.
Public Trustee Act 1906 (c. 55)	Section 13.
Deeds of Arrangement Act 1914 (c. 47)	Section 15(18).
Law of Property Act 1922 (c. 16)	Paragraph 16 (1) of Schedule 15(19).
Settled Land Act 1925 (c. 18)	Sections 91 and 101.
Trustee Act 1925 (c. 19)	Section 59.
Law of Property Act 1925 (c. 20)	Section 10(2), 48(1), 69(1), 146(3) and 182(1) (20).
Geneva Conventions Act 1957 (c. 52)	Section 3(3), (4) and (5)(21).
Costs of Leases Act 1958 (c. 52)	Section 1.
Faculty Jurisdiction Measure 1964 (No. 5)	Section 1(3).
Criminal Justice Act 1967 (c. 80)	The whole Act(22).
Fatal Accidents Act 1976 (c. 30)	Section 2(4).
Patents Act 1977 (c. 37)	Section 103.
Customs and Excise Management Act 1979 (c. 2)	Schedule 3, paragraphs 4 and 9(b)(23).
Pastoral Measure 1983 (No. 1)	Schedule 2, paragraph 11.
County Courts Act 1984 (c. 28)	Sections 72(2) and 142.
Video Recordings Act 1984 (c. 39)	Section 19(5)(a), (b) and (c).
Police and Criminal Evidence Act 1984 (c. 60)	Sections 40(13) and 42(7).
Housing Act 1985 (c. 68)	Section 170(4)(c) and (d).
Insolvency Act 1986 (c. 45)	The whole Act except section 413 and Schedule 7.

(17) The provisions listed in this Schedule, except the Civil Procedure Rules 1998, are modified by article 2(1) of and Schedule 1 to the Solicitors' Recognised Bodies Order 1991 (S.I. 1991/2684).

(18) There are amendments to section 15 which are not relevant to this Order.

(19) There are amendments to paragraph 16(1) which are not relevant to this Order.

(20) Sections 10(2), 48(1) and 182(1) are modified by section 34 of and paragraph 37 of Schedule 2 to the Administration of Justice Act 1985. Section 69(1) is modified by section 34 of the Administration of Justice Act 1985.

(21) Section 3 is amended by the paragraph 23 of Schedule 21 to the 2007 Act.

(22) There are amendments to this Act which are not relevant to this Order.

(23) There are amendments to paragraph 4 which are not relevant to this Order.

<i>Listed Provisions(17)</i>	
<i>Short title</i>	<i>Extent</i>
Copyright, Designs and Patents Act 1988 (c. 48)	Section 276(7)(b) and 288(4).
Housing Act 1988 (c. 50)	Section 82(3)(c) and (d)(24).
Finance Act 1989 (c. 26)	Schedule 5, paragraph 3(3)(c).
Children Act 1989 (c. 41)	Section 41(3), (4) and (5)(25).
Housing Act 1996 (c. 52)	Sections 30(2) and 47(2)(26).
Public Trustee Rules 1912 (S.I. 1912/348)	Rules 34, 35, 37 and 43.
Statutory Form of Conditions of Sale 1925 (S.I. 1925/779)	The whole instrument.
Deeds of Arrangement Rules 1925 (S.I. 1925/795)	The whole instrument(27).
Renewable Leasehold Regulations 1925 (S.I. 1925/857)	Regulation 2(1)(b).
Filing of Leases Rules 1925 (S.I. 1925/1128)	The whole instrument except the Schedule.
Workmen's Compensation Rules 1926 (S.I. 1926/448)	The whole instrument except rule 35(28).
Supreme Courts Documents (Production) Rules 1926 (S.I. 1926/461)	Appendix No 1.
Prize Court Rules 1939 (S.I. 1939/1466)	The whole instrument except Order XII, rule 6, Order XV, rule 18, Order XIX, rule 1 and Appendix A.
Trading with the Enemy (Custodian) (No. 5) Order 1951 (S.I. 1951/153)	Article 4(c).
Reserve and Auxiliary Forces (Protection of Civil Interests) Rules 1951 (S.I. 1951/1401)	Rule 17(3) and the Appendix, Form 3.
Election Petition Rules 1960 (S.I. 1960/543)	The whole instrument except rule 5 and the Schedule(29).
Ecclesiastical Jurisdiction (Discipline) Rules 1964 (S.I. 1964/1755)	The whole instrument except rule 50(30).
Leasehold Reform (Enfranchisement and Extension) Regulations 1967 (S.I. 1967/1879)	Schedule, Part 1, paragraphs 6(2), 8(1), 9(2) and 12 and Part 2, paragraphs 4(2) and 7.

