
STATUTORY INSTRUMENTS

2010 No. 2911

The Legal Services Act 2007 (Levy) (No.2) Rules 2010

Amount payable by each leviable body

Apportionment of leviable OLC expenditure

5.—(1) Subject to paragraphs (3) to (5), the amount payable by a leviable body under this rule is an amount equal to the relevant proportion of leviable OLC expenditure.

(2) For these purposes—

- (a) the relevant proportion is the number of service complaints received in the course of the reference period by the leviable body in its former regulatory capacity, as a proportion of the total number of service complaints received in the course of that period by all leviable bodies in their former regulatory capacities; and
- (b) the reference period is the three year period ending on 31st December 2009.

(3) Paragraphs (4) and (5) apply where the Board determines on reasonable grounds that—

- (a) anything done, or not done, by a leviable body has given rise to an additional amount of leviable OLC expenditure; and
- (b) as a result, the amount of leviable OLC expenditure attributable to that body is materially disproportionate to the amount attributable to any other leviable body (apart from one in respect of whom a determination under this paragraph has also been made).

(4) The total amount of leviable OLC expenditure to be used in applying the calculation described in paragraph (1) is to be reduced as follows—

- (a) in relation to each leviable body which is the subject of a determination under paragraph (3), the Board must determine the additional amount of leviable OLC expenditure referred to in paragraph (3)(a); and
- (b) the amount so determined (or the aggregate of such amounts) is to be deducted from the total amount of leviable OLC expenditure which would otherwise be used for the purposes of the calculation described in paragraph (1).

(5) The amount payable by each leviable body which is the subject of a determination under paragraph (3) is the aggregate of the amounts determined for that body under paragraphs (1) and (4)(a).

(6) In this rule—

“the 1990 Act” means the Courts and Legal Services Act 1990 Act(1);

“former regulatory capacity”, in relation to a leviable body, means the capacity in which before 1st January 2010 the body in question regulated persons who, before that date, fell within one or more of paragraphs (a) to (f)—

- (a) any person with any right of audience before a court in relation to any proceedings which was granted, or is deemed to have been granted, by the body in question under sections 27(2) (rights of audience) or 31 (barristers or solicitors) of the 1990 Act(2);
- (b) any person with any right to conduct litigation in relation to any proceedings which was granted, or is deemed to have been granted, by the body in question under sections 28(2) (a) (rights to conduct litigation) or 31 of the 1990 Act(3);
- (c) any person providing probate services by virtue of an exemption under section 55 (preparation of probate papers etc: exemption from section 23(1) of the Solicitors Act 1974(4)) of the 1990 Act(5) which was granted by the body in question;
- (d) any person practising as a duly certificated notary in accordance with rules made by the body in question under section 57 (notaries) of the 1990 Act(6) (and for these purposes, “duly certificated notary” has the meaning given in paragraph 12 of Schedule 5 to the 2007 Act);
- (e) any person who is authorised by, or registered with, the body in question and who is an authorised person within the meaning of section 113 (administration of oaths and taking of affidavits) of the 1990 Act(7); or
- (f) any person licensed or otherwise authorised by the body in question to carry on conveyancing services within the meaning of section 119 of the 1990 Act; and

“service complaint” means a complaint received before 1st January 2010 by a leviabale body in its former regulatory capacity, being a complaint—

- (g) that was made by, or on behalf of, a consumer;
- (h) that relates to an act or omission of any person at a time when that person—
 - (i) was regulated by the body in question, or
 - (ii) was not so regulated but was a manager or employee of a person who was so regulated; and
- (i) that was eligible to be dealt with under arrangements made by the body in question for the determination of consumer complaints.

(2) Section 27(2)(a) was amended by paragraph 6(2) of Schedule 6 to the Access to Justice Act 1999 (c. 22). The section was repealed by paragraph 84(g) of Schedule 21 to the Legal Services Act 2007. Section 31 was substituted by section 36 of the Access to Justice Act 1999. The section was repealed by paragraph 84(g) of Schedule 21 to the Legal Services Act 2007.

(3) Section 28(2)(a) was amended by paragraph 7(2) of Schedule 6 to the Access to Justice Act 1999. The section was repealed by paragraph 84(e) of Schedule 21 to the Legal Services Act 2007.

(4) 1974 c. 47. Section 23 was repealed by paragraph 26 of Schedule 16 to the Legal Services Act 2007.

(5) Section 55 was amended by S.I. 2003/1887. The section was repealed by paragraph 88 of Schedule 21 to the Legal Services Act 2007.

(6) Section 57 was amended by Part 2 of Schedule 15 to the Access to Justice Act 1999.

(7) Section 113 was amended by Part 2 of Schedule 15 to the Access to Justice Act 1999 and S.I. 2003/1887. The section was repealed by paragraph 96 of Schedule 21 to the Legal Services Act 2007.