

*Draft rules laid before Parliament under section 128(5) of the Land Registration Act 2002, for
approval by resolution of each House of Parliament.*

DRAFT STATUTORY INSTRUMENTS

2011 No.

LAND REGISTRATION, ENGLAND AND WALES

The Land Registration (Network
Access) (Amendment) Rules 2011

Made - - - - *****

Coming into force in accordance with rule 2

The Lord Chancellor makes the following rules in exercise of the powers conferred by sections 92(2) and 128(1) of, and paragraphs 1(4), 2(4), 3(2) and (3), and 11 of Schedule 5 to, the Land Registration Act 2002⁽¹⁾.

He has consulted such persons as he considered appropriate, in accordance with paragraph 11(2) of Schedule 5 to that Act.

In making rules under paragraphs 1(4) and 3(2)(a) of Schedule 5 to that Act he has had regard, in particular, to the matters set out in paragraph 11(3) of Schedule 5 to that Act.

In accordance with section 128(5) of that Act, a draft of this instrument has been laid before Parliament and approved by a resolution of each House of Parliament.

Citation

1. These rules may be cited as the Land Registration (Network Access) (Amendment) Rules 2011.

Commencement

2. These rules shall come into force on the day that section 71 of the Legal Services Act 2007⁽²⁾ comes into force, unless that section is already in force when these rules are made, in which case these rules shall come into force on the day after the day on which they are made.

(1) 2002 c. 9.
(2) 2007 c. 29.

Interpretation

3. In these rules “the network access rules” means the Land Registration (Network Access) Rules 2008(3) and in rules 5 and 6 a reference to a rule or schedule by number is a reference to the rule or schedule so numbered in the network access rules.

Amendments to the network access rules

4. The network access rules are amended as set out in rules 5 and 6.

Amendments to rule 2 of the network access rules

5. In rule 2(1)—

(a) after the definition of “address for service” insert—

““approved regulator” has the same meaning as in section 20 of the Legal Services Act 2007,”;

(b) for the definition of “intervention” substitute—

““intervention” means—

- (a) an intervention by the Law Society under section 35 of, and Schedule 1 to, the Solicitors Act 1974(4), section 9 of, and Schedule 2 to, the Administration of Justice Act 1985(5), or section 89 of, and Schedule 14 to, the Courts and Legal Services Act 1990(6),
- (b) an intervention by the Council for Licensed Conveyancers under section 31 of, and Schedule 5 to, or section 32 of, and Schedule 6 to, the Administration of Justice Act 1985(7),
- (c) an intervention by a licensing authority under section 102 of, and Schedule 14 to, the Legal Services Act 2007, or
- (d) an intervention of a similar nature to those referred to in (a), (b) and (c) of this definition by any other approved regulator in accordance with its regulatory arrangements,

and for the purpose of these rules an intervention occurs on the day when the intervening body first decides to exercise the power of intervention in question in relation to a person or body,”;

(c) after the definition of “intervention” insert—

(3) S. I. 2008/1748.

(4) 1974 c. 47; Schedule 1 was amended by: the Criminal Justice Act 1982 (c. 48), sections 38 and 46; the Administration of Justice Act 1985 (c. 61), section 8 and Schedule 1, paragraph 13; the Courts and Legal Services Act 1990 (c. 41), section 91(1); the Access to Justice Act 1999 (c. 22), section 48 and Schedule 7, paragraph 6; the Mental Capacity Act 2005 (c. 9), section 67(1) and Schedule 6, paragraph 22(1), (4); the Legal Services Act 2007 (c. 29), sections 177 and 210, Schedule 16, paragraphs 1 and 77 and Schedule 23.

(5) 1985 c. 61; section 9 was amended by: the Courts and Legal Services Act 1990, section 125(7) and Schedule 20; the Access to Justice Act 1999, section 106 and Schedule 15 Part II; the Legal Services Act 2007, sections 177 and 210, Schedule 16, paragraphs 80 and 81 and Schedule 23; SI 2000/1119, regulation 37(3); SI 2009/1587, articles 1(1) and 3(4). Schedule 2, paragraphs 32 to 35 were amended by the Legal Services Act 2007, sections 177 and 210, Schedule 16, paragraphs 80 and 119 to 122 and Schedule 23.

(6) 1990 c. 41; section 89 was amended by: the Legal Services Act 2007, section 177 and Schedule 16, paragraph 125; SI 2000/1119, regulations 1(1) and 37 and Schedule 4, paragraph 14. Schedule 14, paragraph 5 was amended by: the Mental Capacity Act 2005, section 67(1) and Schedule 6, paragraph 35; the Legal Services Act 2007, sections 177 and 210, Schedule 16, paragraphs 126 and 131 and Schedule 23.

