

Legal Services Bill [HL] (Volume II)

The Bill is divided into two Volumes. Volume I contains the Clauses. Volume II contains the Schedules to the Bill.

CONTENTS

PART 1

THE REGULATORY OBJECTIVES

- 1 The regulatory objectives

PART 2

THE LEGAL SERVICES BOARD

Constitution

- 2 The Legal Services Board

General functions

- 3 The Board's duty to promote the regulatory objectives etc
- 4 Standards of regulation, education and training
- 5 Corporate governance
- 6 Annual report
- 7 Supplementary powers

Consumer Panel

- 8 The Consumer Panel
- 9 Committees and the procedure of the Consumer Panel
- 10 Representations by the Consumer Panel
- 11 Advice and research functions of the Consumer Panel

PART 3

RESERVED LEGAL ACTIVITIES

Reserved legal activities

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

Carrying on the activities

- 13 Entitlement to carry on a reserved legal activity

Offences

- 14 Offence to carry on a reserved legal activity if not entitled
15 Carrying on of a reserved legal activity: employers and employees etc
16 Offence to pretend to be entitled

Interpretation

- 17 Authorised persons
18 Exempt persons
19 Approved regulators and relevant approved regulators
20 Regulatory arrangements

Continuity of existing rights and transitional protection

- 21 Continuity of existing rights to carry on reserved legal activities
22 Transitional protection for non-commercial bodies

Alteration of reserved legal activities

- 23 Extension of the reserved legal activities
24 Provisional designation as approved regulators and licensing authorities
25 Recommendations that activities should cease to be reserved legal activities

PART 4

REGULATION OF APPROVED REGULATORS

Introductory

- 26 Regulatory and representative functions of approved regulators

General duties of approved regulators

- 27 Approved regulator's duty to promote the regulatory objectives etc

Separation of regulatory and representative functions

- 28 Prohibition on the Board interfering with representative functions
29 Rules relating to the exercise of regulatory functions

Performance targets

- 30 Performance targets and monitoring

Directions

- 31 Directions
32 Directions: procedure
33 Enforcement of directions

Censure

- 34 Public censure
- 35 Public censure: procedure

Financial penalties

- 36 Financial penalties
- 37 Financial penalties: procedure
- 38 Appeals against financial penalties
- 39 Recovery of financial penalties

Intervention

- 40 Intervention directions
- 41 Intervention directions: further provision
- 42 Intervention directions: enforcement
- 43 Revocation of intervention directions

Cancellation of approval

- 44 Cancellation of designation as approved regulator
- 45 Cancellation of designation: further provision
- 46 The Board's power to recommend orders made under section 45
- 47 Cancellation of designation: powers of entry etc

Policy statements

- 48 The Board's policy statements
- 49 Policy statements: procedure

Practising fees

- 50 Control of practising fees charged by approved regulators

Regulatory conflict

- 51 Regulatory conflict with approved regulators
- 52 Modification of provision made about regulatory conflict
- 53 Regulatory conflict with other regulatory regimes

Information

- 54 Provision of information to the Board
- 55 Enforcement of notices under section 54

Competition

- 56 Reports by the OFT
- 57 The Board's response to OFT report
- 58 Referral of report by the Secretary of State to the Competition Commission
- 59 Duties of the Competition Commission
- 60 Secretary of State's power to give directions

The Board as approved regulator

- 61 The Board as an approved regulator
- 62 The Board's designation under section 61(1)(a)
- 63 Modification of the Board's functions under section 61(1)(b)
- 64 Cancellation of the Board's designation under section 61(1)(c)
- 65 The Board's power to recommend orders made under section 61
- 66 Effect of the Board's designation as an approved regulator
- 67 Regulatory conflict and the Board as approved regulator

Functions of approved regulators etc

- 68 Modification of the functions of approved regulators etc
- 69 Procedural requirements relating to recommendations under section 68

PART 5

ALTERNATIVE BUSINESS STRUCTURES

Introductory

- 70 Carrying on of activities by licensed bodies
- 71 "Licensable body"

Licensing authorities

- 72 Licensing authorities and relevant licensing authorities
- 73 Designation of approved regulator as licensing authority
- 74 Automatic cancellation of designation as licensing authority
- 75 Cancellation of designation as licensing authority by order
- 76 Cancellation of designation: further provision
- 77 The Board's power to recommend orders made under section 76
- 78 Cancellation of designation: powers of entry etc

Appeals

- 79 Functions of appellate bodies
- 80 Procedural requirements relating to recommendations under section 79

Licensing rules

- 81 Licensing rules

Licensing

- 82 Application for licence
- 83 Terms of licence
- 84 Modification of licence
- 85 Registers of licensed bodies
- 86 Evidence of status

Ownership of licensed bodies

- 87 Ownership of licensed bodies

Regulation of licensed bodies

- 88 Duties of non-authorised persons
- 89 Duties of Head of Legal Practice
- 90 Duties of Head of Finance and Administration
- 91 Information
- 92 Enforcement of notices under section 91
- 93 Financial penalties
- 94 Appeals against financial penalties
- 95 Recovery of financial penalties
- 96 Referral of employees etc to appropriate regulator
- 97 Disqualification
- 98 Lists of disqualified persons
- 99 Suspension and revocation of licence
- 100 Intervention
- 101 Regulatory conflict and the Board as licensing authority
- 102 Prevention of regulatory conflict: accounts rules

Special kinds of body

- 103 Trade union exemptions
- 104 Power to modify application of licensing rules etc to special bodies
- 105 Modifications under section 104: supplementary
- 106 “Low risk body”
- 107 Foreign bodies

Interpretation

- 108 Interpretation of Part 5

PART 6

LEGAL COMPLAINTS

Complaints procedures of authorised persons

- 109 Complaints procedures of authorised persons

Overview of the scheme

- 110 Overview of the scheme

The Office for Legal Complaints

- 111 The Office for Legal Complaints
- 112 The ombudsman scheme
- 113 General obligations
- 114 Corporate governance
- 115 Annual report
- 116 Supplementary powers
- 117 Reporting to the Board
- 118 Performance targets and monitoring

The ombudsmen

- 119 Appointment of the Chief Ombudsman and assistant ombudsmen
- 120 Annual report of Chief Ombudsman
- 121 Additional reports of Chief Ombudsman

Jurisdiction and operation of the ombudsman scheme

- 122 Jurisdiction of the ombudsman scheme
- 123 Complaints excluded because respondent's complaints procedures not used
- 124 Complaints excluded by scheme rules
- 125 Parties
- 126 Pre-commencement acts and omissions
- 127 Orders under section 125
- 128 Acts and omissions by employees etc
- 129 Continuity of complaints
- 130 Operation of the ombudsman scheme
- 131 Delegation of an ombudsman's functions
- 132 Notification requirements
- 133 Charges payable by respondents

Determinations under the scheme

- 134 Determination of complaints
- 135 Limitation on value of directions under the ombudsman scheme
- 136 Alteration of limit
- 137 Acceptance or rejection of determination
- 138 Enforcement by complainant of directions under section 134
- 139 Reporting court orders made against authorised persons

Reporting misconduct

- 140 Reporting possible misconduct to approved regulators

Co-operation with investigations

- 141 Duties to share information
- 142 Duties of authorised persons to co-operate with investigations
- 143 Reporting failures to co-operate with an investigation to approved regulators

Information

- 144 Information and documents
- 145 Reporting failures to provide information or produce documents
- 146 Enforcement of requirements to provide information or produce documents
- 147 Reports of investigations
- 148 Restricted information
- 149 Disclosure of restricted information
- 150 Data protection

Defamation

- 151 Protection from defamation claims

Scheme rules

- 152 Consent requirements for rules
- 153 The Board's powers in respect of rules