(17) The provisions listed in this Schedule, except the Civil Procedure Rules 1998, are modified by article 2(1) of and Schedule 1 to the Solicitors' Recognised Bodies Order 1991 (S.I. 1991/2684).

(24) Section 82 is amended, in so far as relevant, by S.I. 2010/866.

(25) There are amendments to this section which are not relevant to this Order.

(26) There are amendments to section 47 which are not relevant to this Order.

(27) There are amendments to these Rules which are not relevant to this Order.

(28) There are amendments to these Rules which are not relevant to this Order.

(29) There are amendments to these Rules which are not relevant to this Order.

(30) There are amendments to these Rules which are not relevant to this Order.

Status: This is the original version (as it was originally made).

<i>Listed Provisions(17)</i>	
<i>Short title</i>	<i>Extent</i>
Commons Registration (New Land) Regulations 1969 (S.I. 1969/1843)	Regulation 2(6).
Magistrates' Courts (Blood Tests) Rules 1971 (S.I. 1971/1991)	The whole instrument except the Schedule(31).
Indictments (Procedure) Rules 1971 (S.I. 1971/2084)	Rule 7.
Foreign Compensation Commission (Egypt) Rules Approval Instrument 1972 (S.I. 1972/219)	Part 35 and Part 37(2) of the Schedule.
Misuse of Drugs Tribunal (England and Wales) Rules 1974 (S.I. 1974/85)	Rule 18(1) and (2).
Foreign Compensation Commission (Roumania) Rules Approval Instrument 1976 (S.I. 1976/1646)	The whole instrument except rule 37(1)(d) and rule 37(3).
Restrictive Practices Court Rules 1976 (S.I. 1976/1897)	Rule 7.
Restrictive Practices Court (Resale Prices) Rules 1976 (S.I. 1976/1899)	Rules 6(c) and 12.
European Communities (Services of Lawyers) Order 1978 (S.I. 1978/1910)	Articles 5 and 6(c)(32).
Control of Off-Street Parking Outside Greater London (Appeals Procedure) (England and Wales) Regulations 1979 (S.I. 1979/236)	Schedule 1, paragraph 2.
(European Parliamentary) Election Petition Rules 1979 (S.I. 1979/521)	The whole instrument except rule 5 and the Schedule(33).
Magistrates' Courts Rules 1981 (S.I. 1981/552)	The whole instrument except rules 4, 7, 25 and 107(34).
Crown Court Rules 1982 (S.I. 1982/1109)	Schedule 4(35).
Crown Prosecution Service (Transfer of Staff) Regulations 1985 (S.I. 1985/1846)	Schedule 1.
Control of Off-Street Parking In Greater London (Appeals Procedure) 1986 (S.I. 1986/262)	Schedule 1, paragraph 2.

(17) The provisions listed in this Schedule, except the Civil Procedure Rules 1998, are modified by article 2(1) of and Schedule 1 to the Solicitors' Recognised Bodies Order 1991 (S.I. 1991/2684).

(31) There are amendments to these Rules which are not relevant to this Order.

(32) There is an amendment to these Articles which is not relevant to this Order.

(33) There are amendments to these Rules which are not relevant to this Order.

(34) These Rules are amended, so far as relevant, by S.I. 1983/523.

(35) There are amendments to Schedule 4 which are not relevant to this Order.

<i>Listed Provisions(17)</i>	
<i>Short title</i>	<i>Extent</i>
Control of Off-Street Parking (Appeals Procedure) (England and Wales) (Metropolitan Districts) 1986 (S.I. 1986/264)	Schedule 1, paragraph 2.
Costs In Criminal Cases (General) Regulations 1986 (S.I.1986/1335)	Regulation 6(3)(a)(36).
Insolvency Rules 1986 (S.I. 1986/1925)	The whole instrument except rules 4.12, 4.215, 6.12, 6.175, 7.53, 7.54, 7.57 and 9.4 and Schedule 4(37).
Foreign Compensation Commission (Union of Soviet Socialist Republics) Rules Approval Instrument 1987 (S.I. 1987/143)	Rule 26.
Foreign Compensation Commission (People’s Republic of China) Rules Approval Instrument 1988 (S.I. 1988/153)	Rule 26.
Patronage (Appeals) Rules 1988 (S.I. 1988/1980)	The whole instrument except rule 23 and the Appendix.
Common Land (Rectification of Registers) Regulations 1990 (S.I. 1990/311)	Schedule 1.
Civil Procedure Rules 1998 (S.I. 1998/3132)	Schedule 1, RSC Order 46 rule 6 and RSC Order 79 rule 9; and Schedule 2 CCR Order 27 rule 9 and CCR Order 28 rules 2 and 10(38).

