



# Legal Services Act 2007

## 2007 CHAPTER 29

### PART 4

#### REGULATION OF APPROVED REGULATORS

##### *Competition*

#### 57 Reports by the [F<sup>1</sup>CMA]

- (1) If the [F<sup>2</sup>CMA] is of the opinion that the regulatory arrangements of an approved regulator (or any part of them) prevent, restrict or distort competition within the market for reserved legal services to any significant extent, or are likely to do so, the [F<sup>2</sup>CMA] may prepare a report to that effect.
- (2) A report under subsection (1)—
  - (a) must state what, in the [F<sup>3</sup>CMA's] opinion, is the effect, or likely effect, on competition of the regulatory arrangements or part of them to which the report relates, and
  - (b) may contain recommendations as to the action which the Board should take for the purpose of ensuring that the regulatory arrangements of the approved regulator do not prevent, restrict or distort competition.
- (3) Where the [F<sup>4</sup>CMA] makes a report under subsection (1), it must—
  - (a) give a copy of the report to the Board, the Consumer Panel and the approved regulator, and
  - (b) publish the report.
- (4) Before publishing a report under subsection (3)(b), the [F<sup>4</sup>CMA] must, so far as practicable, exclude any matter which relates to the private affairs of a particular individual the publication of which, in the opinion of the [F<sup>4</sup>CMA], would or might seriously and prejudicially affect the interests of that individual.
- (5) The [F<sup>4</sup>CMA] may exercise any of the powers conferred on it by section 174(3) to (5) [F<sup>5</sup> and (6A)] of the Enterprise Act 2002 (c. 40) (investigation powers) for the

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purpose of assisting it in exercising its functions under this section [<sup>F6</sup>and references in section 174 of the Enterprise Act 2002 to a “permitted purpose” are to be construed accordingly].

[<sup>F7</sup>(5A) Where the CMA exercises any of its powers under section 174 of the Enterprise Act 2002 for the purpose referred to in subsection (5), “the relevant day” for the purposes of section 174B of the Enterprise Act 2002 is the day on which the CMA publishes its report. ]

(6) For the purposes of the law of defamation, absolute privilege attaches to any report of the [<sup>F4</sup>CMA] under this section.

#### Textual Amendments

- F1** Word in s. 57 heading substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 6 para. 109\(5\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F2** Word in s. 57(1) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 6 para. 109\(2\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F3** Word in s. 57(2) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 6 para. 109\(3\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F4** Words in s. 57(3)-(6) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 6 para. 109\(4\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F5** Words in s. 57(5) inserted (1.4.2014) by [The Enterprise and Regulatory Reform Act 2013 \(Competition, Transitional and Saving Provisions\) Order 2014 \(S.I. 2014/892\)](#), art. 1(1), [Sch. 1 para. 176\(2\)\(a\)](#) (with art. 3, Sch. 2 para. 4)
- F6** Words in s. 57(5) inserted (1.4.2014) by [The Enterprise and Regulatory Reform Act 2013 \(Competition, Transitional and Saving Provisions\) Order 2014 \(S.I. 2014/892\)](#), art. 1(1), [Sch. 1 para. 176\(2\)\(b\)](#) (with art. 3, Sch. 2 para. 4)
- F7** S. 57(5A) inserted (1.4.2014) by [The Enterprise and Regulatory Reform Act 2013 \(Competition, Transitional and Saving Provisions\) Order 2014 \(S.I. 2014/892\)](#), art. 1(1), [Sch. 1 para. 176\(3\)](#) (with art. 3, Sch. 2 para. 4)

## 58 The Board's response to [<sup>F8</sup>CMA] report

- (1) This section applies where a report is made by the [<sup>F9</sup>CMA] under section 57 in respect of an approved regulator.
- (2) The Board must allow the approved regulator a period of 28 days beginning with the day on which the copy of the report is given to the approved regulator under section 57, or such longer period as the Board may specify in a particular case, to make representations to the Board about the [<sup>F10</sup>CMA's] report.
- (3) The Consumer Panel may give the Board such advice as the Consumer Panel thinks fit regarding the [<sup>F10</sup>CMA's] report.
- (4) Having considered any representations made under subsection (2) and any advice given under subsection (3), the Board must notify the [<sup>F11</sup>CMA] of the action (if any) it proposes to take in response to the report.

#### Textual Amendments

- F8** Word in s. 58 heading substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 6 para. 110\(5\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)

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- F9** Word in s. 58(1) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\), s. 103\(3\), Sch. 6 para. 110\(2\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F10** Words in s. 58(2)(3) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\), s. 103\(3\), Sch. 6 para. 110\(3\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F11** Word in s. 58(4) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\), s. 103\(3\), Sch. 6 para. 110\(4\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)

## 59 Referral of report by the Lord Chancellor <sup>F12</sup>...

- (1) This section applies where the [<sup>F13</sup>CMA] is satisfied that the Board has failed to give full and proper consideration to a report made by the [<sup>F13</sup>CMA], in respect of an approved regulator, under section 57.
- (2) The [<sup>F13</sup>CMA] may give a copy of its report to the Lord Chancellor.
- (3) The [<sup>F13</sup>CMA] must notify the Board and the approved regulator if it gives a copy of its report to the Lord Chancellor.
- (4) On receiving a report under subsection (2), the Lord Chancellor [<sup>F14</sup> must make a reference to the chair of the CMA for the constitution of a group under Schedule 4 to the Enterprise and Regulatory Reform Act 2013, for the purpose of advising the Lord Chancellor] on what action (if any) should be taken by the Lord Chancellor under section 61.
- <sup>F15</sup>(5) Where a reference is made to the chair of the CMA under this section for the constitution of a group, the functions of the CMA under section 60, in relation to the matter concerned, are to be carried out on behalf of the CMA by the group so constituted (including functions under sections 109 to 115 of the Enterprise Act 2002, as applied by section 60(9)).]

