Legal Services Act 2007

2007 CHAPTER 29

PART 3

RESERVED LEGAL ACTIVITIES

Reserved legal activities

12 Meaning of "reserved legal activity" and "legal activity"

(1) In this Act "reserved legal activity" means—

(a) the exercise of a right of audience;

(b) the conduct of litigation;

(c) reserved instrument activities;

(d) probate activities;

(e) notarial activities;

(f) the administration of oaths.

(2) Schedule 2 makes provision about what constitutes each of those activities.

(3) In this Act "legal activity" means—

(a) an activity which is a reserved legal activity within the meaning of this Act as originally enacted, and

(b) any other activity which consists of one or both of the following—

(i) the provision of legal advice or assistance in connection with the application of the law or with any form of resolution of legal disputes;

(ii) the provision of representation in connection with any matter concerning the application of the law or any form of resolution of legal disputes.

(4) But "legal activity" does not include any activity of a judicial or quasi-judicial nature (including acting as a mediator).

(5) For the purposes of subsection (3) "legal dispute" includes a dispute as to any matter of fact the resolution of which is relevant to determining the nature of any person's legal rights or liabilities.

(6) Section 24 makes provision for adding legal activities to the reserved legal activities.

Commencement Information

I1 S. 12 wholly in force at 1.1.2010; s. 12 not in force at Royal Assent see s. 211; s. 12 in force for certain purposes at 7.3.2008 by S.I. 2008/222, **art. 3**; s. 12 in force for certain further purposes at 31.3.2009 by S.I. 2009/503, **art. 3**; s. 12 in force otherwise at 1.1.2010 by S.I. 2009/3250, **art. 2(b)** (with art. 9)

Carrying on the activities

13 Entitlement to carry on a reserved legal activity

(1) The question whether a person is entitled to carry on an activity which is a reserved legal activity is to be determined solely in accordance with the provisions of this Act.

(2) A person is entitled to carry on an activity ("the relevant activity") which is a reserved legal activity where—

(a) the person is an authorised person in relation to the relevant activity, or

(b) the person is an exempt person in relation to that activity.

(3) Subsection (2) is subject to section 23 (transitional protection for non-commercial bodies).

(4) Nothing in this section or section 23 affects section 84 of the Immigration and Asylum Act 1999 (c. 33) (which prohibits the provision of immigration advice and immigration services except by certain persons).

Offences

14 Offence to carry on a reserved legal activity if not entitled

(1) It is an offence for a person to carry on an activity ("the relevant activity") which is a reserved legal activity unless that person is entitled to carry on the relevant activity.

(2) In proceedings for an offence under subsection (1), it is a defence for the accused to show that the accused did not know, and could not reasonably have been expected to know, that the offence was being committed.

(3) A person who is guilty of an offence under subsection (1) is liable—

(a) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum (or both), and

(b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine (or both).

(4) A person who is guilty of an offence under subsection (1) by reason of an act done in the purported exercise of a right of audience, or a right to conduct litigation, in relation to any proceedings or contemplated proceedings is also guilty of contempt of the court concerned and may be punished accordingly.

(5) In relation to an offence under subsection (1) committed before the commencement of section 154(1) of the Criminal Justice Act 2003 (c. 44), the reference in subsection (3)(a) to 12 months is to be read as a reference to 6 months.

15 Carrying on of a reserved legal activity: employers and employees etc

(1) This section applies for the interpretation of references in this Act to a person carrying on an activity which is a reserved legal activity.

(2) References to a person carrying on an activity which is a reserved legal activity include a person ("E") who—
   (a) is an employee of a person ("P"), and
   (b) carries on the activity in E's capacity as such an employee.

(3) For the purposes of subsection (2), it is irrelevant whether P is entitled to carry on the activity.

(4) P does not carry on an activity ("the relevant activity") which is a reserved legal activity by virtue of E carrying it on in E's capacity as an employee of P, unless the provision of relevant services to the public or a section of the public (with or without a view to profit) is part of P's business.

(5) Relevant services are services which consist of or include the carrying on of the relevant activity by employees of P in their capacity as employees of P.

