

LEGAL SERVICES ACT 2007

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 4: Regulation of Approved Regulators

Background

Section 61: Lord Chancellor's power to give directions

165. These sections make provision conferring investigation powers and duties on the OFT and the Competition Commission in respect of regulatory arrangements of approved regulators where they in effect prevent, restrict or distort competition within the market for reserved legal services. Under section 57, the OFT may prepare a report if it believes that an approved regulator's regulatory arrangements (or any part of them) have this effect, or are likely to do so. The section also sets out the matters which the OFT's report should cover. It further provides that such reports attract absolute privilege for the purposes of the law of defamation.
166. **Section 58** details how the Board should respond to a report from the OFT. It provides that the Board must allow at least 28 days for the approved regulator to make representations to the Board regarding the OFT's report. Section 58 further allows for the Consumer Panel to give such advice to the Board as it considers appropriate and requires the Board to have regard to any such representations and advice before informing the OFT what action (if any) it proposes to take.
167. **Section 59** and section 60 provide that, in the event that the OFT believes that the Board has not given the OFT's report full and proper consideration, the OFT may give a copy of the report to the Lord Chancellor, who must, in turn, give a copy of the report to the Competition Commission. The Competition Commission must then investigate the matter and make its own report (unless it judges that this would serve no useful purpose). Under *section 61*, the Lord Chancellor has the power to direct the Board to take action in connection with any matter raised in the OFT's report. Before giving a direction, the Lord Chancellor must consider any report given by the Competition Commission under *section 60*. Any direction given under *section 61* must be published