

LEGAL SERVICES ACT 2007

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3: Reserved Legal Activities

Background

Section 24: Extension of the reserved legal activities

105. This section allows the Lord Chancellor, by order, to extend the activities within the scope of the definition of “relevant legal activities”, by amending section 12 or Schedule 2. The Lord Chancellor can make this order only on the recommendation of the Board. This will enable any legal services to be regulated at a later date where it would be in consumers’ interests to do so.
106. **Schedule 6**, introduced by this section, sets out the procedure for adding new activities to the list of reserved legal activities. It also sets out the procedure for determining whether a recommendation should be made under section 26 (recommendations that activities should cease to be reserved legal activities).
107. The following individuals/bodies may request that the Board investigate whether the reserved legal activities should be extended, or whether an activity should cease to be a reserved legal activity:
 - the Lord Chancellor,
 - the OFT,
 - the Consumer Panel, or
 - the Lord Chief Justice.
108. Where such a request is made, preliminary inquiries for an investigation by the Board may take up to three months, although this can be extended by agreement with the Lord Chancellor. Anybody else may make a request of this kind, although in such cases the Board will not be obliged to make preliminary enquiries. The Board can also instigate investigations even if no request has been made.
109. **Paragraph 5** enables the Board to seek advice from the OFT and/or the Consumer Panel before determining whether it is appropriate to hold an investigation. If asked for advice, the OFT and the Consumer Panel must each give the Board such advice as it sees fit. The OFT must, in particular, consider whether making a change would, or would be likely to, restrict, distort or prevent competition in the market for reserved legal services. The Consumer Panel must have regard to the likely impact that making a change would have on consumers. Each may, for the purpose of giving advice, ask any person to provide additional specified information.
110. **Paragraph 6** states that, if the Board seeks the advice of the Lord Chief Justice, the Lord Chief Justice must consider any advice provided to the Board by the OFT and/or the

*These notes refer to the Legal Services Act 2007 (c.29)
which received Royal Assent on 30th October 2007*

Consumer Panel, and then give such advice to the Board as the Lord Chief Justice sees fit. In deciding what advice to give, the Lord Chief Justice must, in particular, have regard to the likely impact of the proposed change on the courts in England and Wales. The Board must consider, and publish, any advice given by those persons.

111. Under paragraph 8, if the Board receives an application by the Lord Chancellor, OFT, the Consumer Panel or the Lord Chief Justice to investigate whether the reserved legal activities should be extended, or whether an activity should cease to be a reserved legal activity, it may only refuse to undertake the investigation where:
 - the Board has consulted, and received advice from, the OFT, the Consumer Panel or the Lord Chief Justice (sub-paragraph (3) of paragraph 8); and
 - either,
 - the Lord Chancellor consents to the Board’s refusal (sub-paragraph (4) of paragraph 8, or
 - the original request for investigation was made by the Lord Chancellor.
112. If the request proceeds to a full investigation, the Board must give notice of this to the Lord Chancellor, the OFT, the Consumer Panel, and the Lord Chief Justice. The Board must publish this notice.
113. Within twelve months the Board must produce and publish a report with its provisional recommendation and reasons, as stated in paragraph 10. The Board may extend this investigation period by issuing and publishing a notice, only after consultation with the OFT, the Consumer Panel, and the Lord Chief Justice.
114. The Board may make rules governing the making of representations and the giving of evidence. Paragraphs 12 to 15 set out what the Board must consider in making these rules, and the process by which such rules may be made. Paragraph 18 permits the Board to pay such costs of a person as the Board considers reasonable, for the purpose of facilitating the giving of oral evidence or representations.
115. [Paragraph 16](#) sets out the process that the Board must follow in making its final report. It must decide:
 - whether or not to make a recommendation to extend the reserved legal activities,
 - whether or not to make a recommendation that an activity should cease to be a reserved legal activity.
116. The Board must make its report within the “final reporting period”, as set out in paragraph 17. Paragraph 16 requires the report to:
 - set out the Board’s decision and reasons for it, and
 - where applicable, its recommendation, and any statement of further statutory changes that may be needed if an order is made in accordance with the recommendation.
117. The Board must give a copy of this report to the Lord Chancellor, and publish it.
118. [Section 24](#) provides that the Lord Chancellor must consider the report and publish a decision. Where the Lord Chancellor decides not to make an order that the Board has recommended, the Lord Chancellor must state reasons for this. The Lord Chancellor will not be able to make an order otherwise than on the Board’s recommendation, nor will the Lord Chancellor be able to amend an order that the Board has recommended. This Act does not give the Lord Chancellor the power to make changes on the Lord Chancellor’s own initiative (including amending Board recommendations as they are implemented).