(6) Where P is an independent trade union, persons provided with relevant services do not constitute the public or a section of the public where—
   (a) the persons are provided with the relevant services by virtue of their membership or former membership of P or of another person's membership or former membership of P, and
   (b) the services are excepted membership services.

(7) Subject to subsection (8), "excepted membership services" means relevant services which relate to or have a connection with—
   (a) relevant activities of a member, or former member, of the independent trade union;
   (b) any other activities carried on for the purposes of or in connection with, or arising from, such relevant activities;
   (c) any event which has occurred (or is alleged to have occurred) in the course of or in connection with such relevant activities or activities within paragraph (b);
   (d) activities carried on by a person for the purposes of or in connection with, or arising from, the person's membership of the independent trade union;

   and such other relevant services as the Lord Chancellor may by order specify.

(8) The Lord Chancellor may by order make provision about the circumstances in which relevant services do or do not relate to, or have a connection with, the matters mentioned in paragraphs (a) to (d) of subsection (7).

(9) Subject to that, the Lord Chancellor may by order make provision about—
   (a) what does or does not constitute a section of the public;
   (b) the circumstances in which the provision of relevant services to the public or a section of the public does or does not form part of P's business.

(10) The Lord Chancellor may make an order under subsection (7), (8) or (9) only on the recommendation of the Board.

(11) If P is a body, references to an employee of P include references to a manager of P.

(12) In subsection (7), "relevant activities", in relation to a person who is or was a member of an independent trade union, means any employment (including self-employment), trade, occupation or other activity to which the person's membership of the trade union relates or related.

16 Offence to carry on reserved legal activity through person not entitled

(1) Where subsection (2) applies it is an offence for a person ("P") to carry on an activity ("the relevant activity") which is a reserved legal activity, despite P being entitled to carry on the relevant activity.

(2) This subsection applies if—

(a) P carries on the relevant activity by virtue of an employee of P ("E") carrying it on in E's capacity as such an employee, and

(b) in carrying on the relevant activity, E commits an offence under section 14.

(3) If P is a body, references in subsection (2) to an employee of P include references to a manager of P.

(4) In proceedings for an offence under subsection (1), it is a defence for the accused to show that the accused took all reasonable precautions and exercised all due diligence to avoid committing the offence.

(5) A person who is guilty of an offence under subsection (1) is liable—

(a) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum (or both), and

(b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine (or both).

(6) A person who is guilty of an offence under subsection (1) by reason of an act done in the purported exercise of a right of audience, or a right to conduct litigation, in relation to any proceedings or contemplated proceedings is also guilty of contempt of the court concerned and may be punished accordingly.

(7) In relation to an offence under subsection (1) committed before the commencement of section 154(1) of the Criminal Justice Act 2003 (c. 44), the reference in subsection (5)(a) to 12 months is to be read as a reference to 6 months.

17 Offence to pretend to be entitled

(1) It is an offence for a person—

(a) wilfully to pretend to be entitled to carry on any activity which is a reserved legal activity when that person is not so entitled, or

(b) with the intention of implying falsely that that person is so entitled, to take or use any name, title or description.

(2) A person who is guilty of an offence under subsection (1) is liable—

(a) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum (or both), and

(b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine (or both).

(3) In relation to an offence under subsection (1) committed before the commencement of section 154(1) of the Criminal Justice Act 2003 (c. 44), the reference in subsection (2)(a) to 12 months is to be read as a reference to 6 months.

Interpretation

18 Authorised persons

(1) For the purposes of this Act "authorised person", in relation to an activity ("the relevant activity") which is a reserved legal activity, means —

(a) a person who is authorised to carry on the relevant activity by a relevant approved regulator in relation to the relevant activity (other than by virtue of a licence under Part 5), or

(b) a licensable body which, by virtue of such a licence, is authorised to carry on the relevant activity by a licensing authority in relation to the reserved legal activity.

(2) A licensable body may not be authorised to carry on the relevant activity as mentioned in subsection (1)(a).

(3) But where a body ("A") which is authorised as mentioned in subsection (1)(a) becomes a licensable body, the body is deemed by virtue of this subsection to continue to be so authorised from that time until the earliest of the following events—

(a) the end of the period of 90 days beginning with the day on which that time falls;

(b) the time from which the relevant approved regulator determines this subsection is to cease to apply to A;

(c) the time when A ceases to be a licensable body.