(7) Sections 31 and 32 were amended by the Legal Services Act 2007, sections 182 and 210, Schedule 17, paragraphs 1, 19 and 20 and Schedule 23. Schedule 5 and Schedule 6, paragraphs 10 to 13, were amended by the Legal Services Act 2007, sections 182 and 210, Schedule 17, paragraphs 1, 31 and 32 and Schedule 23.

““licensing authority” has the same meaning as in section 73 of the Legal Services Act 2007.”;

(d) after the definition of “read-only network access agreement” insert—

““regulatory arrangements” has the same meaning as in section 21 of the Legal Services Act 2007.”.

Amendments to Schedule 1 to the network access rules

6.—(1) For paragraph 1 of Schedule 1 substitute—

“Authorised persons

1.—(1) That the applicant is—

- (a) an authorised person entitled to carry on the relevant reserved instrument activities in accordance with the regulatory arrangements of the relevant approved regulator or licensing authority, as the case may be,
- (b) an individual or body who employs, or being a body has among its managers, at least one authorised person entitled to carry on the relevant reserved instrument activities and who will carry on or direct and supervise the carrying on of the relevant reserved instrument activities as such employee or manager, in accordance with the regulatory arrangements of the relevant approved regulator or licensing authority, as the case may be, or
- (c) a government department.

(2) For the purposes of this paragraph—

- (a) “authorised person” has the same meaning as in section 18 of the Legal Services Act 2007,
- (b) “manager” has the same meaning as in section 207 of the Legal Services Act 2007,
- (c) “relevant approved regulator” has the same meaning as in section 20 of the Legal Services Act 2007,
- (d) “relevant reserved instrument activities” means the reserved instrument activities set out in paragraph 5(1)(a) and (b) of Schedule 2 to the Legal Services Act 2007.”.

(2) In paragraph 2 of Schedule 1—

- (a) substitute “indemnification arrangements” for “indemnity rules” wherever those words appear in sub-paragraph (1),
- (b) for sub-paragraph (2) substitute—

“(2) Subject to paragraph 3, where the applicant is not under an obligation to comply with indemnification arrangements, that he holds a policy of indemnity insurance providing cover which in the opinion of the registrar is reasonably equivalent to the cover which would have been required under the indemnification arrangements applicable had the applicant been an authorised person regulated or licensed (whichever would, in the opinion of the registrar, have been more appropriate in the case of the applicant) by the Law Society.”.

(c) omit sub-paragraph (3).

(3) In paragraph 3(2) of Schedule 1 substitute “indemnification arrangements” for “indemnity rules”.

(4) In paragraph 7(c) of Schedule 1 after “was” where it first appears insert “, at the date of the intervention.”.

- (5) In paragraph 7(d) of Schedule 1 after “applicant” insert “or a connected person”.
- (6) In paragraph 9(1)(b) of Schedule 1—
 - (a) omit “or” at the end of sub-paragraph (iii),
 - (b) after sub-paragraph (iv) add—
 - “(v) any other disciplinary tribunal provided under the regulatory arrangements of an approved regulator, or
 - (vi) a licensing authority.”.
- (7) In paragraph 9(2) of Schedule 1—
 - (a) omit “or” at the end of sub-paragraph (c),
 - (b) after sub-paragraph (d) add—
 - “or
 - (e) in relation to paragraph 7(d), the date of the application.”.
- (8) After paragraph 9 add—

“Interpretation

10. In this Schedule, “indemnification arrangements” has the same meaning as in section 21 of the Legal Services Act 2007 but with the omission of the words “, in relation to a body,”.

Signed by authority of the Lord Chancellor

Date

Minister of State
Ministry of Justice

EXPLANATORY NOTE

(This note is not part of the Rules)

These rules are made under the Land Registration Act 2002. They amend the Land Registration (Network Access) Rules 2008 (“the network access rules”) which make provision in connection with the land registry network for carrying out electronic conveyancing.

The amendments are made in consequence of changes under the Legal Services Act 2007 to the regulation of persons carrying out legal activities, and the introduction of alternative business structures on the coming into force of Part 5 of that Act.

Rule 5 adds definitions to rule 2(1) of the network access rules, mainly by reference to definitions in the Legal Services Act 2007. The definition of “intervention” is amended to include interventions by new regulators or licensing authorities coming into being under that Act.

Rule 6 amends Schedule 1 to the network access rules (which sets out the criteria for entry into a full network access agreement) to include applicants who are or who employ authorised persons, authorised or licensed under the provisions of the Legal Services Act 2007 to carry on certain reserved instrument activities relating to land registration. Minor amendments are made for clarification of the existing provisions of the Schedule.

A full regulatory impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available from the Project Team Leader, Room 554, Land Registry Durham Office, Southfield House, Southfield Way, Durham DH1 5TR and is annexed to the Explanatory Memorandum which is available alongside the instrument on www.legislation.gov.uk.