



# Legal Services Act 2007

## 2007 CHAPTER 29

### PART 5

#### ALTERNATIVE BUSINESS STRUCTURES

##### *Regulation of licensed bodies*

#### **90 Duties of non-authorised persons**

A non-authorised person who is an employee or manager of a licensed body, or has an interest or an indirect interest, or holds a material interest, in a licensed body, must not do anything which causes or substantially contributes to a breach by—

- (a) the licensed body, or
- (b) an employee or manager of the licensed body who is an authorised person in relation to an activity which is a reserved legal activity,

of the duties imposed on them by section 176.

#### **91 Duties of Head of Legal Practice**

- (1) The Head of Legal Practice of a licensed body must—
  - (a) take all reasonable steps to ensure compliance with the terms of the licensed body's licence, and
  - (b) as soon as reasonably practicable, report to the licensing authority any failure to comply with the terms of the licence.
- (2) Subsection (1) does not apply to the terms of the licence so far as they require compliance with licensing rules made under paragraph 20 of Schedule 11 (accounts) (as to which see section 92).
- (3) The Head of Legal Practice of a licensed body must—
  - (a) take all reasonable steps to ensure that the licensed body, and any of its employees or managers who are authorised persons in relation to an activity

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*Status: This is the original version (as it was originally enacted).*

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which is a reserved legal activity, comply with the duties imposed by section 176, and

- (b) as soon as reasonably practicable, report to the licensing authority such failures by those persons to comply with those duties as may be specified in licensing rules.
- (4) The Head of Legal Practice of a licensed body must—
- (a) take all reasonable steps to ensure that non-authorised persons subject to the duty imposed by section 90 in relation to the licensed body comply with that duty, and
  - (b) as soon as reasonably practicable, report to the licensing authority any failure by a non-authorised person to comply with that duty.

## **92 Duties of Head of Finance and Administration**

- (1) The Head of Finance and Administration of a licensed body must take all reasonable steps to ensure compliance with licensing rules made under paragraph 20 of Schedule 11 (accounts).
- (2) The Head of Finance and Administration must report any breach of those rules to the licensing authority as soon as reasonably practicable.

## **93 Information**

- (1) The relevant licensing authority in relation to a licensed body may by notice require a person within subsection (2)—
  - (a) to provide information, or information of a description, specified in the notice, or
  - (b) produce documents, or documents of a description, specified in the notice, for the purpose of enabling the licensing authority to ascertain whether the terms of the licensed body's licence are being, or have been, complied with.
- (2) The persons are—
  - (a) the licensed body;
  - (b) any manager or employee (or former manager or employee) of the licensed body;
  - (c) any non-authorised person who has an interest or an indirect interest, or holds a material interest, in the licensed body.
- (3) A notice under subsection (1)—
  - (a) may specify the manner and form in which any information is to be provided;
  - (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 licensing authority or to a person specified in the notice.
- (4) The licensing authority may, by notice, require a person within subsection (2) (or a representative of such a person) to attend at a time and place specified in the notice to provide an explanation of any information provided or document produced under this section.

- (5) The licensing authority may pay to any person such reasonable costs as may be incurred by that person in connection with—
  - (a) the provision of any information, or production of any document, by that person pursuant to a notice under subsection (1), or
  - (b) that person’s compliance with a requirement imposed under subsection (4).
- (6) The licensing authority, or a person specified under subsection (3)(c) in a notice, may take copies of or extracts from a document produced pursuant to a notice under subsection (1).
- (7) For the purposes of this section and section 94, references to a licensed body include a body which was, but is no longer, a licensed body.

#### **94 Enforcement of notices under section 93**

- (1) Where a person is unable to comply with a notice given to the person under section 93, the person must give the licensing authority a notice to that effect stating the reasons why the person cannot comply.
- (2) If a person refuses or otherwise fails to comply with a notice under section 93, the licensing authority may apply to the High Court for an order requiring the person to comply with the notice or with such directions for the like purpose as may be contained in the order.

