

Draft Order laid before Parliament under section 206(4) and (5) of the Legal Services Act 2007, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2020 No.

LEGAL SERVICES, ENGLAND AND WALES

The Legal Services Act 2007 (Chartered
Institute of Legal Executives) (Appeals from
Licensing Authority Decisions) Order 2020

Made - - - - *****
Coming into force - - *6th April 2020*

The Lord Chancellor, in exercise of the powers conferred by sections 80(1)(b) and (4)(b) and 204(3) and (4) of the Legal Services Act 2007(1) makes the following Order.

In accordance with section 80(3) of that Act, this Order is made following a recommendation made by the Legal Services Board to which was annexed a draft order in a form not materially different from this Order.

The Legal Services Board has made its recommendation under section 80 of that Act with the consents required by section 81(1) of that Act and after complying with the requirements in section 81(2) to (5) of that Act.

A draft of this Order has been approved by a resolution of each House of Parliament pursuant to section 206(4) and (5) of the Legal Services Act 2007.

Citation and commencement

1. This Order may be cited as the Legal Services Act 2007 (Chartered Institute of Legal Executives) (Appeals from Licensing Authority Decisions) Order 2020 and comes into force on 6th April 2020.

Interpretation

2. In this Order—
- “the 2007 Act” means the Legal Services Act 2007;
 - “CILEx” means the Chartered Institute of Legal Executives.

Application

3. This Order applies to appeals from decisions made by CILEx in its capacity as a licensing authority.

Appeals to be made to the First-tier Tribunal

4.—(1) The First-tier Tribunal may hear and determine appeals from decisions made by CILEx which are appealable under any provision of—

- (a) Part 5 of the 2007 Act; or
- (b) CILEx’s licensing rules⁽²⁾.

(2) The First-tier Tribunal may suspend the effect of a decision of CILEx (whether or not the decision has already taken effect) while an appeal against that decision has been brought and has not yet been finally determined or withdrawn.

(3) The First-tier Tribunal may, in relation to appeals from decisions which are appealable under the licensing rules—

- (a) affirm CILEx’s decision in whole or in part;
- (b) quash CILEx’s decision in whole or in part;
- (c) substitute for all or part of CILEx’s decision another decision of a kind that CILEx could have taken; or
- (d) remit the matter to CILEx (generally, or for determination in accordance with a finding made or direction given by the First-tier Tribunal).

Modifications to the 2007 Act

5. The Schedule to this Order (which modifies provisions of the 2007 Act) has effect.

Signed by authority of the Lord Chancellor

Date

Name
Parliamentary Under Secretary of State
Ministry of Justice

(2) Section 83 of the 2007 Act defines and makes other provisions relating to licensing rules. By reason of article 4, the First-tier Tribunal is the “relevant appellate body” as defined in section 111 of the 2007 Act.

SCHEDULE

Article 5

Modifications to the 2007 Act

Modifications to section 96 of the 2007 Act

1. Section 96 of the 2007 Act (appeals against financial penalties) has effect in relation to a penalty imposed by CILEx as if—

- (a) in subsection (1), “, before the end of such period as may be prescribed by rules made by the Board,” were omitted;
- (b) subsections (6) and (7) were omitted; and
- (c) for subsection (8) there were substituted—

“(8) Except as provided by this section or Part 1 of the Tribunals, Courts and Enforcement Act 2007, the validity of a penalty is not to be questioned by any legal proceedings whatever.”.

Modifications to Schedule 13 to the 2007 Act

2.—(1) Schedule 13 to the 2007 Act (ownership of licensed bodies) has effect in relation to decisions of CILEx with the following modifications.

(2) Paragraph 18 (appeal from decision to approve notified interest subject to conditions) has effect as if—

- (a) in sub-paragraph (1), “before the end of the prescribed period” were omitted;
- (b) sub-paragraphs (3) and (4) were omitted; and
- (c) in sub-paragraph (5), after “an appeal under this paragraph” there were inserted “or Part 1 of the Tribunals, Courts and Enforcement Act 2007”.

(3) Paragraph 20 (appeal from decision to object to a notified interest) has effect as if—

- (a) in sub-paragraph (1), “before the end of the prescribed period” were omitted;
- (b) sub-paragraphs (3) and (4) were omitted; and
- (c) in sub-paragraph (5), after “an appeal under this paragraph” there were inserted “or Part 1 of the Tribunals, Courts and Enforcement Act 2007”.