### Textual Amendments

- F12** Words in s. 59 heading omitted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\), s. 103\(3\), Sch. 6 para. 111\(5\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)  
Text here
- F13** Words in s. 59(1)-(3) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\), s. 103\(3\), Sch. 6 para. 111\(2\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F14** Words in s. 59(4) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\), s. 103\(3\), Sch. 6 para. 111\(3\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F15** S. 59(5) inserted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\), s. 103\(3\), Sch. 6 para. 111\(4\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)

## 60 Duties of the [<sup>F16</sup>CMA]

- (1) Where the Lord Chancellor [<sup>F17</sup> makes a reference under section 59, the CMA] under section 59, the Commission must investigate the matter.
- (2) [<sup>F18</sup> The CMA must then make a report] on the matter unless it considers that, as a result of any change of circumstances, no useful purpose would be served by a report.
- (3) If the [<sup>F19</sup> CMA ] decides in accordance with subsection (2) not to make a report, it must make a statement setting out the change of circumstances which resulted in that decision.

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- (4) The [F20CMA ] must comply with subsection (2) or (3) within the period of 3 months beginning with the day on which [F21the reference in question is made to the chair of the CMA under section 59].
- (5) A report made under this section must state the [F22CMA's] conclusion as to whether any of the matters which is the subject of the report has or is likely to have the effect of preventing, restricting or distorting competition within the market for reserved legal services to a significant extent.
- (6) A report under this section stating the [F23CMA's] conclusion that there is, or is likely to be, such an effect must also—
- (a) state whether or not the [F24CMA] considers that that effect is justified, and
  - (b) if it states that the [F24CMA] considers that it is not justified, state its conclusion as to what action, if any, ought to be taken by the Board.
- (7) When determining under subsection (6)(b) any action to be taken by the Board, the [F25CMA] must ensure—
- (a) that the action stated is action which the Board has power to take, and
  - (b) so far as reasonably possible, that the action stated is compatible with the functions conferred, and obligations imposed, on the Board by or under this Act.
- (8) A report under this section must contain such an account of the [F26CMA's] reasons for its conclusions as is expedient, in the opinion of the [F27CMA ], for facilitating proper understanding of them.
- (9) Sections [F28109 to 110A and 111 to 115] of the Enterprise Act 2002 (c. 40) (investigation powers) apply in relation to an investigation under this section as they apply in relation to an investigation made on a reference made [F29to the CMA] under Part 3 of that Act (mergers), but as if—
- [F30(a) references in section 109 of that Act (attendance of witnesses and production of documents etc ) to a permitted purpose were references to the purpose of assisting the CMA in carrying out any of its functions in connection with an investigation under this section, and
  - (b) the relevant day in any case for the purposes of section 110A of that Act (restriction on powers to impose penalties under section 110) were the day on which the CMA makes a report under subsection (2) or a statement under subsection (3) in connection with that case. ]
- (10) If the [F31CMA] makes a report or a statement under this section it must—
- (a) give a copy to the Lord Chancellor, the Board, the Consumer Panel and the approved regulator to which the [F32report made by the CMA under section 57 ] relates, and
  - (b) publish the report or statement.

#### Textual Amendments

- F16** Word in s. 60 heading substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 6 para. 112\(12\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F17** Words in s. 60(1) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 6 para. 112\(2\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F18** Words in s. 60(2) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 6 para. 112\(3\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)

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- F19** Word in s. 60(3) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 112(4)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F20** Word in s. 60(4) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 112(5)(a)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F21** Words in s. 60(4) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 112(5)(b)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F22** Word in s. 60(5) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 112(6)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F23** Word in s. 60(6) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 112(7)(a)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F24** Word in s. 60(6) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 112(7)(b)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F25** Word in s. 60(7) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 112(8)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F26** Word in s. 60(8) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 112(9)(a)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F27** Word in s. 60(8) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 112(9)(b)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F28** Words in s. 60(9) substituted (1.4.2014) by The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 1(1), **Sch. 1 para. 177(a)** (with art. 3, Sch. 2 para. 2)
- F29** Words in s. 60(9) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 112(10)(a)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F30** S. 60(9)(a)(b) substituted (1.4.2014) by The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 1(1), **Sch. 1 para. 177(b)** (with art. 3, Sch. 2 para. 2)
- F31** Word in s. 60(10) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 112(11)(a)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F32** Words in s. 60(10) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 112(11)(b)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)

## 61 Lord Chancellor's power to give directions

- (1) The Lord Chancellor may direct the Board to take such action as the Lord Chancellor considers appropriate in connection with any matter raised in a report made by the <sup>F33</sup>CMA ] under section 57.
- (2) Before giving a direction under subsection (1), the Lord Chancellor must consider any report from the <sup>F34</sup>CMA ] under section 60 on that matter.
- (3) When exercising the power to give a direction under subsection (1), the Lord Chancellor must ensure—
  - (a) that the action stated is action which the Board has power to take, and
  - (b) so far as reasonably possible, that the action stated in any direction is compatible with the functions conferred, and obligations imposed, on the Board by or under this Act.
- (4) The Lord Chancellor must publish a direction given under this section.

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#### **Textual Amendments**

- F33** Word in s. 61(1) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 6 para. 113\(2\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F34** Word in s. 61(2) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 6 para. 113\(3\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)

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