Effect on existing arrangements for redress etc

- 154 Approved regulators not to make provision for redress
- 155 Legal Services Complaints Commissioner and Legal Services Ombudsman

Interpretation

- 156 Interpretation of Part 6

Claims management services

- 157 Extension of Part 6 to claims management services

PART 7

FURTHER PROVISIONS RELATING TO THE BOARD AND THE OLC

Guidance

- 158 Guidance

Voluntary arrangements

- 159 Voluntary arrangements

Disclosure and use of information

- 160 Restricted information
- 161 Disclosure of restricted information
- 162 Disclosure of information to the Board
- 163 Data protection
- 164 Use of information

Payments by Secretary of State

- 165 Funding

The levy

- 166 The levy
- 167 The levy: supplementary provisions

Payments into the Consolidated Fund

- 168 Amounts payable into the Consolidated Fund

PART 8

MISCELLANEOUS PROVISIONS ABOUT LAWYERS ETC

Duties of regulated persons

- 169 Duties of regulated persons

Solicitors, the Law Society and the Disciplinary Tribunal

- 170 The Law Society, solicitors, recognised bodies and foreign lawyers
171 The Solicitors Disciplinary Tribunal: approval of rules
172 Board's power to give directions to the Tribunal
173 Functions of the Tribunal

Other lawyers

- 174 Licensed conveyancers
175 Commissioners for oaths
176 Trade mark attorneys
177 Patent attorneys
178 Immigration advisers and immigration service providers
179 Claims management services

Advocates and litigators

- 180 Duties of advocates and litigators
181 Employed advocates

Legal professional privilege

- 182 Legal professional privilege

Savings

- 183 Powers of court in respect of rights of audience and conduct of litigation
184 Solicitors to public departments and the City of London

Pro bono representation

- 185 Payments in respect of pro bono representation

Scotland

- 186 Application of the Legal Profession and Legal Aid (Scotland) Act 2006
187 Scottish legal services ombudsman: functions

PART 9

GENERAL

Offences

- 188 Offences committed by bodies corporate and unincorporated bodies

189 Local weights and measures authorities

Notices etc

190 Notices and directions

191 Documents

192 The giving of notices, directions and other documents

193 The giving of notices, directions and other documents in electronic form

Orders, rules etc

194 Orders, regulations and rules

195 Consultation requirements for rules

196 Parliamentary control of orders and regulations

Interpretation

197 Interpretation

Miscellaneous and supplementary

198 Minor and consequential provision etc

199 Transitional provision

200 Repeals

201 Commencement

202 Extent

203 Index of defined expressions

204 Short title

-
- Schedule 1 – The Legal Services Board
 - Schedule 2 – The reserved legal activities
 - Schedule 3 – Exempt persons
 - Schedule 4 – Approved regulators
 - Part 1 – Existing regulators
 - Part 2 – Designation of bodies by order
 - Part 3 – Alteration of approved regulator’s regulatory arrangements
 - Schedule 5 – Authorised persons
 - Part 1 – Continuity of rights
 - Part 2 – Rights during transitional period
 - Part 3 – Interpretation
 - Schedule 6 – Alteration of reserved legal activities
 - Schedule 7 – Directions: procedure
 - Schedule 8 – Intervention directions: procedure
 - Part 1 – Giving intervention directions
 - Part 2 – Revoking intervention directions
 - Schedule 9 – Cancellation of designation as approved regulator
 - Schedule 10 – Designation of approved regulators as licensing authorities
 - Part 1 – Designation of approved regulators by order
 - Part 2 – Cancellation of designation by order
 - Schedule 11 – Licensing rules

- Part 1 – Licensing procedure
- Part 2 – Structural requirements
- Part 3 – Practice requirements
- Part 4 – Regulation
- Schedule 12 – Entitlement to make an application for a licence to the Board
- Schedule 13 – Ownership of licensed bodies
 - Part 1 – Introductory
 - Part 2 – Approval of restricted interests on application for licence
 - Part 3 – Approval of restricted interests after licence is issued
 - Part 4 – Additional restrictions
 - Part 5 – Enforcement
- Schedule 14 – Licensing authority’s powers of intervention
- Schedule 15 – The Office for Legal Complaints
- Schedule 16 – The Law Society, solicitors, recognised bodies and foreign lawyers
 - Part 1 – The Solicitors Act 1974 (c. 47)
 - Part 2 – The Administration of Justice Act 1985 (c. 61)
 - Part 3 – The Courts and Legal Services Act 1990 (c. 41)
- Schedule 17 – Licensed conveyancing
- Schedule 18 – Immigration advice and immigration services
 - Part 1 – Qualifying regulators
 - Part 2 – Amendments of the Immigration and Asylum Act 1999 (c. 33)
 - Part 3 – Transitional provision
- Schedule 19 – Claims management services
- Schedule 20 – Amendments in relation to the Legal Profession and Legal Aid (Scotland) Act 2006
- Schedule 21 – Minor and consequential amendments
- Schedule 22 – Transitional provision
- Schedule 23 – Repeals
- Schedule 24 – Index of defined expressions

SCHEDULES

SCHEDULE 1

Section 2

THE LEGAL SERVICES BOARD

Membership

- | | | |
|---|--|----|
| 1 | <p>(1) The Board is to consist of the following members –</p> <ul style="list-style-type: none"> (a) a chairman appointed by the Secretary of State, (b) the Chief Executive of the Board (see paragraph 11), and (c) at least 7, but not more than 10, other persons appointed by the Secretary of State. | 5 |
| | <p>(2) In this Schedule a reference to an “ordinary member” is a reference to a member of the Board other than the Chief Executive.</p> | 10 |
| | <p>(3) The Secretary of State may by order amend sub-paragraph (1) by substituting for the limit on the maximum number of persons for the time being specified in paragraph (c) of that sub-paragraph a different limit.</p> | |
| 2 | <p>(1) In appointing persons as ordinary members the Secretary of State must ensure that a majority of the members of the Board are lay persons.</p> <p>(2) The first chairman must be a lay person.</p> <p>(3) It is a condition of the appointment of any subsequent chairman that the person appointed must not during the appointment –</p> <ul style="list-style-type: none"> (a) carry on any activity which is a reserved legal activity, (b) provide regulated claims management services (within the meaning of Part 2 of the Compensation Act 2006 (c. 29)), or (c) provide immigration advice or immigration services, for or in expectation of any fee, gain or reward. | 15 |
| | <p>(4) In this Schedule a reference to a “lay person” is a reference to a person who has never been –</p> <ul style="list-style-type: none"> (a) an authorised person in relation to an activity which is a reserved legal activity; (b) a person authorised, by a person designated under section 5(1) of the Compensation Act 2006, to provide services which are regulated claims management services (within the meaning of that Act); (c) an advocate in Scotland; (d) a solicitor in Scotland; (e) a member of the Bar of Northern Ireland; (f) a solicitor of the Court of Judicature of Northern Ireland. | 25 |
| | | 30 |
| | | 35 |

