

LEGAL SERVICES ACT 2007

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 5: Alternative Business Structures

Background

Section 74: Designation of approved regulator as licensing authority

187. **Part 1 of Schedule 10**, introduced by this section, sets out the procedure to be followed when an approved regulator seeks designation as a licensing authority. It is similar to the procedure for a designation of a body as an approved regulator.
188. **Paragraph 1** of the Schedule sets out certain requirements for applications for designation as a licensing authority.
189. **Paragraph 11** obliges the Board to make rules governing the way it determines applications. Sub-paragraphs (2) and (3) of paragraph 11 sets out conditions that must be met (and must be reflected in the rules) before the Board can grant an application.
190. **Paragraph 12** sets out the matters the Board must consider before deciding whether to grant the application in whole or (where it relates to more than one reserved legal activity) in respect of any of the activities in the application. The Board's decision notice must give reasons for any refusal and must be published.
191. **Paragraph 13** provides that the deadline for deciding applications is 12 months from the day of the application. That period can be extended any number of times up to a maximum of 16 months, but only after consulting the OFT, the Consumer Panel and the Lord Chief Justice, and obtaining the Lord Chancellor's consent.
192. **Paragraph 14** sets out the process by which the Board must make a recommendation to the Lord Chancellor to make an order designating the applicant as a licensing authority.
193. **Paragraph 15** provides that when the Lord Chancellor receives a recommendation from the Board the Lord Chancellor may either make the recommended order or refuse to make it. If the applicant has also applied to be designated as an approved regulator, the Lord Chancellor must first make the appropriate order. If the Lord Chancellor makes a modified order, or declines to make an order, the reasons for that decision must be published. Paragraph 16 provides that the making of the order has the effect that the proposed licensing rules are treated as approved by the Board (but remain subject to the power of the Board to make directions under section 32).