

DEREGULATION ACT 2015

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 87: Licensed CLC practitioners

413. This section amends section 53 of the Courts and Legal Services Act 1990 (“the CLSA 1990”) so that the CLC can give licences under section 53 to individuals to be known as licensed CLC practitioners.
414. Section 53 of the CLSA 1990 relates to the powers of the CLC to issue licenses in relation to the exercise of a right of audience, the conduct of litigation and probate activities (and these terms have the meanings given in the LSA 2007: see section 53(10)). The CLC will only have the powers under section 53 that relate to the exercise of a right of audience and the conduct of litigation if the CLC is made an approved regulator under the LSA 2007 for those activities (see the definition of “relevant activity” in section 53(10)). At present, the CLC can only give licences to individuals known as licensed conveyancers. *Subsection (2)* amends section 53(2) to remove the restriction that licences under section 53 may only be given to licensed conveyancers.
415. *Subsection (3)* amends section 53(3) so that all persons other than licensed conveyancers may be given licenses under section 53. Section 53(3) provides that if the CLC authorises a person to carry on an activity covered by section 53 it must do so by issuing a licence to that person. A licence under section 53 will be either an advocacy licence (which authorises a person to exercise a right of audience); a litigation licence (which authorises a person to carry on activities which constitute the conduct of litigation); or a probate licence (which authorises a person to carry on activities that constitute probate activities). *Subsection (8)* inserts section 53(11) which sets out the definitions of the different licences.
416. *Subsection (4)* limits the effect of section 53(4) to licensed conveyancers and *subsection (5)* inserts section 53(4A) to cover licensed CLC practitioners. Section 53(4) and 53(4A) provide that if a person is issued with more than one licence by the CLC that person may be granted separate licences or a composite licence. A licensed CLC practitioner is not intended to provide conveyancing services. *Subsection (5)* inserts a new section 53(4B) which, accordingly, provides that a licence under section 53 granted to a person who is not a licensed conveyancer ceases to have effect if that person becomes a licensed conveyancer. Section 53(9) applies Part 2 of the AJA 1985, with modifications, to licences issued under section 53 and *subsection (6)* amends section 53(9) to cover licensed CLC practitioners as well as licensed conveyancers.
417. *Subsection (7)* inserts section 53(9A) and (9B). Inserted section 53(9A) provides that the modifications that are to be made to Part 2 of the AJA 1985 under section 53(9) may differ depending on whether the person holding a licence under section 53 is a licensed conveyancer or a licensed CLC practitioner. For example, because a licensed CLC practitioner is not intended to provide conveyancing services, there may be certain parts of Part 2 of the 1985 that relate to conveyancing services that are not relevant to licensed CLC practitioners. Inserted section 53(9B) specifically provides that the

*These notes refer to the Deregulation Act 2015 (c.20)
which received Royal Assent on 26 March 2015*

section 53(9) does not apply to section 34 of the AJA 1985. This is because section 34 modifies legislation relating to conveyancing and such legislation is not relevant to licensed CLC practitioners.