

SCHEDULES

SCHEDULE 4

AUTHORISATION AND APPROVAL

PART I

AUTHORISATION OF BODIES

- 1 (1) Any professional or other body which wishes to become an authorised body for the purposes of section 27 or 28 (“the applicant”) shall send to the Advisory Committee—
 - (a) a draft of the qualification regulations which it proposes to apply to those of its members to whom it wishes to grant—
 - (i) any right of audience; or
 - (ii) any right to conduct litigation;
 - (b) a draft of the rules of conduct which it proposes to apply to those of its members exercising any such right granted by it; and
 - (c) a statement of the rights which it proposes to grant (“the proposed rights”) and in relation to which it wishes to have those regulations and rules approved.
- (2) Those documents shall be accompanied by such explanatory material (including material about the applicant’s constitution and activities) as the applicant considers is likely to be needed by the Advisory Committee if the Committee is to carry out its functions under this Part of this Schedule properly.
- (3) The applicant shall provide the Advisory Committee with such additional information as the Committee may reasonably require.
- (4) It shall be the duty of the Advisory Committee to consider the applicant’s draft qualification regulations and rules of conduct in relation to the proposed rights.
- (5) When it has completed its consideration, the Advisory Committee shall advise the applicant of the extent to which (if at all) the draft regulations or rules should, in the Committee’s opinion, be amended in order to make them better designed—
 - (a) to further the statutory objective; or
 - (b) to comply with the general principle.
- (6) In subsequently making its qualification regulations and rules of conduct, with a view to applying for authorisation for the purposes of section 27 or 28, the applicant shall have regard to any advice given to it by the Advisory Committee under this paragraph.

Status: This is the original version (as it was originally enacted).

Submission to Lord Chancellor

- 2 (1) Where the applicant has complied with paragraph 1 and wishes to proceed with its application for authorisation, it shall apply to the Lord Chancellor for its qualification regulations and rules of conduct to be approved in relation to the proposed rights.
- (2) An application under this paragraph shall—
- (a) be in writing;
 - (b) specify whether approval is sought for the purposes of section 27 or 28; and
 - (c) be accompanied by—
 - (i) a copy of the regulations and rules;
 - (ii) such explanatory material as the applicant considers is likely to be needed for the purposes of this Part of this Schedule; and
 - (iii) a statement of the proposed rights.
- (3) The applicant shall provide the Lord Chancellor with such additional information as he may reasonably require.
- (4) On receipt of such an application, the Lord Chancellor shall—
- (a) send a copy of the application and of any documents provided under subparagraph (2)(c) or (3) to the Advisory Committee and to each of the designated judges; and
 - (b) ask the Committee for advice as to whether the regulations and rules should be approved for the purposes of section 27 or 28.

Advice of the Director General of Fair Trading

- 3 (1) The Lord Chancellor shall also send copies of the documents mentioned in paragraph 2(4)(a) to the Director.
- (2) The Director shall consider whether the regulations and rules would have, or would be likely to have, the effect of restricting, distorting or preventing competition to any significant extent.
- (3) When the Director has completed his consideration he shall give such advice to the Lord Chancellor as he thinks fit.
- (4) The Director may publish any advice given by him under this paragraph.
- (5) The Director shall, so far as practicable, exclude from anything published under subparagraph (4) any matter which relates to the affairs of a particular person (other than the applicant) the publication of which would, or might in the Director's opinion, seriously and prejudicially affect the interests of that person.
- 4 Section 46 shall apply in relation to the investigation of any matter with a view to its consideration under paragraph 3, as it applies in relation to the investigation of any matter under section 45.

Approval by Lord Chancellor and designated judges

- 5 (1) When he has received the advice of the Advisory Committee and that of the Director, the Lord Chancellor shall send a copy of the advice to the applicant.
- (2) The applicant shall be allowed a period of 28 days, beginning with the day on which the copy is sent to him, to make representations about the advice—

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- (a) to the Lord Chancellor; or
 - (b) where the Lord Chancellor appoints a person for the purposes of this sub-paragraph, to that person.
- (3) When the period of 28 days has expired the Lord Chancellor shall consider, in the light of the advice and of any representations duly made by the applicant under sub-paragraph (2)—
- (a) whether the regulations and rules should be approved for the purposes of section 27 or 28; and
 - (b) whether the application should be approved.
- (4) When the Lord Chancellor has complied with sub-paragraph (3) he shall—
- (a) send to each designated judge a copy of—
 - (i) the advice; and
 - (ii) any representations duly made by the applicant under sub-paragraph (2); and
 - (b) inform each of those judges of the answers which he proposes to give to the questions which he has considered under sub-paragraph (3).
- (5) It shall then be the duty of each designated judge to consider the regulations and rules and, in the light of the other material sent to him by the Lord Chancellor under sub-paragraph (4), to consider the questions considered by the Lord Chancellor under sub-paragraph (3).
- (6) The applicant shall provide each designated judge with such additional information about the regulations and rules as he may reasonably require.
- (7) If the Lord Chancellor, or any of the designated judges, is satisfied that approving the application would be incompatible with the statutory objective or the general principle (whether because of any provision of the regulations or rules, or for any other reason), he shall refuse to approve the application.
- (8) When each designated judge has discharged his duties under this paragraph he shall notify the Lord Chancellor in writing both of his decision and of his reasons for reaching it.
- (9) When—
- (a) the Lord Chancellor has discharged his duties under this paragraph; and
 - (b) the designated judges have notified him of their decisions,
- the Lord Chancellor shall notify the applicant of the result of its application.
- (10) If the Lord Chancellor or any of the designated judges has refused to approve the application it shall fail.
- (11) The Lord Chancellor shall, if the applicant applies to him in writing, notify the applicant of—
- (a) his reasons for reaching his decision; and
 - (b) the reasons given by each designated judge for reaching his decision.