

**EXPLANATORY MEMORANDUM TO THE  
SOLICITORS (COMPENSATION FOR INADEQUATE PROFESSIONAL  
SERVICES ) ORDER 2005**

**2005 No. 2749**

1. This explanatory memorandum has been prepared by the Department for Constitutional Affairs and is laid before Parliament by Command of Her Majesty.
  
2. **Description**
  - 2.1 This instrument relates to the Solicitors (Compensation for Inadequate Professional Services) Order 2005. The Order will raise the Law Society's Inadequate Professional Service compensation level for complainants seeking redress from £5,000 to £15,000 with effect from 1 January 2006.
  
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
  - 3.1 None.
  
4. **Legislative Background**
  - 4.1 This Order authorises the Secretary of State and Lord Chancellor, in exercise of the powers conferred upon him by paragraph 3(2) of Schedule 1A to the Solicitors Act 1974, having consulted the Law Society, to raise the Law Society's compensation limit for complainants.
  
5. **Extent**
  - 5.1 This instrument applies to England and Wales.
  
6. **European Convention on Human Rights**
  - 6.1 This instrument is subject to negative resolution and does not amend primary legislation. It is considered, however, that the provisions of this instrument are compatible with the European Convention on Human Rights.
  
7. **Policy background**
  - 7.1 There is across the board agreement that raising the Law Society's compensation limit is in the best interests of consumers. (If a consumer wants to claim compensation against a solicitor for inadequate professional service they can apply to the Law Society. However, under the current arrangements if compensation is claimed greater than £5,000 the matter must be referred to the courts.)
  
  - 7.2 In his annual report for 2003 Sir Stephen Lander, Independent Commissioner to the Law Society, recommended that the Consumer Complaints Service

compensation limit should be raised with effect from 1 January 2004 to £15,000. It currently stands at £5,000. The Law Society signalled their agreement to this recommendation but asked for implementation to be delayed.

- 7.3 Lord Falconer formally wrote to the Society to seek the Society's views on raising the compensation limit, as required by paragraph 3(3) of Schedule 1A to the Solicitors Act 1974.
- 7.4 The Law Society restated their commitment to delivering the change in policy in due course, but requested for implementation to be delayed until 1 January 2006. The Society highlighted concerns about its ability to design the new procedures and protocols needed to support an increased jurisdiction. It also highlighted that insurers will need to be consulted because compensation awards over £5,000 will usually be above the level of excess that firms carry under their indemnity insurance arrangements.
- 7.5 In July, Bridget Prentice and the Law Society agreed that the Order, which will give effect to the raise, will be introduced on 10 October, but in light of the concerns raised by the Law Society, it would not be commenced until 1 January 2006.

## **8. Impact**

- 8.1 A Regulatory Impact Assessment was not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

## **9. Contact**

- 9.1 Any enquiries about the contents of this memorandum should be addressed to:  
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