



# Legal Services Act 2007

## 2007 CHAPTER 29

### PART 8

#### MISCELLANEOUS PROVISIONS ABOUT LAWYERS ETC

##### *Other lawyers*

#### **181 Unqualified person not to pretend to be a barrister**

- (1) It is an offence for a person who is not a barrister—
  - (a) wilfully to pretend to be a barrister, or
  - (b) with the intention of implying falsely that that person is a barrister 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.

#### **182 Licensed conveyancers**

Schedule 17 contains amendments relating to the Council for Licensed Conveyancers, licensed conveyancers and bodies recognised under section 32 of the Administration of Justice Act 1985 (c. 61).

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### **183 Commissioners for oaths**

- (1) For the purposes of any enactment or instrument (including an enactment passed or instrument made after the passing of this Act) “commissioner for oaths” includes an authorised person in relation to the administration of oaths (“a relevant authorised person”).
- (2) A relevant authorised person has the right to use the title “Commissioner for Oaths”.
- (3) A relevant authorised person may not carry on the administration of oaths in any proceedings in which that person represents any of the parties or is interested.
- (4) A relevant authorised person before whom an oath or affidavit is taken or made must state in the jurat or attestation at which place and on what date the oath or affidavit is taken or made.
- (5) A document containing such a statement and purporting to be sealed or signed by a relevant authorised person must be admitted in evidence without proof of the seal or signature, and without proof that that person is a relevant authorised person.
- (6) The Lord Chancellor may by order prescribe the fees to be charged by relevant authorised persons in respect of the administration of an oath or the taking of an affidavit.
- (7) The Lord Chancellor may make an order under subsection (6) only—
  - (a) after consultation with the Board, and
  - (b) with the consent of the Lord Chief Justice and the Master of the Rolls.
- (8) In this section “affidavit” has the same meaning as in the Commissioners for Oaths Act 1889 (c. 10).

### **184 Trade mark attorneys**

- (1) The Trade Marks Act 1994 (c. 26) is amended as follows.
- (2) In section 82 (recognition of agents) after “rules” insert “ and subject to the Legal Services Act 2007 ”.
- (3) For section 83 (the register of trade mark agents) substitute—

#### **“83 The register of trade mark attorneys**

- (1) There is to continue to be a register of persons who act as agent for others for the purpose of applying for or obtaining the registration of trade marks.
- (2) In this Act a registered trade mark attorney means an individual whose name is entered on the register kept under this section.
- (3) The register is to be kept by the Institute of Trade Mark Attorneys.
- (4) The Secretary of State may, by order, amend subsection (3) so as to require the register to be kept by the person specified in the order.
- (5) Before making an order under subsection (4), the Secretary of State must consult the Legal Services Board.
- (6) An order under this section must be made by statutory instrument.

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- (7) An order under this section may not be made unless a draft of it has been laid before, and approved by a resolution of, each House of Parliament.

### **83A Regulation of trade mark attorneys**

- (1) The person who keeps the register under section 83 may make regulations which regulate—
- (a) the keeping of the register and the registration of persons;
  - (b) the carrying on of trade mark agency work by registered persons.
- (2) Those regulations may, amongst other things, make—
- (a) provision as to the educational and training qualifications, and other requirements, which must be satisfied before an individual may be registered or for an individual to remain registered;
  - (b) provision as to the requirements which must be met by a body (corporate or unincorporate) before it may be registered or for it to remain registered, including provision as to the management and control of the body;
  - (c) provision as to the educational, training or other requirements to be met by regulated persons;
  - (d) provision regulating the practice, conduct and discipline of registered persons or regulated persons;
  - (e) provision authorising in such cases as may be specified in the regulations the erasure from the register of the name of any person registered in it, or the suspension of a person's registration;
  - (f) provision requiring the payment of such fees as may be specified in or determined in accordance with the regulations;
  - (g) provision about the provision to be made by registered persons in respect of complaints made against them;
  - (h) provision about the keeping of records and accounts by registered persons or regulated persons;
  - (i) provision for reviews of or appeals against decisions made under the regulations;
  - (j) provision as to the indemnification of registered persons or regulated persons against losses arising from claims in respect of civil liability incurred by them.
- (3) Regulations under this section may make different provision for different purposes.
- (4) Regulations under this section which are not regulatory arrangements within the meaning of the Legal Services Act 2007 are to be treated as such arrangements for the purposes of that Act.
- (5) Before the appointed day, regulations under this section may be made only with the approval of the Secretary of State.
- (6) The powers conferred to make regulations under this section are not to be taken to prejudice—