-
- (5) For the purposes of sub-paragraph (4), a person is deemed to have been an authorised person in relation to an activity which is a reserved legal activity if that person has before the appointed day been –
- (a) a barrister;
 - (b) a solicitor; 5
 - (c) a public notary;
 - (d) a licensed conveyancer; or
 - (e) granted a right of audience or a right to conduct litigation in relation to any proceedings by virtue of section 27(2)(a) or section 28(2)(a) of the Courts and Legal Services Act 1990 (c. 41) (rights of audience and rights to conduct litigation). 10
- (6) For the purpose of sub-paragraph (5) –
- “appointed day” means the day appointed for the coming into force of section 13;
 - “licensed conveyancer” has the meaning given by section 11(2) of the Administration of Justice Act 1985 (c. 61). 15
- 3 In appointing persons to be ordinary members, the Secretary of State must have regard to the desirability of securing that the Board includes members who (between them) have experience in or knowledge of –
- (a) the provision of legal services; 20
 - (b) legal education and legal training;
 - (c) consumer affairs;
 - (d) civil or criminal proceedings and the working of the courts;
 - (e) competition matters;
 - (f) the maintenance of the professional standards of persons who provide legal services; 25
 - (g) the maintenance of standards in professions other than the legal profession;
 - (h) the handling of complaints;
 - (i) commercial affairs; 30
 - (j) non-commercial legal services;
 - (k) the differing needs of consumers;
 - (l) the provision of claims management services (within the meaning of Part 2 of the Compensation Act 2006 (c. 29)).
- Terms of appointment and tenure of members* 35
- 4 An ordinary member is to hold and vacate office in accordance with the terms and conditions of that member’s appointment (subject to this Schedule).
- 5 (1) An ordinary member must be appointed for a fixed period.
- (2) The period for which an ordinary member is appointed must not exceed 5 years. 40
- (3) A person who has held office as an ordinary member may be re-appointed, once only, for a further period (whether consecutive or not) not exceeding 5 years.

- 6 If an ordinary member who is a lay person becomes a person within paragraphs (a) to (f) of paragraph 2(4) that person ceases to be a member of the Board.
- 7 (1) An ordinary member may at any time –
- (a) resign from office by giving notice to the Secretary of State; 5
 - (b) be removed from office by the Secretary of State.
- (2) The Secretary of State may not under sub-paragraph (1)(b) remove an ordinary member from office unless sub-paragraph (3) or (4) applies.
- (3) This sub-paragraph applies if the Secretary of State is satisfied that the member – 10
- (a) has failed without reasonable excuse to discharge the functions of the office for a continuous period of at least 6 months,
 - (b) has been convicted of an offence,
 - (c) is an undischarged bankrupt, or
 - (d) is otherwise unfit to hold the office or unable to discharge its functions. 15
- (4) This sub-paragraph applies if the member is the chairman and has breached the condition imposed on his appointment by paragraph 2(3).
- (5) Before removing any ordinary member (other than the chairman) under sub-paragraph (1)(b), the Secretary of State must consult the chairman. 20
- (6) The Secretary of State may not remove an ordinary member on the ground mentioned in paragraph (a) of sub-paragraph (3) more than 3 months after the end of the period mentioned in that paragraph.
- 8 The chairman ceases to be chairman upon ceasing to be a member of the Board. 25
- 9 Where a person ceases to be employed as Chief Executive, that person ceases to be a member of the Board.

Remuneration etc of members

- 10 The chairman and other ordinary members are to be paid by the Board in accordance with provision made by or under their terms of appointment. 30

Staff

- 11 The Board must appoint a person as its Chief Executive.
- 12 The Board may appoint such other staff as it considers appropriate to assist in the performance of its functions.
- 13 The Chief Executive and other staff are to be – 35
- (a) appointed on terms and conditions determined by the Board, and
 - (b) paid by the Board in accordance with provision made by or under the terms of appointment.
- 14 The terms and conditions on which the Chief Executive or any other member of staff is appointed may provide for the Board to pay, or make payments towards the provision of, a pension, allowance or gratuity to or in respect of that person. 40

- 15 A member of staff appointed under paragraph 12 may be a member (but not chairman) of the Board.

Arrangements for assistance

- 16 (1) The Board may make arrangements with such persons as it considers appropriate for assistance to be provided to it. 5
(2) Arrangements may include the paying of fees to such persons.

Committees

- 17 (1) The Board may establish committees.
(2) Any committee so established may establish sub-committees.
(3) Only members of the Board may be members of a committee or sub-committee. 10
(4) A majority of the members of a committee or sub-committee must be lay persons.

Proceedings

- 18 (1) The Board may regulate its own procedure, and the procedure of its committees and sub-committees, including quorum. 15
(2) But the quorum of a committee or sub-committee must not be less than 3.
(3) The Board must publish any rules of procedure made under this paragraph.
(4) This paragraph is without prejudice to any other power the Board has under this Act to make rules. 20
- 19 The validity of any act of the Board is not affected –
(a) by a vacancy in the office of chairman or amongst the other members, or
(b) by a defect in the appointment or any disqualification of a person as chairman or another member of the Board. 25

Delegation of functions

- 20 (1) The Board may authorise –
(a) the chairman, the Chief Executive or any other member of the Board,
(b) a committee or sub-committee of the Board, or
(c) a member of staff appointed under paragraph 12, 30
to exercise, on behalf of the Board, such of its functions, in such circumstances, as it may determine.
- (2) A committee may delegate functions (including functions delegated to the committee) to –
(a) a sub-committee, 35
(b) the chairman, the Chief Executive or any other member of the Board, or
(c) a member of staff appointed under paragraph 12.
- (3) Sub-paragraphs (1) and (2) are subject to –

- (a) any provision made by an order under section 61 by virtue of section 63(2)(k) (powers to authorise the Board to delegate to any person functions conferred on it in its capacity as an approved regulator), and
 - (b) section 72(3)(a) (power to delegate to any person functions conferred on the Board in its capacity as a licensing authority). 5
- (4) Sub-paragraph (1) does not apply to any power or duty the Board has to make rules (other than excluded rules) under this Act.
- (5) In sub-paragraph (4) “excluded rules” means –
- (a) rules of procedure made under paragraph 18 in relation to any committee or sub-committee of the Board, and 10
 - (b) rules made by the Board in its capacity as an approved regulator or a licensing authority.

Borrowing

- 21 The Board is not to borrow money, except – 15
- (a) with the consent of the Secretary of State, or
 - (b) in accordance with a general authorisation given by the Secretary of State.

Accounts

- 22 (1) The Board must – 20
- (a) keep proper accounts and proper records in relation to the accounts, and
 - (b) prepare in respect of each financial year a statement of accounts.
- (2) Each statement of accounts must comply with any directions given by the Secretary of State, with the approval of the Treasury, as to – 25
- (a) the information to be contained in it and the manner in which it is to be presented;
 - (b) the methods and principles according to which the statement is to be prepared;
 - (c) the additional information (if any) which is to be provided for the information of Parliament. 30
- (3) The Board must give a copy of each statement of accounts –
- (a) to the Secretary of State, and
 - (b) to the Comptroller and Auditor General,
- before the end of the month of August next following the financial year to which the statement relates. 35
- (4) The Comptroller and Auditor General must –
- (a) examine, certify and report on each statement of accounts which is received under sub-paragraph (3), and
 - (b) lay a copy of each statement and of the Comptroller and Auditor General’s report before Parliament. 40
- (5) “Financial year” means –
- (a) the period beginning with the day on which the Board is established and ending with the next following 31 March, and

- (b) each successive period of 12 months.

Status

- 23 (1) The Board is not to be regarded –
- (a) as the servant or agent of the Crown, or
 - (b) as enjoying any status, immunity or privilege of the Crown. 5
- (2) Accordingly –
- (a) the Board’s property is not to be regarded as property of or held on behalf of the Crown, and
 - (b) the Board’s staff are not to be regarded as servants or agents of the Crown or as enjoying any status, immunity or privilege of the Crown. 10

Application of seal and proof of instruments

- 24 The application of the seal of the Board is to be authenticated by the signature of any member of the Board, or of its staff, who has been authorised (whether generally or specifically) by the Board for the purpose. 15
- 25 Any contract or instrument which, if entered into or executed by an individual, would not need to be under seal may be entered into or executed on behalf of the Board by any person who has been authorised (whether generally or specifically) by the Board for the purpose.
- 26 A document purporting to be duly executed under the seal of the Board or signed on its behalf – 20
- (a) is to be received in evidence, and
 - (b) is to be taken to be executed or signed in that way, unless the contrary is proved.

