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SCHEDULES

SCHEDULE 14

FOREIGN LAWYERS: PARTNERSHIPS AND RECOGNISED BODIES

PART II

REGISTERED FOREIGN LAWYERS: SUPPLEMENTARY PROVISIONS

Intervention in practices

- 5 (1) In this paragraph “the intervention powers” means the powers conferred by Part II of Schedule 1 to the Act of 1974 (intervention in solicitors’ practices) as modified by this Schedule or under section 89.
- (2) Subject to sub-paragraphs (3) and (4), the intervention powers shall be exercisable in relation to a person who is or has been a registered foreign lawyer and the practice of the multi-national partnership of which he is or was a member as they are exercisable in relation to a solicitor and his practice.
- (3) The intervention powers are only exercisable where—
- (a) the [F1Society has] reason to suspect dishonesty on the part of the registered foreign lawyer, or on the part of an employee of the multi-national partnership, in connection with—
 - (i) the practice of that partnership; or
 - (ii) any trust of which the registered foreign lawyer is or was a trustee
F2 . . . ;
 - (b) in the case of a registered foreign lawyer who has died, the [F1Society has] reason to suspect dishonesty on the part of his personal representative, in connection with—
 - (i) the practice of the multi-national partnership; or
 - (ii) any trust of which the registered foreign lawyer was a trustee F2 . . . ;
 - [F3(ba) the Society has reason to suspect dishonesty on the part of the registered foreign lawyer (“L”) in connection with—
 - (i) the business of any person of whom L is or was an employee, or of any body of which L is or was a manager, or
 - (ii) any business which is or was carried on by L as a sole trader;]
 - (c) the [F4Society is] satisfied that the registered foreign lawyer has failed to comply with rules made under section 32 or 37(2)(c) of the Act of 1974;
 - (d) a bankruptcy order (as defined in paragraph 10(3)) has been made against him or he has made a composition or arrangement with his creditors;
 - (e) he has been committed to prison in any civil or criminal proceedings;
 - [F5(ea) the Society is satisfied that he has abandoned his practice;]

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- [^{F6}(f) he lacks capacity (within the meaning of the Mental Capacity Act 2005) to act as a registered foreign lawyer and powers under sections 15 to 20 or section 48 are exercisable in relation to him;]
 - (g) his name has been struck off the register or his registration has been suspended or cancelled;
 - (h) he has purported to act as a member of a multi-national partnership at a time when he was not registered;
 - (i) the [^{F7}Society is] satisfied that he has failed to comply with any condition, subject to which he is registered, to the effect that—
 - (i) he may only be a member of a partnership which is approved by the Society; or
 - (ii) he may only be [^{F8}a manager] of a recognised body which is so approved; or
 - (iii) he may only be such a member or such [^{F8}a manager].
 - [^{F9}(j) the Society is satisfied that it is necessary to exercise the intervention powers (or any of them) in relation to the registered foreign lawyer to protect—
 - (i) the interests of clients (or former or potential clients) of the registered foreign lawyer or the multi-national partnership, or
 - (ii) the interests of the beneficiaries of any trust of which the registered foreign lawyer is or was a trustee.]
- (4) ^{F10}
- (5) The intervention powers (other than those conferred by paragraphs 5 and 10 of Part II of Schedule 1 to the Act of 1974) shall also be exercisable where—
- (a) [^{F11}the Society is satisfied] that there has been undue delay on the part of a registered foreign lawyer in connection with—
 - (i) any matter in which he, or the multi-national partnership of which he is or was a member, was instructed on behalf of a client; or
 - (ii) any [^{F12}trust] ;
 - (b) the Society by notice invites the registered foreign lawyer to give an explanation within a period (of not less than 8 days) specified in the notice;
 - (c) the registered foreign lawyer fails within that period to give an explanation which the [^{F13}Society regards] as satisfactory; and
 - (d) the Society gives notice of the failure to the registered foreign lawyer and notice that the intervention powers are accordingly exercisable.
- (6) Where the intervention powers are exercisable in relation to a registered foreign lawyer, they shall continue to be exercisable—
- (a) at any time when his registration is suspended;
 - (b) after his name has been struck off the register or his registration has been cancelled; or
 - (c) after his death.
- (7) Part II of Schedule 1 to the Act of 1974 shall have effect in relation to the intervention powers exercisable by virtue of this Schedule, subject to—
- (a) any express modifications made under section 89; and
 - (b) any modifications necessary in the light of this paragraph.