#### **95 Financial penalties**

- (1) A licensing authority may, in accordance with its licensing rules, impose on a licensed body, or a manager or employee of a licensed body, a penalty of such amount as it considers appropriate.
- (2) The amount must not exceed the maximum amount prescribed under subsection (3).
- (3) The Board must make rules prescribing the maximum amount of a penalty which may be imposed under this section.
- (4) Rules may be made under subsection (3) only with the consent of the Lord Chancellor.
- (5) A penalty under this section is payable to the licensing authority.
- (6) For the purposes of this section—
  - (a) references to a licensed body are to a body which was a licensed body at the time the act or omission in respect of which the penalty is imposed occurred, and
  - (b) references to a manager or employee of a licensed body are to a person who was a manager or employee of a licensed body at that time,(whether or not the body subsequently ceased to be a licensed body or the person subsequently ceased to be a manager or employee).
- (7) In sections 96 and 97 references to a “penalty” are to a penalty under this section.

## **96 Appeals against financial penalties**

- (1) A person on whom a penalty is imposed under section 95 may, before the end of such period as may be prescribed by rules made by the Board, appeal to the relevant appellate body on one or more of the appeal grounds.
- (2) The appeal grounds are—
  - (a) that the imposition of the penalty is unreasonable in all the circumstances of the case;
  - (b) that the amount of the penalty is unreasonable;
  - (c) that it is unreasonable of the licensing authority to require the penalty imposed or any portion of it to be paid by the time or times by which it was required to be paid.
- (3) On any such appeal, where the relevant appellate body considers it appropriate to do so in all the circumstances of the case and is satisfied of one or more of the appeal grounds, that body may—
  - (a) quash the penalty,
  - (b) substitute a penalty of such lesser amount as it considers appropriate, or
  - (c) in the case of the appeal ground in subsection (2)(c), substitute for any time imposed by the licensing authority a different time or times.
- (4) Where the relevant appellate body substitutes a penalty of a lesser amount it may require the payment of interest on the substituted penalty at such rate, and from such time, as it considers just and equitable.
- (5) Where the relevant appellate body specifies as a time by which the penalty, or a portion of the penalty, is to be paid a time before the determination of the appeal under this section it may require the payment of interest on the penalty, or portion, from that time at such rate as it considers just and equitable.
- (6) A party to the appeal may appeal to the High Court on a point of law arising from the decision of the relevant appellate body, but only with the permission of the High Court.
- (7) The High Court may make such order as it thinks fit.
- (8) Except as provided by this section, the validity of a penalty is not to be questioned by any legal proceedings whatever.

## **97 Recovery of financial penalties**

- (1) If the whole or any part of a penalty is not paid by the time by which, in accordance with licensing rules, it is required to be paid, the unpaid balance from time to time carries interest at the rate for the time being specified in section 17 of the Judgments Act 1838 (c. 110).
- (2) Where a penalty, or any portion of it, has not been paid by the time by which, in accordance with licensing rules, it is required to be paid and—
  - (a) no appeal relating to the penalty has been made under section 96 during the period within which such an appeal can be made, or
  - (b) an appeal has been made under that section and determined or withdrawn,the licensing authority may recover from the person on whom the penalty was imposed, as a debt due to the licensing authority, any of the penalty and any interest which has not been paid.

- (3) A licensing authority must pay into the Consolidated Fund any sum received by it as a penalty (or as interest on a penalty).

## **98 Referral of employees etc to appropriate regulator**

- (1) The relevant licensing authority may refer to an appropriate regulator any matter relating to the conduct of—
- (a) an employee or manager of a licensed body;
  - (b) a person designated as a licensed body’s Head of Legal Practice or Head of Finance and Administration.
- (2) The licensing authority may also refer any matter relating to the conduct of such a person to the Board.
- (3) Appropriate regulators are—
- (a) if the person is an authorised person in relation to a reserved legal activity, any relevant approved regulator in relation to that person, and
  - (b) if the person carries on non-reserved activities, any person who exercises regulatory functions in relation to the carrying on of such activities by the person.