Disqualification 25

- 27 (1) In Part 2 of Schedule 1 to the House of Commons Disqualification Act 1975 (c. 24) (bodies of which all members are disqualified) at the appropriate place insert –
“The Legal Services Board.”
- (2) In Part 2 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (c. 25) (bodies of which all members are disqualified) at the appropriate place insert –
“The Legal Services Board.” 30

Freedom of information

- 28 In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (c. 36) (other public bodies and offices which are public authorities) at the appropriate place insert –
“The Legal Services Board.” 35

Public records

- 29 In Schedule 1 to the Public Records Act 1958 (c. 51) (definition of public records) at the appropriate place in Part 2 of the Table at the end of 40

paragraph 3 insert –
“The Legal Services Board.”

Exemption from liability in damages

- 30 (1) This paragraph applies to –
- (a) the Board, 5
 - (b) a member of the Board,
 - (c) a member of the Board’s staff appointed under paragraph 12,
 - (d) a person to whom the Board (in its capacity as an approved regulator) delegates any of its functions by virtue of provision made under section 63(2)(k), and 10
 - (e) a person to whom the Board (in its capacity as a licensing authority) delegates any of its functions by virtue of section 72(3)(a).
- (2) A person to whom this paragraph applies is not liable in damages for anything done or omitted in the exercise or purported exercise of the functions of the Board conferred by or by virtue of this or any other enactment. 15
- (3) But sub-paragraph (1) does not apply –
- (a) if it is shown that the act or omission was in bad faith, or
 - (b) so as to prevent an award of damages made in respect of an act or omission on the ground that the act or omission was unlawful as a result of section 6(1) of the Human Rights Act 1998 (c. 42). 20

SCHEDULE 2

Section 12

THE RESERVED LEGAL ACTIVITIES

Introduction

- 1 This Schedule makes provision about the reserved legal activities. 25
- 2 In this Schedule “the appointed day” means the day appointed for the coming into force of section 13 (entitlement to carry on reserved legal activities).

Rights of audience

- 3 (1) A “right of audience” means the right to appear before and address a court, including the right to call and examine witnesses. 30
- (2) But a “right of audience” does not include a right to appear before or address a court, or to call or examine witnesses, in relation to any particular court or in relation to particular proceedings, if immediately before the appointed day no restriction was placed on the persons entitled to exercise that right. 35

Conduct of litigation

- 4 (1) The “conduct of litigation” means –
- (a) the issuing of proceedings before any court in England and Wales,

- (b) the commencement, prosecution and defence of such proceedings, and
 - (c) the performance of any ancillary functions in relation to such proceedings (such as entering appearances to actions).
- (2) But the “conduct of litigation” does not include any activity within paragraph (a) or (c) of sub-paragraph (1), in relation to any particular court or in relation to any particular proceedings, if immediately before the appointed day no restriction was placed on the persons entitled to carry on that activity.

Reserved instrument activities 10

- 5 (1) “Reserved instrument activities” means –
- (a) preparing any instrument of transfer or charge for the purposes of the Land Registration Act 2002 (c. 9);
 - (b) making an application or lodging a document for registration under that Act; 15
 - (c) preparing any other instrument relating to real or personal estate for the purposes of the law of England and Wales or instrument relating to court proceedings in England and Wales.
- (2) But “reserved instrument activities” does not include the preparation of an instrument relating to any particular court proceedings if, immediately before the appointed day, no restriction was placed on the persons entitled to carry on that activity. 20
- (3) In this paragraph “instrument” includes a contract for the sale or other disposition of land (except a contract to grant a short lease), but does not include – 25
- (a) a will or other testamentary instrument,
 - (b) an agreement not intended to be executed as a deed, other than a contract that is included by virtue of the preceding provisions of this sub-paragraph,
 - (c) a letter or power of attorney, or 30
 - (d) a transfer of stock containing no trust or limitation of the transfer.
- (4) In this paragraph a “short lease” means a lease such as is referred to in section 54(2) of the Law of Property Act 1925 (c. 20) (short leases).

Probate activities

- 6 (1) “Probate activities” means preparing any probate papers for the purposes of the law of England and Wales or in relation to any proceedings in England and Wales. 35
- (2) In this paragraph “probate papers” means papers on which to found or oppose –
- (a) a grant of probate, or 40
 - (b) a grant of letters of administration.

Notarial activities

- 7 (1) “Notarial activities” means activities which, immediately before the appointed day, were customarily carried on by virtue of enrolment as a notary in accordance with section 1 of the Public Notaries Act 1801 (c. 79).
- (2) Sub-paragraph (1) does not include activities carried on – 5
- (a) by virtue of section 22 or 23 of the Solicitors Act 1974 (c. 47) (reserved instrument activities and probate activities), or
- (b) by virtue of section 113 of the Courts and Legal Services Act 1990 (c. 41)(administration of oaths).

Administration of oaths 10

- 8 The “administration of oaths” means the exercise of the powers conferred on a commissioner for oaths by –
- (a) the Commissioners for Oaths Act 1889 (c. 10);
- (b) the Commissioners for Oaths Act 1891 (c. 50);
- (c) section 24 of the Stamp Duties Management Act 1891 (c. 38). 15

SCHEDULE 3

Section 18

EXEMPT PERSONS

Rights of audience

- 1 (1) This paragraph applies to determine whether a person is an exempt person for the purpose of exercising a right of audience before a court in relation to any proceedings (subject to paragraph 7). 20
- (2) The person is exempt if the person –
- (a) is not an authorised person in relation to that activity, but
- (b) has a right of audience granted by that court in relation to those proceedings. 25
- (3) The person is exempt if the person –
- (a) is not an authorised person in relation to that activity, but
- (b) has a right of audience before that court in relation to those proceedings granted by or under any enactment.
- (4) The person is exempt if the person is the Attorney General or the Solicitor General and – 30
- (a) the name of the person is on the roll kept by the Law Society under section 6 of the Solicitors Act 1974, or
- (b) the person has been called to the Bar by an Inn of Court.
- (5) The person is exempt if the person is the Advocate General for Scotland and is admitted – 35
- (a) as a solicitor in Scotland under section 6 of the Solicitors (Scotland) Act 1980 (c. 46), or
- (b) to practise as an advocate before the courts of Scotland.
- (6) The person is exempt if the person – 40

-
- (a) is a party to those proceedings, and
- (b) would have a right of audience, in the person’s capacity as such a party, if this Act had not been passed.
- (7) The person is exempt if –
- (a) the person is an individual employed (whether wholly or in part), or otherwise engaged, to assist in the conduct of litigation, 5
- (b) the person is assisting in the conduct of litigation –
- (i) under instructions given (either generally or in relation to the proceedings) by an individual to whom sub-paragraph (8) applies, and 10
- (ii) under the supervision of that individual, and
- (c) the proceedings are being heard in chambers in the High Court or a county court and are not reserved family proceedings.
- (8) This sub-paragraph applies to –
- (a) any authorised person in relation to an activity which constitutes the conduct of litigation; 15
- (b) any person who by virtue of section 184 is not required to be entitled to carry on such an activity.
- (9) The person is an exempt person to the extent that the exercise of the right of audience also constitutes the provision of immigration advice or immigration services by the person and – 20
- (a) the person is a qualified person for the purposes of section 84 of the Immigration and Asylum Act 1999 (c. 33) (provision of immigration advice or immigration services), or
- (b) subsection (1) of that section (requirement to be a qualified person to provide immigration advice or immigration services) does not apply to the person by virtue of subsection (4) or (6) of that section. 25
- (10) The person is an exempt person in relation to the exercise of a right of audience in proceedings on an appeal from the Comptroller-General of Patents, Designs and Trade Marks to the Patents Court under the Patents Act 1977 (c. 37), if the person is a solicitor of the Court of Judicature of Northern Ireland. 30
- (11) For the purposes of this paragraph –
- “family proceedings” has the same meaning as in the Matrimonial and Family Proceedings Act 1984 (c. 42) and also includes any other proceedings which are family proceedings for the purposes of the Children Act 1989 (c. 41); 35
- “reserved family proceedings” means such category of family proceedings as the Secretary of State may, after consulting the President of the Law Society and with the concurrence of the President of the Family Division, by order prescribe; 40
- and any order made under section 27(9) of the Courts and Legal Services Act 1990 (c. 41) before the day appointed for the coming into force of this paragraph is to have effect on and after that day as if it were an order made under this sub-paragraph. 45