(4) Paragraph 29 (appeal from decision to approve a notifiable interest subject to conditions) has effect as if—

- (a) in sub-paragraph (1), “before the end of the prescribed period” were omitted;
- (b) sub-paragraphs (3) and (4) were omitted; and
- (c) in sub-paragraph (5), after “an appeal under this paragraph” there were inserted “or Part 1 of the Tribunals, Courts and Enforcement Act 2007”.

(5) Paragraph 32 (appeal from decision to object to acquisition of a notifiable interest) has effect as if—

- (a) in sub-paragraph (1), “before the end of the prescribed period” were omitted;
- (b) sub-paragraphs (3) and (4) were omitted; and
- (c) in sub-paragraph (5), after “an appeal under this paragraph” there were inserted “or Part 1 of the Tribunals, Courts and Enforcement Act 2007”.

(6) Paragraph 34 (appeal from decision to impose conditions (or further conditions) on existing restricted interest) has effect as if—

- (a) in sub-paragraph (1), “before the end of the prescribed period” were omitted;

- (b) sub-paragraphs (3) and (4) were omitted; and
 - (c) in sub-paragraph (5), after “an appeal under this paragraph” there were inserted “or Part 1 of the Tribunals, Courts and Enforcement Act 2007”.
- (7) Paragraph 37 (appeal from decision to object to existing restricted interest) has effect as if—
- (a) in sub-paragraph (1), “before the end of the prescribed period” were omitted;
 - (b) sub-paragraphs (4) and (5) were omitted; and
 - (c) in sub-paragraph (6), after “an appeal under this paragraph” there were inserted “or Part 1 of the Tribunals, Courts and Enforcement Act 2007”.
- (8) Paragraph 47 (notifying the Board of objection or condition as to a person’s holding of a restricted interest) has effect as if, in sub-paragraph (4), for “to the High Court” there were substituted “under Part 1 of the Tribunals, Courts and Enforcement Act 2007”.
- (9) Paragraph 48 (notifying the Board of approval of the holding of a restricted interest by a person included in the Board’s list of persons subject to objections and conditions) has effect as if, in sub-paragraph (3), for “to the High Court” there were substituted “under Part 1 of the Tribunals, Courts and Enforcement Act 2007”.
- (10) Paragraph 50 (appeal from decision to notify the Board where share limit or voting limit breached) has effect as if—
- (a) in sub-paragraph (1), “before the end of the prescribed period” were omitted;
 - (b) sub-paragraphs (3) and (4) were omitted; and
 - (c) in sub-paragraph (5), after “any appeal under this paragraph” there were inserted “or Part 1 of the Tribunals, Courts and Enforcement Act 2007”.
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EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision under section 80 of the Legal Services Act 2007 (c. 29) (“the 2007 Act”) for the First-tier Tribunal to hear and determine appeals from decisions made by the Chartered Institute of Legal Executives (“CILEx”) in its capacity as a licensing authority. Licensing authorities regulate licensed bodies under the provisions of Part 5 of the 2007 Act (alternative business structures). The decisions are those which are appealable under Part 5 of the 2007 Act or under CILEx’s licensing rules. Section 83 of the 2007 Act defines licensing rules as rules about the licensing and regulation of licensed bodies.

Article 4 provides for such appeals to be heard and determined by the First-tier Tribunal and sets out the powers of the First-tier Tribunal in relation to an appeal under the licensing rules. The 2007 Act provides for the grounds of appeal and the First-tier Tribunal’s powers in relation to an appeal under Part 5 of the 2007 Act.

Certain provisions of the 2007 Act are modified by article 5 of, and the Schedule to, this Order in relation to appeals against decisions of CILEx. The modifications take account of the provision in Part 1 of the Tribunals, Courts and Enforcement Act 2007 (c. 15) for appeals from the First-tier Tribunal to go to the Upper Tribunal.

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Draft Legislation: *This is a draft item of legislation. This draft has since been made as a UK Statutory Instrument: The Legal Services Act 2007 (Chartered Institute of Legal Executives) (Appeals from Licensing Authority Decisions) Order 2020 No. 301*

An impact assessment has not been produced for this Order as no, or no significant, impact on the private, voluntary or public sector is foreseen.