(4) Subsection (2) is subject to Part 2 of Schedule 5 (by virtue of which licensable bodies may be deemed to be authorised as mentioned in subsection (1)(a) in relation to certain activities during a transitional period).

(5) A person other than a licensable body may not be authorised to carry on the relevant activity as mentioned in subsection (1)(b).

(6) But where a body ("L") which is authorised as mentioned in subsection (1)(b) ceases to be a licensable body, the body is deemed by virtue of this subsection to continue to be so authorised from that time until the earliest of the following events—

(a) the end of the period of 90 days beginning with the day on which that time falls;

(b) the time from which the relevant licensing authority determines this subsection is to cease to apply to L;

(c) the time when L becomes a licensable body.

Commencement Information

I2 S. 18 not in force at Royal Assent see s. 211; s. 18(1)(a) in force at 1.1.2010 by S.I. 2009/3250, **art. 2(b)(i)** (subject to art. 3(1) and with art. 9)

I3 S. 18(1)(b)(5)(6) in force at 6.10.2011 by S.I. 2011/2196, **art. 2(2)** (with art. 3)
I4 S. 18(2)-(4) in force at 1.10.2011 by S.I. 2011/2196, **art. 2(1)(a)**

19 Exempt persons

In this Act, "exempt person", in relation to an activity ("the relevant activity") which is a reserved legal activity, means a person who, for the purposes of carrying on the relevant activity, is an exempt person by virtue of—

(a) Schedule 3 (exempt persons), or

(b) paragraph 13 or 18 of Schedule 5 (additional categories of exempt persons during transitional period).

20 Approved regulators and relevant approved regulators

(1) In this Act, the following expressions have the meaning given by this section—

"approved regulator";

"relevant approved regulator".

(2) "Approved regulator" means—

(a) a body which is designated as an approved regulator by Part 1 of Schedule 4 or under Part 2 of that Schedule (or both) and whose regulatory arrangements are approved for the purposes of this Act, and

(b) if an order under section 62(1)(a) has effect, the Board.

(3) An approved regulator is a "relevant approved regulator" in relation to an activity which is a reserved legal activity if—

(a) the approved regulator is designated by Part 1, or under Part 2, of Schedule 4 in relation to that reserved legal activity, or

(b) where the approved regulator is the Board, it is designated in relation to that reserved legal activity by an order under section 62(1)(a).

(4) An approved regulator is a "relevant approved regulator" in relation to a person if the person is authorised by the approved regulator to carry on an activity which is a reserved legal activity.

(5) Schedule 4 makes provision with respect to approved regulators other than the Board.

In that Schedule—

(a) Part 1 designates certain bodies as approved regulators in relation to certain reserved legal activities,

(b) Part 2 makes provision for bodies to be designated by order as approved regulators in relation to one or more reserved legal activities, and

(c) Part 3 makes provision relating to the approval of changes to an approved regulator's regulatory arrangements.

(6) An approved regulator may authorise persons to carry on any activity which is a reserved legal activity in respect of which it is a relevant approved regulator.

Commencement Information

I5 S. 20 wholly in force at 1.1.2010; s. 20 not in force at Royal Assent see s. 211; s. 20(2) in force for certain purposes at 7.3.2008 by S.I. 2008/222, **art. 3**; s. 20(5) in force at 1.1.2009 by S.I. 2008/3149, art. 2(b)(i); s. 20 in force otherwise at 1.1.2010 by S.I. 2009/3250, **art. 2(b)(i)** (with art. 9)

21 Regulatory arrangements

(1) In this Act references to the "regulatory arrangements" of a body are to—

(a) its arrangements for authorising persons to carry on reserved legal activities,

(b) its arrangements (if any) for authorising persons to provide immigration advice or immigration services,

(c) its practice rules,

(d) its conduct rules,

(e) its disciplinary arrangements in relation to regulated persons (including its discipline rules),

(f) its qualification regulations,

(g) its indemnification arrangements,

(h) its compensation arrangements,

(i) any of its other rules or regulations (however they may be described), and any other arrangements, which apply to or in relation to regulated persons, other than those made for the purposes of any function the body has to represent or promote the interests of persons regulated by it, and

(j) its licensing rules (if any), so far as not within paragraphs (a) to (i),

(whether or not those arrangements, rules or regulations are contained in, or made under, an enactment).