Conduct of litigation

- 2 (1) This paragraph applies to determine whether a person is an exempt person for the purpose of carrying on any activity which constitutes the conduct of litigation in relation to any proceedings (subject to paragraph 7).
- (2) The person is exempt if the person – 5
- (a) is not an authorised person in relation to that activity, but
- (b) has a right to conduct litigation granted by a court in relation to those proceedings.
- (3) The person is exempt if the person – 10
- (a) is not an authorised person in relation to that activity, but
- (b) has a right to conduct litigation in relation to those proceedings granted by or under any enactment.
- (4) The person is exempt if the person – 15
- (a) is a party to those proceedings, and
- (b) would have a right to conduct the litigation, in the person’s capacity as such a party, if this Act had not been passed.
- (5) The person is an exempt person to the extent that the carrying on of the activity also constitutes the provision of immigration advice or immigration services by the person and – 20
- (a) the person is a qualified person for the purposes of section 84 of the Immigration and Asylum Act 1999 (c. 33) (provision of immigration advice or immigration services), or
- (b) subsection (1) of that section (requirement to be a qualified person to provide immigration advice or immigration services) does not apply to the person by virtue of subsection (4) or (6) of that section. 25
- (6) The person is an exempt person in relation to any activity which is carried on in or in connection with proceedings on an appeal from the Comptroller-General of Patents, Designs and Trade Marks to the Patents Court under the Patents Act 1977 (c. 37), if the person is a solicitor of the Court of Judicature of Northern Ireland. 30

Reserved instrument activities

- 3 (1) This paragraph applies to determine whether a person is an exempt person for the purpose of carrying on any activity which constitutes reserved instrument activities (subject to paragraph 7).
- (2) The person is exempt if the person prepares the instruments or applications in the course of the person’s duty as a public officer. 35
- (3) The person (“E”) is exempt if – 40
- (a) E is an individual,
- (b) E carries on the activity at the direction and under the supervision of another individual (“P”),
- (c) when E does so, P and E are connected, and
- (d) P is entitled to carry on the activity, otherwise than by virtue of sub-paragraph (11).
- (4) For the purposes of sub-paragraph (3), P and E are connected if – 45
- (a) P is E’s employer,

-
- (b) P is a partner in E’s employer,
- (c) P is a fellow employee of E,
- (d) P is a manager or employee of a body corporate recognised under section 9 of the Administration of Justice Act 1985 (c. 61) and E is also such a manager or employee, 5
- (e) the following conditions are satisfied –
- (i) P is a manager or employee of a body corporate recognised under section 32 of the Administration of Justice Act 1985,
- (ii) E is also such a manager or employee, and
- (iii) the activity was carried on in the course of the provision of conveyancing services which the body corporate was not precluded from undertaking to provide as a recognised body by any restrictions imposed by virtue of rules within subsection (3)(d) of that section, or 10
- (f) the following conditions are satisfied – 15
- (i) P is a manager or employee of a licensed body,
- (ii) E is also such a manager or employee, and
- (iii) the licensed body is authorised by its licence under Part 5 to carry on the activity.
- (5) If the person is an accredited person, the person is exempt to the extent that the activity consists of the preparation of any instrument – 20
- (a) which creates, or which the person believes on reasonable grounds will create, a farm business tenancy (within the meaning of the Agricultural Tenancies Act 1995 (c. 8)), or
- (b) which relates to an existing tenancy which is, or which the person believes on reasonable grounds to be, such a tenancy. 25
- (6) In sub-paragraph (5) “accredited person” means a person who is –
- (a) a Fellow of the Central Association of Agricultural Valuers, or
- (b) a Member or Fellow of the Royal Institution of Chartered Surveyors.
- (7) The person is exempt to the extent that the activity carried on by the person is also a reserved legal activity within sub-paragraph (8) and the person is – 30
- (a) authorised to carry on that activity (other than under Part 5) by a relevant approved regulator in relation to the activity,
- (b) authorised to carry on that activity by a licence under Part 5, or
- (c) an exempt person in relation to that activity by virtue of paragraph 1 or 2 of this Schedule. 35
- (8) The activities are –
- (a) the exercise of a right of audience;
- (b) the conduct of litigation.
- (9) The person is exempt to the extent that the carrying on of the activity also constitutes the provision of immigration advice or immigration services by the person and – 40
- (a) the person is a qualified person for the purposes of section 84 of the Immigration and Asylum Act 1999 (c. 33) (provision of immigration advice or immigration services), or 45
- (b) subsection (1) of that section (requirement to be a qualified person to provide immigration advice or immigration services) does not apply to the person by virtue of subsection (4) or (6) of that section.

- (10) The person is exempt if the person is employed merely to engross the instrument or application.
- (11) The person is exempt if the person is an individual who carries on the activity otherwise than for, or in expectation of, any fee, gain or reward.
- (12) The person is exempt if – 5
- (a) the person is a person qualified to practise as a solicitor in Scotland in accordance with section 4 of the Solicitors (Scotland) Act 1980 (c. 46), and
 - (b) the reserved instrument activities fall within paragraph 5(1)(c) of Schedule 2 (preparation of certain instruments relating to real or personal property or legal proceedings). 10

Probate activities

- 4 (1) This paragraph applies to determine whether a person is an exempt person for the purpose of carrying on any activity which constitutes probate activities (subject to paragraph 7). 15
- (2) The person (“E”) is an exempt person if –
- (a) E is an individual,
 - (b) E provides the probate activities at the direction and under the supervision of another individual (“P”),
 - (c) when E does so, P and E are connected, and 20
 - (d) P is entitled to carry on the activity, otherwise than by virtue of sub-paragraph (4).
- (3) For the purposes of sub-paragraph (2), P and E are connected if –
- (a) P is E’s employer,
 - (b) P is a partner in E’s employer, 25
 - (c) P is a fellow employee of E,
 - (d) P is a manager or employee of a body corporate recognised under section 9 of the Administration of Justice Act 1985 (c. 61) and E is also such a manager or employee, or
 - (e) the following conditions are satisfied – 30
 - (i) P is a manager or employee of a licensed body,
 - (ii) E is also such a manager or employee, and
 - (iii) the licensed body is authorised by its licence under Part 5 to carry on the activity.
- (4) The person is exempt if the person is an individual who carries on the activity otherwise than for, or in expectation of, any fee, gain or reward. 35

Notarial activities

- 5 (1) This paragraph applies to determine whether a person is an exempt person for the purpose of carrying on any activity which constitutes notarial activities (subject to paragraph 7). 40
- (2) The person is exempt if the person is not an authorised person in relation to that activity under this Act, but is authorised to carry on that activity by or by virtue of any other enactment.