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- (8) For the purposes of this paragraph, Part II of Schedule 1 to the Act of 1974 shall be read with paragraph 4(2) of Part I of that Schedule.
- (9) The notices required to be given by this paragraph must be in writing but need not be given at the same time.
- [^{F14}(10) In this paragraph “manager”, in relation to a recognised body, has the same meaning as in the Legal Services Act 2007 (see section 207 of that Act).]

Textual Amendments

- F1** Words in Sch. 14 para. 5(3)(a)(b) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 131(a)(i)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(iii)**
- F2** Words in Sch. 14 para. 5(3)(a)(b) repealed (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 210, 211, Sch. 16 para. 131(a)(ii), **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(iii)(f)(vi)(dd)**
- F3** Sch. 14 para. 5(3)(ba) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 131(b)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(iii)**
- F4** Words in Sch. 14 para. 5(3)(c) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 131(c)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(iii)**
- F5** Sch. 14 para. 5(3)(ea) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 131(d)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(iii)**
- F6** Sch. 14 para. 5(3)(f) substituted (1.10.2007) by Mental Capacity Act 2005 (c. 9), ss. 67(1), 68(1), **Sch. 6 para. 35(3)** (with ss. 27-29, 62); S.I. 2007/1897, **art. 2(1)(d)**
- F7** Words in Sch. 14 para. 5(3)(i) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 131(e)(i)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(iii)**
- F8** Words in Sch. 14 para. 5(3)(i) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 131(e)(ii)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(iii)**
- F9** Sch. 14 para. 5(3)(j) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 131(f)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(iii)**
- F10** Sch. 14 para. 5(4) repealed (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 210, 211, Sch. 16 para. 131(g), **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(iii)(f)(vi)(dd)**
- F11** Words in Sch. 14 para. 5(5)(a) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 131(h)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(iii)**
- F12** Word in Sch. 14 para. 5(5)(a)(ii) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 131(i)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(iii)**
- F13** Words in Sch. 14 para. 5(5)(c) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 131(j)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(iii)**
- F14** Sch. 14 para. 5(10) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 131(k)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(iii)**

Commencement Information

- I1** Sch. 14 para. 5 wholly in force at 14.10.1991 see s. 124(3) and S.I. 1991/1883, art. 3, **Sch.**

The Compensation Fund

- [^{F156} Section 36 of the 1974 Act applies in relation to registered foreign lawyers as if for paragraphs (a) and (b) of subsection (1) there were substituted—
- “(a) an act or omission of a registered foreign lawyer or former registered foreign lawyer;
- (b) an act or omission of an employee or former employee of a registered foreign lawyer or former registered foreign lawyer;”.]

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Textual Amendments

F15 Sch. 14 para. 6 substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 132** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(iii)** (subject to art. 5)

Commencement Information

I2 Sch. 14 para. 6 wholly in force at 14.10.1991 see s. 124(3) and S.I. 1991/1883, art.3, **Sch.**

Contributions to the Fund

[^{F167} Section 36A(2) and (3) of the 1974 Act applies in relation to registered foreign lawyers as it applies in relation to solicitors.]

Textual Amendments

F16 Sch. 14 para. 7 substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 133** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(iii)**

Commencement Information

I3 Sch. 14 para. 7 wholly in force at 14.10.1991 see s. 124(3) and S.I. 1991/1883, art. 3, **Sch.**

Accountants' reports

[^{F178} Section 34 of the Act of 1974 applies in relation to registered foreign lawyers as it applies in relation to solicitors.]