(2) In this Act—

"compensation arrangements", in relation to a body, means arrangements to provide for grants or other payments for the purposes of relieving or mitigating losses or hardship suffered by persons in consequence of—

(a) negligence or fraud or other dishonesty on the part of any persons whom the body has authorised to carry on activities which constitute a reserved legal activity, or of employees of theirs, in connection with their activities as such authorised persons, and

(b) failure, on the part of regulated persons, to account for money received by them in connection with their activities as such regulated persons;

"conduct rules", in relation to a body, means any rules or regulations (however they may be described) as to the conduct required of regulated persons;

"discipline rules", in relation to a body, means any rules or regulations (however they may be described) as to the disciplining of regulated persons;

"indemnification arrangements", in relation to a body, means arrangements for the purpose of ensuring the indemnification of those who are or were regulated persons against losses arising from claims in relation to any description of civil liability incurred by them, or by employees or former employees of theirs, in connection with their activities as such regulated persons;

"practice rules", in relation to a body, means any rules or regulations (however they may be described) which govern the practice of regulated persons;

"qualification regulations", in relation to a body, means—

(a) any rules or regulations relating to—

(i) the education and training which persons must receive, or

(ii) any other requirements which must be met by or in respect of them,

(in order for them to be authorised by the body to carry on an activity which is a reserved legal activity,

(b) any rules or regulations relating to—

(i) the education and training which persons must receive, or

(ii) any other requirements which must be met by or in respect of them,

(in order for them to be authorised by the body to provide immigration advice or immigration services, and

(c) any other rules or regulations relating to the education and training which regulated persons must receive or any other requirements which must be met by or in respect of them,

(however they may be described).

(3) In this section "regulated persons", in relation to a body, means any class of persons which consists of or includes—

(a) persons who are authorised by the body to carry on an activity which is a reserved legal activity;

(b) persons who are not so authorised, but are employees of a person who is so authorised.

(4) In relation to an authorised person other than an individual, references in subsection (2) and (3) to employees of the person include managers of the person.

Commencement Information

I6 S. 21 partly in force: s. 21 not in force at Royal Assent see s. 211; s. 21(1)(a)-(i)(2)-(4) in force at 1.1.2010 by S.I. 2009/3250, **art. 2(b)(i)** (with art. 9)

I7 S. 21 in force at 1.10.2011 so far as not already in force by S.I. 2011/2196, **art. 2(1)(a)**

Continuity of existing rights and transitional protection

22 Continuity of existing rights to carry on reserved legal activities

Schedule 5 makes provision for the continuity of existing rights and for certain persons to be deemed, during a transitional period, to be authorised by approved regulators to carry on certain activities.

23 Transitional protection for non-commercial bodies

(1) During the transitional period, a body within subsection (2) is entitled to carry on any activity which is a reserved legal activity.

(2) The bodies are—
- (a) a not for profit body,
- (b) a community interest company, or
- (c) an independent trade union.

(3) The transitional period is the period which—
- (a) begins with the day appointed for the coming into force of section 13, and
- (b) ends with the day appointed by the Lord Chancellor by order for the purposes of this paragraph.

(4) Different days may be appointed under subsection (3)(b) for different purposes.

(5) An order may be made under subsection (3)(b) only on the recommendation of the Board.

Alteration of reserved legal activities

24 Extension of the reserved legal activities

(1) The Lord Chancellor may, by order, amend section 12 or Schedule 2 (reserved legal activities) so as to add any legal activity to the activities which are reserved legal activities for the purposes of this Act.

(2) An order under subsection (1) may be made only on the recommendation of the Board.

(3) Schedule 6 makes provision about the making of recommendations for the purposes of this section.