- (3) The person is exempt if the person is an individual who carries on the notarial activities otherwise than for or in expectation of a fee, gain or reward.

Administration of oaths

- 6 (1) This paragraph applies to determine whether a person is an exempt person for the purpose of carrying on any activity which constitutes the administration of oaths (subject to paragraph 7). 5
- (2) The person is exempt if the person is not an authorised person in relation to that activity under this Act, but is authorised to carry on that activity by or by virtue of any other enactment. 10
- (3) The person is exempt if the person has a commission under section 1(1) of the Commissioners for Oaths Act 1889 (c. 10).

European lawyers

- 7 A European lawyer (within the meaning of the European Communities (Services of Lawyers) Order 1978 (S.I. 1978/1910)) is an exempt person for the purposes of carrying on an activity which is a reserved legal activity and which the European lawyer is entitled to carry on by virtue of that order. 15

Further exempt persons

- 8 (1) The Secretary of State may, by order, amend this Schedule so as to provide— 20
- (a) for persons to be exempt persons in relation to any activity which is a reserved legal activity (including any activity which is a reserved legal activity by virtue of an order under section 23 (extension of reserved legal activities)),
- (b) for persons to cease to be such persons, or
- (c) for the amendment of any provision made in respect of an exempt person. 25
- (2) The Secretary of State may make an order under sub-paragraph (1) only on the recommendation of the Board.

SCHEDULE 4

Section 19

APPROVED REGULATORS 30

PART 1

EXISTING REGULATORS

- 1 (1) Each body listed in the first column of the Table in this paragraph is an approved regulator.
- (2) Each body so listed is an approved regulator in relation to the reserved legal activities listed in relation to it in the second column of the Table. 35

Table

<i>Approved regulator</i>	<i>Reserved legal activities</i>	
The Law Society	The exercise of a right of audience. The conduct of litigation. Reserved instrument activities. Probate activities. The administration of oaths.	5
The General Council of the Bar	The exercise of a right of audience. The conduct of litigation. Reserved instrument activities. Probate activities. The administration of oaths.	10
The Master of the Faculties	Reserved instrument activities. Probate activities. Notarial activities. The administration of oaths.	15
The Institute of Legal Executives	The exercise of a right of audience. The administration of oaths.	
The Council for Licensed Conveyancers	Reserved instrument activities. The administration of oaths.	20
The Chartered Institute of Patent Attorneys	The exercise of a right of audience. The conduct of litigation. Reserved instrument activities. The administration of oaths.	
The Institute of Trade Mark Attorneys	The exercise of a right of audience. The conduct of litigation. Reserved instrument activities. The administration of oaths.	25

- 2 (1) The regulatory arrangements of a listed body, as they have effect immediately before paragraph 1 comes into force, are to be treated as having been approved by the Board for the purposes of this Act at the time that paragraph comes into force. 30
- (2) “Listed body” means a body listed in the first column of the Table in paragraph 1 as that Table has effect at the time that paragraph comes into force. 35
- (3) Sub-paragraph (1) is without prejudice to the Board’s power to give directions under section 31 (powers to direct an approved regulator to take steps in certain circumstances, including steps to amend its regulatory arrangements).

PART 2

DESIGNATION OF BODIES BY ORDER

Application to the Board

- 3 (1) This paragraph applies where a body wishes to authorise persons to carry on one or more activities which constitute one or more reserved legal activities. 5
- (2) The body may apply to the Board for the Board –
- (a) to recommend that an order be made by the Secretary of State designating the body as an approved regulator in relation to the reserved legal activity or activities in question, and 10
 - (b) to approve what the body proposes as its regulatory arrangements if such an order is made (“the proposed regulatory arrangements”).
- (3) An application under this paragraph must be made in such form and manner as the Board may specify in rules and must be accompanied by –
- (a) a statement of the reserved legal activity or activities to which it relates, 15
 - (b) details of the applicant’s proposed regulatory arrangements,
 - (c) such explanatory material (including material about the applicant’s constitution and activities) as the applicant considers is likely to be needed for the purposes of this Part of this Schedule, and 20
 - (d) the prescribed fee.
- (4) The prescribed fee is the fee specified in, or determined in accordance with, rules made by the Board with the consent of the Secretary of State.
- (5) The proposed regulatory arrangements must, in particular, include –
- (a) details of the authority which the applicant proposes to give persons to carry on activities which are reserved legal activities and of the nature of the persons to whom the authority is to be given, 25
 - (b) regulations (however they may be described) as to the education and training which persons must receive, and any other requirements which must be met by or in respect of them, in order for them to be authorised, and 30
 - (c) rules (however they may be described) as to the conduct required of persons in carrying on any activity by virtue of the authority.
- (6) An applicant may, at any time, withdraw the application by giving notice to that effect to the Board. 35

Dismissal of application

- 4 (1) The Board may refuse to consider, or to continue its consideration of, an application.
- (2) The Board must make rules about the procedures and criteria that it will apply when determining whether to refuse to consider, or to continue its consideration of, an application under sub-paragraph (1). 40
- (3) Where the Board decides to refuse to consider, or to continue its consideration of, an application it must give the applicant notice of that decision and of its reasons for it.

- (4) The Board must publish a notice given under sub-paragraph (3).

Board's duty to seek advice

- 5 (1) The Board must give each of the persons listed in sub-paragraph (2) –
- (a) a copy of the application and accompanying material, and
 - (b) a notice specifying a period within which any advice given under paragraphs 6 to 8 must be given. 5
- (2) Those persons are –
- (a) the OFT,
 - (b) the Consumer Panel,
 - (c) the Lord Chief Justice, and 10
 - (d) such other persons as the Board considers it reasonable to consult regarding the application.
- (3) In this Part of this Schedule, in relation to an application, “selected consultee” means a person within sub-paragraph (2)(d). 5

Advice of Office of Fair Trading 15

- 6 (1) The OFT must give the Board such advice as the OFT thinks fit regarding whether the application should be granted.
- (2) In deciding what advice to give, the OFT must, in particular, have regard to whether making an order under paragraph 17 in accordance with the recommendation applied for would (or would be likely to) prevent, restrict or distort competition within the market for reserved legal services to any significant extent. 20

Advice of the Consumer Panel

- 7 (1) The Consumer Panel must give the Board such advice as the Consumer Panel thinks fit regarding whether the application should be granted. 25
- (2) In deciding what advice to give, the Consumer Panel must, in particular, have regard to the likely impact on consumers of the making of an order under paragraph 17 in accordance with the recommendation applied for.

Advice of selected consultees

- 8 A selected consultee may give the Board such advice as the selected consultee thinks fit in respect of the application. 30

Advice of the Lord Chief Justice

- 9 (1) The Board must give the Lord Chief Justice –
- (a) a copy of any advice duly given under paragraphs 6 to 8, and
 - (b) a notice specifying a period within which any advice under this paragraph must be given. 35
- (2) The Lord Chief Justice must then give such advice to the Board as the Lord Chief Justice thinks fit regarding whether the application should be granted.
- (3) In deciding what advice to give, the Lord Chief Justice must, in particular, have regard to the likely impact on the courts in England and Wales of the 40

making of an order under paragraph 17 in accordance with the recommendation applied for.