Textual Amendments

F17 Sch. 14 para. 8 substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 134** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(iii)**

Modifications etc. (not altering text)

C1 Sch. 14 para. 8 extended (22.5.2000) by S.I. 2000/1119, regs. 1(1), 37, **Sch. 4 para. 5(2)** (as amended (1.7.2009) by S.I. 2009/1587, **art. 3(6)**; S.I. 2009/1365, **art. 2(a)(i)**)

Commencement Information

I4 Sch. 14 para. 8 wholly in force at 14.10.1991 see s. 124(3) and S.I. 1991/1883, art.3, **Sch.**

Certification for purposes of investment business

[^{F189}

Textual Amendments

F18 Sch. 14 para. 9 repealed (1.12.2001) by S.I. 2001/3649, **arts. 1, 327**

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Effect of bankruptcy

- 10 (1) The registration of any foreign lawyer against whom a bankruptcy order is made shall be suspended on the making of that order.
- (2) The suspension of any registration by reason of a bankruptcy order shall terminate if the order is annulled and an office copy of the order annulling it is served on the Society.
- (3) In sub-paragraph (1), “bankruptcy order” includes any order which is not a bankruptcy order but which has the same, or a similar, effect under the law in force in any territory outside England and Wales.

Commencement Information

I5 Sch. 14 para. 10 wholly in force at 14.10.1991 see s. 124(3) and S.I. 1991/1883, art. 3, Sch.

Effect of disciplinary action

- 11 (1) Where a registered foreign lawyer is struck off, or suspended from practice, his registration shall be suspended.
- (2) In sub-paragraph (1) “struck off” and “suspended from practice” mean—
- (a) any action taken within the jurisdiction by reference to which the registered foreign lawyer is qualified to be registered; or
 - (b) where the registered foreign lawyer is qualified to be registered by reference to more than one jurisdiction, any action taken within any one of those jurisdictions,
- which is the equivalent, respectively, of a solicitor being struck off the roll or suspended from practice under the Act of 1974.

Commencement Information

I6 Sch. 14 para. 11 wholly in force at 14.10.1991 see s. 124(3) and S.I. 1991/1883, art.3, Sch.

Re-instatement of disciplined foreign lawyer

- 12 (1) Where a person’s registration has been suspended by virtue of paragraph 11, it shall be revived—
- (a) if his right to practise in the jurisdiction in question is restored; and
 - (b) a copy of the instrument restoring his right, certified to be a true copy by an officer of the appropriate court in the jurisdiction in question, or the professional body concerned, is served on the Society.
- (2) Where a person whose registration is suspended by virtue of paragraph 11 applies to the Society for the suspension to be terminated, the Society may terminate it subject to such conditions, if any, as it thinks fit to impose.

Commencement Information

I7 Sch. 14 para. 12 wholly in force at 14.10.1991 see s. 124(3) and S.I. 1991/1883, art.3, Sch.

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Effective date of revived registration

- 13 Where a foreign lawyer’s registration is revived (whether as the result of the termination of its suspension, restoration by order of the Tribunal or for any other reason), that revival shall take effect on such date, and subject to such conditions, as the Society may direct.

Commencement Information

- I8** Sch. 14 para. 13 wholly in force at 14.10.1991 see s. 124(3) and S.I. 1991/1883, art. 3, Sch.

Appeal against conditions or refusals

- 14 (1) Any foreign lawyer may appeal to the [^{F19}High Court] against—
- (a) the refusal of the Society to register him or to renew his registration;
 - (b) the refusal of the Society to terminate the suspension of his registration on an application made by him under paragraph 12;
 - (c) the failure of the Society to deal with any application by him for registration, renewal of registration or the termination (under paragraph 12(2)) of a suspension within a reasonable time; ^{F20} . . .
 - (d) any condition imposed by the Society under paragraph [^{F21}2A], 12(2) or 13 [^{F22}]; or—
 - (e) a decision of the Society to remove his name from the register.]
- (2) ^{F23}
- (3) On an appeal ^{F24} . . . under this paragraph, the [^{F25}High Court] may make such order as [^{F26}it] thinks fit.
- ^{F27}(4) In relation to an appeal under this paragraph the High Court may make such order as it thinks fit as to payment of costs.
- (5) The decision of the High Court on an appeal under this paragraph shall be final.]