SCHEDULE 3

Article 8(3)

<i>Statutes Which Apply to Licensed Bodies with Modifications(39)</i>	
<i>Short Title</i>	<i>Extent and modifications</i>
Copyright, Designs and Patents Act 1988 (c. 48)	Section 278(1) has effect as if after “a solicitor” there were inserted “or a licensed body”.
Parliamentary Costs Act 2006 (c. 37)	Section 18 has effect as if the definition of “solicitor” also includes a licensed body and a reference to a solicitor’s partner includes a reference to a manager of such a body.

(17) The provisions listed in this Schedule, except the Civil Procedure Rules 1998, are modified by article 2(1) of and Schedule 1 to the Solicitors’ Recognised Bodies Order 1991 (S.I. 1991/2684).

(36) There are amendments to this regulation which are not relevant to this Order.

(37) These Rules have been amended, in so far as relevant, by S.I. 2003/1730, S.I. 2009/642 and S.I. 2010/686. Rules 7.53, 7.54 and 7.57 have been revoked by S.I. 2010/686 but are saved by Schedule 4 to that instrument for some purposes.

(38) There are amendments to the Civil Procedure Rules Schedule 1, RSC Orders 46 and 79 and Schedule 2, CCR Order 28 which are not relevant to this Order.

(39) The enactments and instruments listed in this Schedule, except the Parliamentary Costs Act 2006 and S.I. 2001/544, are modified by article 2(2) of and Schedule 2 to the Solicitors’ Recognised Bodies Order 1991 (S.I. 1991/2684).

Status: This is the original version (as it was originally made).

<i>Statutes Which Apply to Licensed Bodies with Modifications</i> (39)	
<i>Short Title</i>	<i>Extent and modifications</i>
Statutory Instruments Which Apply to Licensed Bodies With Additions, Omissions and Modifications (40)	
Title	Extent and modifications
Foreign Compensation Commission Rules 1956 (S.I. 1956/962)	Rule 33(1)(d) has effect as if the first, second and fourth references to “solicitor” include a reference to a licensed body acting generally in the proceedings.
Foreign Compensation Commission (Egypt) Rules Approval Instrument 1972 (S.I. 1972/219)	Part 37(1)(d) of the Schedule has effect as if the reference to “that solicitor” includes a reference to a licensed body acting generally in the proceedings.
Foreign Compensation Commission (Roumania) Rules Approval Instrument 1976 (S.I. 1976/1646)	Rule 37(1)(d) has effect as if— <ul style="list-style-type: none"> (a) the references to “a solicitor on the record” include a reference to a licensed body acting generally in the proceedings for an applicant; and (b) the reference to “a solicitor so engaged” includes a reference to a licensed body engaged as an agent by a solicitor or licensed body acting generally in the proceedings for an applicant.
Foreign Compensation Commission (Czechoslovakia) Rules Approval Instrument 1982 (S.I. 1982/1110)	Rule 37(1)(d) has effect as if— <ul style="list-style-type: none"> (a) the references to “a solicitor on the record” include a reference to a licensed body acting generally in the proceedings for an applicant; and (b) the reference to “a solicitor so engaged” includes a reference to a licensed body engaged as an agent by a solicitor or a licensed body acting generally in the proceedings for an applicant(41).
Foreign Compensation Commission (Union of Soviet Socialist Republics) Rules Approval Instrument 1987 (S.I. 1987/143)	Rule 28(d) has effect as if— <ul style="list-style-type: none"> (a) the references to “a solicitor on the record” include a reference to a licensed body acting generally in the proceedings for an applicant; and (b) the reference to “a solicitor so engaged” includes a reference to a

(39) The enactments and instruments listed in this Schedule, except the Parliamentary Costs Act 2006 and S.I. 2001/544, are modified by article 2(2) of and Schedule 2 to the Solicitors’ Recognised Bodies Order 1991 (S.I. 1991/2684).

(40) **The Instruments listed in this Schedule except the Parliamentary Costs Act 2006 and the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 are modified by article 2(2) of and Schedule 2 to the Solicitors’ Recognised Bodies Order 1991 (S.I. 1991/2684).**

(41) Rule 37(1) is amended by S.I. 1985/697.