## **99 Disqualification**

- (1) A licensing authority may in accordance with its licensing rules disqualify a person from one or more of the activities mentioned in subsection (2) if—
- (a) the disqualification condition is satisfied in relation to the person, and
  - (b) the licensing authority is satisfied that it is undesirable for the person to engage in that activity or those activities.
- (2) The activities are—
- (a) acting as Head of Legal Practice of any licensed body,
  - (b) acting as Head of Finance and Administration of any licensed body,
  - (c) being a manager of any licensed body, or
  - (d) being employed by any licensed body.
- (3) The disqualification condition is satisfied in relation to a person if, in relation to a licensed body licensed by the licensing authority, the person (intentionally or through neglect)—
- (a) breaches a relevant duty to which the person is subject, or
  - (b) causes, or substantially contributes to, a significant breach of the terms of the licensed body’s licence.
- (4) The relevant duties are—
- (a) the duties imposed on a Head of Legal Practice by section 91,
  - (b) the duties imposed on a Head of Finance and Administration by section 92,
  - (c) the duties imposed by section 176 on regulated persons (within the meaning of that section), and
  - (d) the duty imposed on non-authorised persons by section 90.

**100 Lists of disqualified persons**

- (1) The Board must keep lists of persons who are disqualified from—
  - (a) acting as Head of Legal Practice of any licensed body,
  - (b) acting as Head of Finance and Administration of any licensed body,
  - (c) being a manager of any licensed body, or
  - (d) being employed by any licensed body.
- (2) A person is disqualified from acting in a way mentioned in subsection (1) if—
  - (a) the person has been disqualified from so acting by a licensing authority under section 99, and
  - (b) the disqualification continues in force.
- (3) The disqualification ceases to be in force if the appropriate licensing authority so determines, on a review or otherwise, in accordance with licensing rules made under paragraph 23 of Schedule 11.
- (4) The appropriate licensing authority is—
  - (a) the licensing authority which disqualified the person, or
  - (b) if the person was disqualified by an approved regulator which is no longer designated as a licensing authority, the successor licensing authority.
- (5) The successor licensing authority is—
  - (a) the licensing authority which licenses the body in relation to which the disqualification condition (within the meaning of section 99) was satisfied in respect of the person, or
  - (b) if there is no such licensing authority, the licensing authority designated by the Board on an application by the disqualified person.
- (6) The Board must publish the lists kept by it under subsection (1).

**101 Suspension and revocation of licence**

- (1) A licensing authority may, in accordance with its licensing rules, suspend or revoke any licence granted by it under this Part.
- (2) A licence is to be treated as not being in force at any time while it is suspended under this section.

**102 Intervention**

Schedule 14 confers powers of intervention on licensing authorities.

**103 Regulatory conflict and the Board as licensing authority**

- (1) Sections 52 and 54 (regulatory conflict between approved regulators and between approved regulators and other regulators) apply in relation to the Board in its capacity as a licensing authority and its licensing rules as they apply in relation to an approved regulator (including the Board in its capacity as approved regulator) and its regulatory arrangements.
- (2) Section 68 (regulatory conflict and the Board as approved regulator) applies in relation to the Board in its capacity as a licensing authority and its licensing rules as it applies

in relation to the Board in its capacity as an approved regulator and its regulatory arrangements.

**104 Prevention of regulatory conflict: accounts rules**

- (1) Where a licensed body carries on an activity through a solicitor, the rules made under paragraph 20 of Schedule 11 apply instead of those made under sections 32 to 34 of the Solicitors Act 1974 (c. 47).
- (2) Where a licensed body carries on an activity through a licensed conveyancer, the rules made under paragraph 20 of Schedule 11 apply instead of those made under sections 22 and 23 of the Administration of Justice Act 1985 (c. 61).