Information obtained by consultees

- 10 A person (“the consultee”) to whom a copy of the application is given under paragraph 5(1) may, for the purposes of giving advice under paragraphs 6 to 9, request the applicant or any other person to provide the consultee with such additional information as may be specified by the consultee. 5

Representations by applicant

- 11 (1) The Board must give the applicant a copy of any advice duly given under paragraphs 6 to 9. 10
- (2) The applicant may make to the Board –
(a) written representations, and
(b) if the Board authorises it to do so, oral representations, about the advice.
- (3) The Board must make rules governing the making of oral and written representations. 15
- (4) Representations under this paragraph must be made within –
(a) the period of 28 days beginning with the day on which the copy of the advice is given to the applicant, or
(b) such longer period as the Board may specify in a particular case. 20
- (5) Where oral representations are made, the Board must prepare a report of those representations.
- (6) Before preparing that report, the Board must –
(a) give the applicant a reasonable opportunity to comment on a draft of the report, and
(b) have regard to any comments duly made. 25

Publication of advice and representations etc

- 12 (1) The Board must, as soon as practicable after the end of the period within which representations under paragraph 11 may be made, publish –
(a) any advice duly given under paragraphs 6 to 9, and
(b) any written representations duly made under paragraph 11 and the report (if any) prepared under that paragraph. 30
- (2) Nothing in sub-paragraph (1) operates –
(a) to prevent a person who gives advice under paragraphs 6 to 9 from publishing that advice, or
(b) to prevent a person who makes representations under paragraph 11 from publishing those representations. 35
- (3) A person (“the publisher”) publishing any such material (whether under sub-paragraph (1) or otherwise) must, so far as practicable, exclude any matter which relates to the private affairs of a particular individual the publication of which, in the opinion of the publisher, would or might seriously and prejudicially affect the interests of that individual. 40

Rules governing decisions by the Board

- 13 (1) The Board must make rules specifying how it will determine applications.
- (2) Rules under sub-paragraph (1) must, in particular, provide that the Board may grant an application in relation to a particular reserved legal activity only if it is satisfied – 5
- (a) that, if an order were to be made under paragraph 17 designating the body in relation to that activity, the applicant would have appropriate internal governance arrangements in place at the time the order takes effect,
- (b) that, if such an order were to be made, the applicant would be competent, and have sufficient resources, to perform the role of approved regulator in relation to the reserved legal activity at that time, 10
- (c) that the applicant’s proposed regulatory arrangements make appropriate provision, 15
- (d) that the applicant’s proposed regulatory arrangements comply with the requirement imposed by sections 51 and 53 (resolution of regulatory conflict), and
- (e) that those arrangements comply with the requirements imposed by sections 109 and 142 (requirements imposed in relation to the handling of complaints). 20
- (3) The rules made for the purposes of sub-paragraph (2)(a) must in particular require the Board to be satisfied –
- (a) that the exercise of the applicant’s regulatory functions would not be prejudiced by any of its representative functions, and 25
- (b) that decisions relating to the exercise of its regulatory functions would so far as reasonably practicable be taken independently from decisions relating to the exercise of its representative functions.

Determination of applications

- 14 (1) After considering – 30
- (a) the application and accompanying material,
- (b) any other information provided by the applicant,
- (c) any advice duly given under paragraphs 6 to 9,
- (d) any representations duly made under paragraph 11, and
- (e) any other information which the Board considers relevant to the application, 35
- the Board must decide whether to grant the application.
- (2) Where the application relates to more than one reserved legal activity, the Board may grant the application in relation to all or any of them.
- (3) The Board must give notice of its decision to the applicant (“the decision notice”). 40
- (4) Where the Board decides to refuse the application (in whole or in part), the decision notice must specify the reasons for that decision.
- (5) The Board must publish the decision notice.

- 15 (1) Where an application is made under this Part, the Board must give the decision notice under paragraph 14 within the decision period.
- (2) The “decision period” is the period of 12 months beginning with the day on which the application is made to the Board.
- (3) The Board may, before the end of the decision period, issue a notice extending that period by a period specified in the notice. 5
- (4) More than one notice may be issued under sub-paragraph (3), but the decision period must not exceed 16 months.
- (5) The Board may issue a notice under sub-paragraph (3) only after it has consulted – 10
- (a) the OFT,
 - (b) the Consumer Panel, and
 - (c) the Lord Chief Justice.
- (6) A notice under sub-paragraph (3) must state the Board’s reasons for extending the decision period. 15
- (7) The Board must publish any notice issued under sub-paragraph (3).

Effect of grant of application

- 16 (1) This paragraph applies where an application is granted in relation to a reserved legal activity or activities.
- (2) The Board must recommend to the Secretary of State that an order be made designating the applicant as an approved regulator in relation to the reserved legal activity or activities in question. 20
- (3) The Board must publish any recommendation made under sub-paragraph (2).
- (4) The Board must make available to the Secretary of State – 25
- (a) any advice duly given under paragraphs 6 to 9,
 - (b) any written representations duly made under paragraph 11 and the report (if any) prepared under that paragraph, and
 - (c) any other material considered by the Board for the purpose of determining the application. 30

Secretary of State’s decision to make an order

- 17 (1) Where a recommendation is made to the Secretary of State under paragraph 16, the Secretary of State may –
- (a) make an order in accordance with the recommendation, or
 - (b) refuse to make such an order. 35
- (2) Where the recommendation relates to more than one reserved legal activity, the Secretary of State may make an order under sub-paragraph (1)(a) in relation to all or any of them.
- (3) The Secretary of State must –
- (a) decide whether to make an order under this paragraph, and
 - (b) give notice of that decision (“the decision notice”) to the applicant, 40

within the period of 90 days beginning with the day on which the recommendation was made.

(4) If the Secretary of State decides not to make an order in accordance with the whole or part of the recommendation, the decision notice must state the reasons for the decision. 5

(5) The Secretary of State must publish the decision notice.

Approval of regulatory arrangements

18 (1) Where an order is made by the Secretary of State under paragraph 17, the applicant’s proposed regulatory arrangements are at the same time treated as having been approved by the Board. 10

(2) But where the order relates to one or more (but not all) of the reserved legal activities to which the application related, sub-paragraph (1) has effect as if the reference to the applicant’s proposed regulatory arrangements were a reference to those arrangements excluding any provision made in respect of any activities excluded from the order. 15

(3) Sub-paragraph (1) is without prejudice to the Board’s power to give directions under section 31 (powers to direct an approved regulator to take steps in certain circumstances, including steps to amend its regulatory arrangements).

PART 3 20

ALTERATION OF APPROVED REGULATOR’S REGULATORY ARRANGEMENTS

Requirement for approval

19 (1) If an alteration is made of the regulatory arrangements of an approved regulator, the alteration does not have effect unless it is approved for the purposes of this Act. 25

(2) An alteration is approved for the purposes of this Act if—
 (a) it is approved by virtue of paragraph 18 (approval of proposed regulatory arrangements on designation by order as approved regulator),

(b) it is approved by the Board under this Part of this Schedule, 30

(c) it is an exempt alteration,

(d) it is an alteration made in compliance with a direction under section 31,

(e) it is approved by virtue of paragraph 16 of Schedule 10 (approval of licensing rules on designation by order as licensing authority), or 35

(f) it is approved by virtue of paragraph 6 of Schedule 18 (approval of proposed regulatory arrangements when granting “qualifying regulator” status for the purposes of Part 5 of the Immigration and Asylum Act 1999 (c. 33)).

(3) An exempt alteration is an alteration which the Board has directed is to be treated as exempt for the purposes of this paragraph. 40

(4) A direction under sub-paragraph (3) may be specific or general and must be published by the Board.

- (5) In this Part of this Schedule, references to an “alteration” of regulatory arrangements include an addition to, or the revocation of any part of, the arrangements.
- (6) If a question arises whether approval is required by virtue of this Part of this Schedule, it is for the Board to decide. 5
- (7) Nothing in this Part of this Schedule applies in relation to any alteration of the regulatory arrangements of the Board in its capacity as an approved regulator (or of its licensing rules).