Textual Amendments

- F19** Words in Sch. 14 para. 14(1) substituted (1.7.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, Sch. 16 para. 135(a)(i) (with ss. 29, 192, 193); S.I. 2009/1365, art. 2(b)(ii) (subject to art. 4)
- F20** Word in Sch. 14 para. 14(1)(c) omitted (1.7.2009) by virtue of The Registered Foreign Lawyers Order 2009 (S.I. 2009/1589), arts. 1(1), 7(a); S.I. 2009/1365, art. 2(a)(i)
- F21** Words in Sch. 14 para. 14(1) substituted (1.7.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, Sch. 16 para. 135(a)(ii) (with ss. 29, 192, 193); S.I. 2009/1365, art. 2(b)(ii) (subject to art. 4)
- F22** Sch. 14 para. 14(1)(e) and word added (1.7.2009) by The Registered Foreign Lawyers Order 2009 (S.I. 2009/1589), arts. 1(1), 7(b); S.I. 2009/1365, art. 2(a)(i)
- F23** Sch. 14 para. 14(2) repealed (1.7.2009) by Legal Services Act 2007 (c. 29), ss. 177, 210, 211, Sch. 16 para. 135(b), Sch. 23 (with ss. 29, 192, 193); S.I. 2009/1365, art. 2(b)(ii)(c)(ii) (subject to art. 4)
- F24** Words in Sch. 14 para. 14(3) repealed (1.7.2009) by Legal Services Act 2007 (c. 29), ss. 177, 210, 211, Sch. 16 para. 135(c)(i), Sch. 23 (with ss. 29, 192, 193); S.I. 2009/1365, art. 2(b)(ii)(c)(ii) (subject to art. 4)
- F25** Words in Sch. 14 para. 14(3) substituted (1.7.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, Sch. 16 para. 135(c)(ii) (with ss. 29, 192, 193); S.I. 2009/1365, art. 2(b)(ii) (subject to art. 4)

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F26 Word in Sch. 14 para. 14(3) substituted (1.7.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, Sch. 16 para. 135(c)(iii) (with ss. 29, 192, 193); S.I. 2009/1365, art. 2(b)(ii) (subject to art. 4)

F27 Sch. 14 para. 14(4)(5) inserted (1.7.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, Sch. 16 para. 135(d) (with ss. 29, 192, 193); S.I. 2009/1365, art. 2(b)(ii) (subject to art. 4)

Modifications etc. (not altering text)

C2 Sch. 14 para. 14(1)(a)(c)(2)(3) extended (22.5.2000) by S.I. 2000/1119, regs. 1(1), 37, Sch. 4 para. 5(3) (as amended (1.7.2009) by S.I. 2009/1587, art. 3(6); S.I. 2009/1365, art. 2(a)(i))

Commencement Information

I9 Sch. 14 para. 14 wholly in force at 14.10.1991 see s. 124(3) and S.I. 1991/1883, art. 3, Sch.

Jurisdiction and powers of Disciplinary Tribunal

- 15 (1) Subject to paragraph 16, section 46 of the Act of 1974 (Solicitors Disciplinary Tribunal) shall apply, with the necessary modifications, in relation to applications and complaints made by virtue of any provision of this Schedule as it applies in relation to applications and complaints made by virtue of any provision of that Act.
- (2) Any application—
- to strike the name of a foreign lawyer off the register;
 - to require a registered foreign lawyer to answer allegations in an affidavit;
 - to suspend the registration of a foreign lawyer for a specified or indefinite period;
 - by a foreign lawyer whose name has been struck off the register by order of the Tribunal to have his name restored to the register;
 - by a foreign lawyer whose registration has been suspended for an indefinite period by order of the Tribunal for the termination of that suspension,
- shall be made to the Tribunal.
- (3) Any person who alleges that a registered foreign lawyer has failed to comply with any rule made under section 31, 32, 34, or 37 of the Act of 1974 may make a complaint to the Tribunal.
- [^{F28}(3A) Any person who alleges that a registered foreign lawyer has knowingly acted in contravention of any order under section 43(2) of the Act of 1974 or of any conditions subject to which a permission has been granted under such an order may make a complaint to the Tribunal.]
- (4) On the hearing of any application or complaint made to the Tribunal with respect to a foreign lawyer, the Tribunal shall have power to make such order as it may think fit, and any such order may in particular include provision for any of the following matters—
- the striking off the register of the name of the foreign lawyer to whom the application or complaint relates;
 - the suspension of that foreign lawyer's registration indefinitely or for a specified period;
 - the payment by that foreign lawyer of a penalty ^{F29}. . . , which shall be forfeit to Her Majesty;
 - the termination of that foreign lawyer's unspecified period of suspension from registration;

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- (e) the restoration to the register of the name of a foreign lawyer which has been struck off the register;
- (f) the payment by any party of costs or a contribution towards costs of such amount as the Tribunal may consider reasonable.