<i>Statutes Which Apply to Licensed Bodies with Modifications(39)</i>	
<i>Short Title</i>	<i>Extent and modifications</i>
	licensed body engaged as an agent by a solicitor or a licensed body acting generally in the proceedings for an applicant.
Foreign Compensation Commission (People’s Republic of China) Rules Approval Instrument 1988 (S.I. 1988/153)	Rule 28(d) has effect as if— <ul style="list-style-type: none"> (a) the references to “a solicitor on the record” include a reference to a licensed body acting generally in the proceedings for an applicant; and (b) the reference to “a solicitor so engaged” includes a reference to a licensed body engaged as an agent by a solicitor or a licensed body acting generally in the proceedings for an applicant.
Prison Rules 1999 (S.I. 1999/728)	Rule 2(1) has effect as if in the definition of “legal adviser”— <ul style="list-style-type: none"> (a) in relation to visits to a prisoner, “solicitor” does not include a licensed body but a “clerk acting on behalf of his solicitor” includes a clerk acting on behalf of a licensed body; and (b) in relation to correspondence, “solicitor” includes a licensed body(42).
Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544)	Article 7(1) has effect as if the reference to a “practising solicitor” includes a reference to a licensed body in relation to such of its activities as are regulated by the Society in accordance with a licence issued to it under Part 5 of the 2007 Act(43).

(39) The enactments and instruments listed in this Schedule, except the Parliamentary Costs Act 2006 and S.I. 2001/544, are modified by article 2(2) of and Schedule 2 to the Solicitors’ Recognised Bodies Order 1991 (S.I. 1991/2684).

(42) There are amendments to Rule 2(1) which are not relevant to this Order.

(43) There are amendments to Rule 7(1) which are not relevant to this Order.

EXPLANATORY NOTE

(This note is not part of the Order)

Article 2 of this Order designates the Law Society (“the Society”) as a licensing authority for the purposes of Part 5 of the Legal Services Act 2007 (c. 29) (“the 2007 Act”). The Society is designated in relation to the exercise of a right of audience; the conduct of litigation; reserved instrument activities; probate activities and the administration of oaths. The Society is already an approved regulator in relation to these reserved legal activities by virtue of Part 1 of Schedule 4 to the 2007 Act. Designation will allow the Society to license firms (“licensed bodies”) which are wholly or partly owned or controlled by non-lawyers to provide legal services, or a mixture of legal and other services, to the public.

Article 3 makes provision for accountants to report certain matters to the Society when preparing reports under the Society’s licensing rules, mirroring the provision in section 34 of the Solicitors Act 1974 (c. 47) (“the 1974 Act”) which makes similar provision for solicitors, and by virtue of section 9 of and paragraph 5 of Schedule 2 to the Administration of Justice Act 1985 (c. 61) (“the 1985 Act”) also applies to legal services bodies recognised by the Society.

Article 4 makes provision to prevent a bank or building society being required to enquire, in relation to an account held with it by a licensed body, as to the beneficial ownership of the funds in the account to any greater extent than it would if the account was kept by the person entitled to the funds in it. It also prevents the bank or building society from having recourse to any money in such an account in respect of a liability of the licensed body to the bank or building society, other than in relation to a liability arising in connection with the account. This is similar to the provision made by section 85 of the 1974 Act in relation to accounts held by solicitors, and extended to apply to accounts held by legal services bodies recognised by the Society by paragraph 31 of Schedule 2 to the 1985 Act.

Article 5 makes provision for the Society, on application to the High Court, to obtain information and documents for the purpose of allowing it to ascertain whether the terms of a licensed body’s licence are being or have been complied with. This is similar to the provision which is made by section 44BB of the 1974 Act in relation to the provision of information relating to solicitors and legal services bodies recognised by the Society.

Article 6 makes provision for the Solicitors Disciplinary Tribunal to order solicitors practising in licensed bodies to be prevented from providing representation funded by the Legal Services Commission where another solicitor practising in that licensed body has been excluded from providing such representation. This is similar to the provision made in section 47(2B) of the 1974 Act in relation to a solicitor who is a member of a firm of solicitors, and by paragraph 20 of Schedule 2 to the 1985 Act in relation to a solicitor who is a manager or employee of a legal services body recognised by the Society.

Article 7 and Schedule 1 apply provisions in Part 3 of the 1974 Act (Remuneration of Solicitors) to licensed bodies in relation to their provision of legal services. Similar provision is made in respect of legal services bodies recognised by the Society by paragraphs 22 to 29 of Schedule 2 to the 1985 Act.

Article 8 and Schedules 2 and 3 make provision for existing legislation that has effect in relation to solicitors to have effect in relation to licensed bodies, with modifications where necessary. The legislation listed in those Schedules already has effect in relation to legal services bodies recognised by the Society either as drafted or by virtue of the Solicitors’ Recognised Bodies Order 1991 (S.I. 1991/2684).

A full regulatory impact assessment has not been produced for this instrument as no impact on the private and voluntary sectors is foreseen.