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- (a) any other power which the person who keeps the register may have to make rules or regulations (however they may be described and whether they are made under an enactment or otherwise);
- (b) any rules or regulations made by that person under any such power.

(7) In this section—

“appointed day” means the day appointed for the coming into force of paragraph 1 of Schedule 4 to the Legal Services Act 2007;

“manager”, in relation to a body, has the same meaning as in the Legal Services Act 2007 (see section 207);

“registered person” means—

- (a) a registered trade mark attorney, or
- (b) a body (corporate or unincorporate) registered in the register kept under section 83;

“regulated person” means a person who is not a registered person but is a manager or employee of a body which is a registered person;

“trade mark agency work” means work done in the course of carrying on the business of acting as agent for others for the purpose of—

- (a) applying for or obtaining the registration of trade marks in the United Kingdom [<sup>F1</sup>or elsewhere] , or
- (b) conducting proceedings before the Comptroller relating to applications for or otherwise in connection with the registration of trade marks.”

(4) In section 84 (unregistered persons not to be described as registered trade mark agents)

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(a) in subsection (2)—

- (i) after “partnership” (in the first place) insert “ or other unincorporated body ”, and
- (ii) for “all the partners” to the end substitute “ the partnership or other body is registered in the register kept under section 83. ”, and

(b) in subsection (3) for “all the directors” to the end substitute “ the body corporate is registered in the register kept under section 83. ”

(5) Omit section 85 (power to prescribe conditions etc for mixed partnerships and bodies corporate).

(6) In section 87 (privilege for communications with registered trade mark attorneys), in subsection (3)(c) at the beginning insert “ any other unincorporated body or ”.

#### **Textual Amendments**

**F1** Words in s. 184(3) inserted (16.12.2009) by [The Legal Services Act 2007 \(Functions of an Approved Regulator\) Order 2009 \(S.I. 2009/3339\)](#), arts. 1, 2

## **185 Patent attorneys**

(1) The Copyright, Designs and Patents Act 1988 (c. 48) is amended as follows.

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- (2) In section 274 (persons permitted to carry on business of a patent agent) in subsection (1) after “this Part” insert “ and to the Legal Services Act 2007 ”.
- (3) For section 275 (the register of patent agents) substitute—

#### **“275 The register of patent attorneys**

- (1) There is to continue to be a register of persons who act as agent for others for the purpose of applying for or obtaining patents.
- (2) In this Part a registered patent attorney means an individual whose name is entered on the register kept under this section.
- (3) The register is to be kept by the Chartered Institute of Patent Attorneys.
- (4) The Secretary of State may, by order, amend subsection (3) so as to require the register to be kept by the person specified in the order.
- (5) Before making an order under subsection (4), the Secretary of State must consult the Legal Services Board.
- (6) An order under this section must be made by statutory instrument.
- (7) An order under this section may not be made unless a draft of it has been laid before, and approved by a resolution of, each House of Parliament.

