
STATUTORY INSTRUMENTS

2008 No. 1436 (C. 65)

LEGAL SERVICES, ENGLAND AND WALES

**The Legal Services Act 2007 (Commencement
No. 2 and Transitory Provisions) Order 2008**

<i>Made</i>	- - - -	<i>5th June 2008</i>
<i>Laid before Parliament</i>		<i>5th June 2008</i>
<i>Coming into force</i>	- -	<i>30th June 2008</i>

The Lord Chancellor makes the following Order in exercise of the powers conferred by sections 204, 208(2) and (4) and 211(2) of the Legal Services Act 2007⁽¹⁾:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Legal Services Act 2007 (Commencement No. 2 and Transitory Provisions) Order 2008.

(2) This Order comes into force on 30th June 2008.

(3) In this Order—

- (a) “the 2007 Act” means the Legal Services Act 2007; and
- (b) a reference to a section, Schedule or paragraph of a Schedule by number alone is a reference to that section, Schedule or paragraph in the 2007 Act.

Commencement of provisions

2. The following provisions of the 2007 Act shall come into force on 30th June 2008—

- (a) section 194(8), (9) and the definition of “free of charge” in (10);
- (b) section 199(4), (5) in so far as it relates to section 9(7) of the Administration of Justice Act 1985⁽²⁾ and (6)(b) in so far as it relates to section 89 of the Courts and Legal Services Act⁽³⁾;
- (c) the definition of “manager” in section 207(1) and (5);
- (d) in Schedule 16—

⁽¹⁾ 2007 (c. 29).

⁽²⁾ 1985 (c.61).

⁽³⁾ 1990 (c.41), there are amendments to section 89 which are not relevant to this Order.

- (i) in Part 1, paragraphs 38(b)(iii), 47 and 48 subject to article 4 below, 54(2)(a) and (c), (3), (4)(a), (5), (6)(a) and (9)(b) and 56(c);
 - (ii) in Part 2, paragraphs 81(1) and (9), 86(g) in so far as it defines “manager”, 111, 112(a), (c) and (d), 113(b)(iii), 125(c), (d), (e), (f) and (g) and 128(c)(ii);
 - (e) in Schedule 19, paragraphs 6(1) and (2) and 11(1) and (6);
 - (f) in Schedule 22, paragraph 18; and
 - (g) in Schedule 23, the entry relating to section 46(6) to (8) of the Solicitors Act 1974(4).
3. The following provisions of the 2007 Act shall come into force on 1st October 2008—
- (a) sections 194, to the extent that it is not already in force, 195 and 196;
 - (b) Schedule 20; and
 - (c) in Schedule 23, the entries relating to the Solicitors (Scotland) Act 1980(5), the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990(6) and the Legal Profession and Legal Aid (Scotland) Act 2007(7).

Transitory provisions

4. Until the appointment of a Chief Executive under paragraph 13 of Schedule 1, the Solicitors Disciplinary Tribunal may exercise—
- (a) the power to pay its members in section 46(5) of the Solicitors Act 1974, as substituted by paragraph 47(2) of Schedule 16, as if for the words the “Legal Services Board” there were substituted “the Society”; and
 - (b) the duty to submit a budget in section 46A of the Solicitors Act 1974, as inserted by paragraph 48 of Schedule 16, as if for the words the “Legal Services Board” there were substituted “the Society. In the event that the Society does not approve that budget, the Tribunal or the Society may ask the Master of the Rolls to approve the budget or require the Tribunal to submit a revised budget.”

Signed by authority of the Lord Chancellor

5th June 2008

Bridget Prentice
Parliamentary Under Secretary of State
Ministry of Justice

(4) 1974 (c. 47).
(5) 1980 (c.46).
(6) 1990 (c.40).
(7) 2007 asp 5.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order is the second commencement order under the Legal Services Act 2007 (c.29) (“the 2007 Act”).