(4) Where a recommendation is made in relation to an activity, the Lord Chancellor must—
- (a) consider the report containing the recommendation given to the Lord Chancellor under paragraph 16(3)(a) of that Schedule,
- (b) decide whether or not to make an order under this section in respect of the activity, and
- (c) publish a notice of that decision,

within the period of 90 days beginning with the day on which the report was given to the Lord Chancellor.

(5) Where the Lord Chancellor decides not to make an order under this section in respect of an activity, the notice under subsection (4)(c) must state the reasons for that decision.

Commencement Information

I8 S. 24 wholly in force at 1.1.2010; s. 24 not in force at Royal Assent see s. 211; s. 24(3) in force at 1.1.2009 by S.I. 2008/3149, **art. 2(b)(i)**; s. 24 in force otherwise at 1.1.2010 by S.I. 2009/3250, **art. 2(b)(i)** (with art. 9)

25 Provisional designation as approved regulators and licensing authorities

(1) The Lord Chancellor may, by order, make provision—

(a) enabling applications to be made, considered and determined under Part 2 of Schedule 4 or Part 1 of Schedule 10 in relation to a provisional reserved activity, as if the activity were a reserved legal activity;

(b) enabling provisional designation orders to be made by the Lord Chancellor in respect of a provisional reserved activity, as if the activity were a reserved legal activity.

(2) An order under subsection (1) may, in particular, provide that Part 2 of Schedule 4 or Part 1 of Schedule 10 is to apply, in relation to such cases as may be specified by the order, with such modifications as may be so specified.

(3) The Lord Chancellor may also, by order, make provision—

(a) for the purpose of enabling applications for authorisation to carry on an activity which is a provisional reserved activity to be made to and considered and determined by—

(i) a body in respect of which a provisional designation order is made, or

(ii) the Board in its capacity as a licensing authority;

(b) for the purpose of enabling persons to be deemed to be authorised to carry on an activity which is a new reserved legal activity by a relevant approved regulator in relation to the activity, or by the Board in its capacity as a licensing authority, for a period specified in the order.

(4) For this purpose—

"provisional reserved activity" means an activity in respect of which a provisional report under paragraph 10 of Schedule 6 states that the Board is minded to make a recommendation for the purposes of section 24;

"provisional designation order" means an order made by the Lord Chancellor under Part 2 of Schedule 4 or Part 1 of Schedule 10 which is conditional upon the Lord Chancellor making an order under section 24 in respect of the provisional reserved activity, pursuant to a recommendation made by the Board following the provisional report;

"new reserved legal activity" means a legal activity which has become a reserved legal activity by virtue of an order under section 24.

Commencement Information

I9 S. 25 partly in force: s. 25 not in force at Royal Assent see s. 211; s. 25 in force for certain purposes at 1.1.2010 by S.I. 2009/3250, **art. 2(b)(i)** (subject to art. 3(2) (as amended (30.9.2011) by S.I. 2011/2196, arts. 1(2), 5) and with art. 9)

I10 S. 25 in force at 2.8.2010 subject to the transitional provision previously made in relation to s. 25(3)(a)(b) by S.I. 2010/1118, **art. 2(a)**

26 Recommendations that activities should cease to be reserved legal activities

(1) The Board may recommend that an activity should cease to be a reserved legal activity.

(2) Schedule 6 makes provision about the making of recommendations for the purposes of this section.

(3) The Lord Chancellor must consider any recommendation made by the Board for the purposes of this section (but nothing in section 208 (minor and consequential provision etc) authorises the Lord Chancellor to give effect to such a recommendation).

(4) Where the Lord Chancellor disagrees with a recommendation (or any part of it), the Lord Chancellor must publish a notice to that effect which must include the Lord Chancellor's reasons for disagreeing.

Commencement Information

I11 S. 26 wholly in force at 1.1.2010; s. 26 not in force at Royal Assent see s. 211; s. 26(2) in force at 1.1.2009 by S.I. 2008/3149, **art. 2(b)(i)**; s. 26 in force otherwise at 1.1.2010 by S.I. 2009/3250, **art. 2(b)(i)** (with art. 9)

Status:
Point in time view as at 06/10/2011.

Changes to legislation:
There are currently no known outstanding effects for the Legal Services Act 2007, Part 3.