(5) ^{F30}

Textual Amendments

- F28** Sch. 14 para. 15(3A) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 136(a)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(iii)**
- F29** Words in Sch. 14 para. 15(4)(c) repealed (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 210, 211, Sch. 16 para. 136(b), **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(iii)(f)(vi)(dd)**
- F30** Sch. 14 para. 15(5) repealed (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 210, 211, Sch. 16 para. 136(c), **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(iii)(f)(vi)(dd)**

Modifications etc. (not altering text)

- C3** Sch. 14 para. 15(3A) applied by Administration of Justice Act 1985 (c. 61), Sch. 2 para. 18A(6) (as inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 107** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(iii)**)

Commencement Information

- I10** Sch. 14 para. 15 wholly in force at 14.10.1991 see s. 124(3) and S.I. 1991/1883, art. 3, **Sch.**

Foreign lawyers assisting the Tribunal

- 16 (1) For the purposes of section 46 of the Act of 1974 (Solicitors Disciplinary Tribunal), the Tribunal may make rules providing for it to be assisted, in dealing with any application or complaint of a kind mentioned in paragraph 15, by a member of the legal profession in the jurisdiction by reference to which the foreign lawyer is or was qualified to be registered.
- (2) Rules under sub-paragraph (1) shall not be made without the concurrence of the Master of the Rolls.
- (3) Subsection (12) of section 46 of the Act of 1974 (rules to be made by statutory instrument etc.) shall apply to rules made under this paragraph as it applies to rules made under subsection (9) of that section.

Commencement Information

- I11** Sch. 14 para. 16 wholly in force at 14.10.1991 see s. 124(3) and S.I. 1991/1883, art.3, **Sch.**

Appeals from Tribunal

- 17 (1) An Appeal from the Tribunal shall^{F31} lie to the High Court].
- (2) The High Court^{F32} . . . shall have power to make such order on an appeal under this paragraph as [^{F33}it] may think fit.

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- (3) Any decision [^{F34}of the High Court on an appeal in the case of an order on an application under paragraph 15(2)(d) or (e), or the refusal of any such application,] shall be final.
- (4) ^{F35}

Textual Amendments

- F31** Words in Sch. 14 para. 17(1) substituted (1.7.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 138(a)** (with ss. 29, 192, 193); S.I. 2009/1365, **art. 2(b)(ii)** (subject to art. 4)
- F32** Words in Sch. 14 para. 17(2) repealed (1.7.2009) by Legal Services Act 2007 (c. 29), ss. 177, 210, 211, Sch. 16 para. 138(b)(i), **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/1365, **art. 2(b)(ii)(c)(ii)** (subject to art. 4)
- F33** Word in Sch. 14 para. 17(2) substituted (1.7.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 138(b)(ii)** (with ss. 29, 192, 193); S.I. 2009/1365, **art. 2(b)(ii)** (subject to art. 4)
- F34** Words in Sch. 14 para. 17(3) substituted (1.7.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 138(c)** (with ss. 29, 192, 193); S.I. 2009/1365, **art. 2(b)(ii)** (subject to art. 4)
- F35** Sch. 14 para. 17(4) repealed (1.7.2009) by Legal Services Act 2007 (c. 29), ss. 177, 210, 211, Sch. 16 para. 138(d), **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/1365, **art. 2(b)(ii)(c)(ii)** (subject to art. 4)

Commencement Information

- I12** Sch. 14 para. 17 wholly in force at 14.10.1991 see s. 124(3) and S.I. 1991/1883, art. 3, **Sch.**

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