#### **275A Regulation of patent attorneys**

- (1) The person who keeps the register under section 275 may make regulations which regulate—
  - (a) the keeping of the register and the registration of persons;
  - (b) the carrying on of patent attorney work by registered persons.
- (2) Those regulations may, amongst other things, make—
  - (a) provision as to the educational and training qualifications, and other requirements, which must be satisfied before an individual may be registered or for an individual to remain registered;
  - (b) provision as to the requirements which must be met by a body (corporate or unincorporate) before it may be registered, or for it to remain registered, including provision as to the management and control of the body;
  - (c) provision as to the educational, training and other requirements to be met by regulated persons;
  - (d) provision regulating the practice, conduct and discipline of registered persons or regulated persons;
  - (e) provision authorising in such cases as may be specified in the regulations the erasure from the register of the name of any person registered in it, or the suspension of a person's registration;
  - (f) provision requiring the payment of such fees as may be specified in or determined in accordance with the regulations;
  - (g) provision about the provision to be made by registered persons in respect of complaints made against them;

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- (h) provision about the keeping by registered persons or regulated persons of records and accounts;
  - (i) provision for reviews of or appeals against decisions made under the regulations;
  - (j) provision as to the indemnification of registered persons or regulated persons against losses arising from claims in respect of civil liability incurred by them.
- (3) Regulations under this section may make different provision for different purposes.
- (4) Regulations under this section which are not regulatory arrangements within the meaning of the Legal Services Act 2007 are to be treated as such arrangements for the purposes of that Act.
- (5) Before the appointed day, regulations under this section may be made only with the approval of the Secretary of State.
- (6) The powers conferred to make regulations under this section are not to be taken to prejudice—
- (a) any other power which the person who keeps the register may have to make rules or regulations (however they may be described and whether they are made under an enactment or otherwise);
  - (b) any rules or regulations made by that person under any such power.
- (7) In this section—
- “appointed day” means the day appointed for the coming into force of paragraph 1 of Schedule 4 to the Legal Services Act 2007;
  - “manager”, in relation to a body, has the same meaning as in the Legal Services Act 2007 (see section 207);
  - “patent attorney work” means work done in the course of carrying on the business of acting as agent for others for the purpose of—
    - (a) applying for or obtaining patents, in the United Kingdom or elsewhere, or
    - (b) conducting proceedings before the comptroller relating to applications for, or otherwise in connection with, patents;
  - “registered person” means—
    - (a) a registered patent attorney, or
    - (b) a body (corporate or unincorporate) registered in the register kept under section 275;
  - “regulated person” means a person who is not a registered person but is a manager or employee of a body which is a registered person.”
- (4) In section 276 (persons entitled to describe themselves as patent attorneys)—
- (a) in subsection (2)—
    - (i) after “partnership” (in the first place) insert “ or other unincorporated body ”, and
    - (ii) for “all the partners” to the end substitute “ the partnership or other body is registered in the register kept under section 275 ”, and
  - (b) in subsection (3) for “all the directors” to the end substitute “ the body corporate is registered in the register kept under section 275. ”

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- (5) Omit section 279 (power to prescribe conditions etc for mixed partnerships and bodies corporate).
- (6) In section 280 (privilege for communications with patent agents), in subsection (3), at the end of paragraph (b) insert—
  - “(ba) an unincorporated body (other than a partnership) entitled to describe itself as a patent attorney, or”.

VALID FROM 01/04/2011

#### **186 Immigration advisers and immigration service providers**

- (1) Schedule 18 makes provision relating to Part 5 of the Immigration and Asylum Act 1999 (c. 33) (immigration advisers and immigration service providers).
- (2) In that Schedule—
  - (a) Part 1 makes provision for approved regulators to become qualifying regulators for the purposes of Part 5 of the Immigration and Asylum Act 1999,
  - (b) Part 2 contains amendments of that Act (which amongst other things enable persons authorised by qualifying regulators to provide immigration advice and immigration services in England and Wales), and
  - (c) Part 3 makes provision for certain persons to be treated, during a transitional period, as authorised by qualifying regulators to provide such advice and services.

#### **187 Claims management services**

Schedule 19 contains amendments of Part 2 of the Compensation Act 2006 (c. 29) (claims management services).

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