This Order brings into force the provisions of the 2007 Act set out in the following table. The table also shows the effect of those provisions—

<i>Article of Order</i>	<i>Provisions Commenced</i>	<i>Effect</i>
2(a)	Section 194(8), (9) and the definition of “free of charge” in (10).	Permits a charity to be prescribed for the receipt of payments in respect of pro bono representation.
2(b)	Section 199(4), (5) in part and (6) in part.	Inserts the Lords Chancellor’s functions under section 56 of the Solicitors Act 1974, section 9(7) of the Administration of Justice Act 1985 and section 89 of the Courts and Legal Services Act 1990 into Schedule 7 of the Constitutional Reform Act 2005.
2(c) and (d)	The definition of “manager” in section 207(1) and (5) and (9) and paragraph 86(g) of Schedule 16 so far as it defines “manager”.	Provides a definition of “manager” for the purposes of Schedule 2 to the Administration of Justice Act 1985.
2(d)	Paragraph 38(b)(iii) of Schedule 16.	Allows the Law Society to determine whether indemnity rules have been broken.
2(d)	Paragraphs 47 and 48 of Schedule 16 subject to transitory provision.	Alters the powers and duties of the Solicitors Disciplinary Tribunal (including in relation to their funding arrangements).
2(d)	Paragraph 54(2)(a) and (c), (3), (4)(a), (5), (6)(a) and (9)(b) of Schedule 16.	Makes provision for different arrangements for the remuneration of solicitors for non-contentious business (including the transfer of certain functions from the Secretary of state to the Lord Chancellor).
2(d)	Paragraphs 56(c), 111, 112(a), (c) and (d) and 113(b)(iii) of Schedule 16.	Miscellaneous amendments to rules in relation to contentious business agreements.
2(d)	Paragraphs 81(1) and (9) and 125(c), (d), (e), (f) and (g) of Schedule 16.	Substitutes references to “Secretary of State” with “Lord Chancellor”.

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2(d)	Paragraph 128(c)(ii) of Schedule 16.	Provides for registered foreign lawyers to be managers of recognised bodies.
2(e)	Paragraphs 6(1) and (2) and 11(1) and (6) of Schedule 19.	Extends both the investigative powers and the enforcement powers of the claims management services regulator in the Compensation Act.
2(f)	Paragraph 18 of Schedule 22.	Provides that where a function has been transferred from the Secretary of State to the Lord Chancellor subordinate legislation made in exercise of that function or anything done in exercise of that function by the Secretary of State has effect as if it were made or done by the Lord Chancellor.
3(a)	Section 194 to the extent that it is not already in force.	Enables a court to make an order for costs in civil cases where representation was provided pro bono.
3(a) and (b)	Sections 195 and 196 and Schedule 20.	Extends the remit of the Scottish Legal Complaints Commission to areas reserved to the UK Parliament (consumer credit, insolvency, immigration and financial services) and disapplies the functions of the Scottish Legal Services Ombudsman in relation to those areas.
2(g) and 3(c)	In Schedule 23, the entries relating to section 46(6) to (8) of the Solicitors Act 1974; the Solicitors (Scotland) Act 1980; the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990; and the Legal Profession and Legal Aid (Scotland) Act 2007.	Repeals provisions concerning the constitution of the Solicitors Disciplinary Tribunal, provisions in consequence of the Legal Profession and Legal Aid (Scotland) Act 2007; provisions concerning the procedures for complaints about Scottish legal practitioners and provisions disappling the Legal Profession and Legal Aid (Scotland) Act 2007 to certain advice, services and activities.

This Order comes into force on 30th June 2008.

A regulatory impact assessment (“RIA”) has not been prepared for this Order, but a full RIA was prepared for the Legal Services Bill in November 2006, supplemented in 2007. Copies of those documents are annexed to the Explanatory Memorandum.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
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Sections 1 subject to transitory provision, 2, 3, 5, 6, 7, 69 and 70 subject to modifications, 114, 172, 177, 180 subject to modification, 182 and 187, 199(1) and (2), 200(1), 204(1), (3) and (4) (a), 206, 209 and 210

07.03.2008

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Certain definitions in section 207

Schedule 1

Paragraphs 1 to 12 of Schedule 15

Paragraphs 1, 2(b), 4(b), 7(b), 8(1) and (2), 21, 31(1) and (2)(a) and (d), 34(1), (2)(a) and (3), 38(a) in part, 38(b)(i) and (ii), 50(a)(ii), 53, 54(1) and (4)(b), 64(1), (3) and (4), 71 subject to transitory provision, 72(a) and 75(c) in part, 80, 115, 124, 126, 128(a) and (c)(i) and 130 of Schedule 16

Paragraphs 1 and 11 of Schedule 17

Paragraphs 1, 5, 8 and 9 of Schedule 19

Paragraphs 1 to 5 and paragraph 9 (for certain purposes) of Schedule 22

Schedule 23 in part