Application to Board

- 20 (1) An application by an approved regulator for the Board to approve an alteration or alterations of its regulatory arrangements must be made in such form and manner as the Board may specify in rules. 10
- (2) The application must be accompanied by –
 - (a) details of such of the approved regulator’s regulatory arrangements as are relevant to the application, 15
 - (b) details of the alteration or alterations, and
 - (c) such explanatory material as the approved regulator considers is likely to be needed for the purposes of this Part of this Schedule.

Initial determination

- 21 (1) Where the Board has received an application under paragraph 20 it may – 20
 - (a) grant the application and give the approved regulator a notice to that effect, or
 - (b) give the approved regulator a notice stating that the Board is considering whether to refuse the application (a “warning notice”).
- (2) The Board must publish any notice given by it under sub-paragraph (1)(a) or (b). 25
- (3) If the Board does not give the approved regulator a notice under sub-paragraph (1)(a) or (b) within the initial decision period, the application is deemed to have been granted by the Board.
- (4) The “initial decision period” means the period of 28 days beginning with the day on which the application was received by the Board. 30
- (5) The Board may extend the initial decision period –
 - (a) with the consent of the approved regulator, or
 - (b) by giving an extension notice to the approved regulator, 35before the end of that period (or if it has previously been extended under this sub-paragraph, that period as so extended).
- (6) An extension notice –
 - (a) must specify the period of the extension, and
 - (b) must state the Board’s reasons for extending the initial decision 40period.
- (7) The period specified in the notice under sub-paragraph (6)(a) must end no later than the end of the period of 90 days beginning with the date on which the application was made under paragraph 20.

Advice

- 22 (1) Where the Board has given the approved regulator a warning notice, the Board may invite such persons as it considers appropriate to give the Board advice regarding whether the application should be granted.
- (2) A person (“the consultee”) to whom an invitation is given under sub-paragraph (1) may, for the purposes of giving advice to the Board under this paragraph, request the approved regulator or any other person to provide the consultee with such additional information as may be specified by the consultee. 5

Representations by applicant 10

- 23 (1) The Board must give the approved regulator a copy of any advice obtained under paragraph 22.
- (2) The approved regulator may make to the Board –
- (a) written representations, and
 - (b) if the Board authorises it to do so, oral representations, 15
- about the advice.
- (3) The Board must make rules governing the making of oral and written representations.
- (4) Representations under this paragraph must be made within –
- (a) the period of 28 days beginning with the day on which the copy of the advice is given to the approved regulator, or 20
 - (b) such longer period as the Board may specify in a particular case.
- (5) Where oral representations are made, the Board must prepare a report of those representations.
- (6) Before preparing that report, the Board must – 25
- (a) give the approved regulator a reasonable opportunity to comment on a draft of the report, and
 - (b) have regard to any comments duly made.

Publication of advice and representations etc

- 24 (1) The Board must, as soon as practicable after the end of the period within which representations under paragraph 23 may be made, publish – 30
- (a) any advice given under paragraph 22, and
 - (b) any written representations duly made under paragraph 23 and the report (if any) prepared under that paragraph.
- (2) Nothing in sub-paragraph (1) operates – 35
- (a) to prevent a person who gives advice under paragraph 22 from publishing that advice, or
 - (b) to prevent a person who makes representations under paragraph 23 from publishing those representations.
- (3) A person (“the publisher”) publishing any such material (whether under sub-paragraph (1) or otherwise) must, so far as practicable, exclude any matter which relates to the private affairs of a particular individual the 40

publication of which, in the opinion of the publisher, would or might seriously and prejudicially affect the interests of that individual.

Decision by the Board

- 25 (1) After considering—
- (a) the application and any accompanying material, 5
 - (b) any other information provided by the approved regulator,
 - (c) any advice obtained under paragraph 22,
 - (d) any representations duly made under paragraph 23, and
 - (e) any other information which the Board considers relevant to the application, 10
- the Board must decide whether to grant the application.
- (2) The Board may grant the application in whole or in part.
- (3) The Board may refuse the application only if it is satisfied that—
- (a) granting the application would be prejudicial to the regulatory objectives, 15
 - (b) granting the application would be contrary to any provision made by or by virtue of this Act or any other enactment or would result in any of the designation requirements ceasing to be satisfied in relation to the approved regulator,
 - (c) granting the application would be contrary to the public interest, 20
 - (d) the alteration would enable the approved regulator to authorise persons to carry on activities which are reserved legal activities in relation to which it is not a relevant approved regulator,
 - (e) the alteration would enable the approved regulator to license persons under Part 5 to carry on activities which are reserved legal activities in relation to which it is not a licensing authority, or 25
 - (f) the alteration has been or is likely to be made otherwise than in accordance with the procedures (whether statutory or otherwise) which apply in relation to the making of the alteration.
- (4) For the purposes of sub-paragraph (3)(b) the designation requirements are— 30
- (a) a requirement that the approved regulator has appropriate internal governance arrangements in place,
 - (b) a requirement that the applicant is competent, and has sufficient resources to perform the role of approved regulator in relation to the reserved legal activities in respect of which it is designated, and 35
 - (c) the requirements of paragraph 13(2)(c) to (e).
- (5) Sub-paragraph (3) applies in relation to any part of an application as if references to the application were to the part.
- (6) The Board must give notice of its decision (“the decision notice”) to the approved regulator. 40
- (7) Where the Board decides to refuse the application (in whole or in part), the decision notice must specify the reasons for that decision.
- (8) The Board must publish the decision notice.

Failure to decide application during decision period

- 26 (1) This paragraph applies where the Board gives an approved regulator a warning notice under paragraph 21 in respect of the approved regulator’s application.
- (2) If the Board does not give the approved regulator notice of its decision under paragraph 25 within the decision period, the application is deemed to have been granted by the Board at the end of that period. 5
- (3) Subject to sub-paragraphs (4) and (5), “the decision period” means the period of 12 months beginning with the day on which the approved regulator received the warning notice. 10
- (4) The Board may, on one or more occasions, give the approved regulator a notice (an “extension notice”) extending the decision period.
- (5) But—
- (a) an extension notice may only be given before the time when the decision period would end, but for the extension notice, and 15
- (b) the total decision period must not exceed 18 months.
- (6) The Board must publish any extension notice given by it.

Effect of grant of application

- 27 (1) Where an application is granted under paragraph 21(1)(a) or (3), 25(1) or 26(2), the alteration or alterations of the regulatory arrangements to which the application relates are approved. 20
- (2) Where a part of an application is granted under paragraph 25(1), the alteration or alterations of the regulatory arrangements to which the part relates are approved.
- (3) Sub-paragraphs (1) and (2) are without prejudice to the Board’s power to give directions under section 31 (power to direct an approved regulator to take steps in certain circumstances, including steps to amend its regulatory arrangements). 25

SCHEDULE 5

Section 21

AUTHORISED PERSONS

30

PART 1

CONTINUITY OF RIGHTS

Rights of audience and conduct of litigation

- 1 (1) For the purposes of section 17 (authorised persons), in the case of a person who is authorised by a listed body— 35
- (a) to exercise a right of audience before a court in relation to any proceedings, or
- (b) to conduct litigation in relation to any proceedings,

it is irrelevant whether the person’s authorisation was granted before or on or after the appointed day.

- (2) The “listed bodies” are—
- (a) The Law Society,
 - (b) The General Council of the Bar, 5
 - (c) The Chartered Institute of Patent Attorneys,
 - (d) The Institute of Trade Mark Attorneys, and
 - (e) for the purposes of sub-paragraph (1)(a) only, The Institute of Legal Executives.
- (3) For the purposes of sub-paragraph (1), any authority conferred by section 31 of the Courts and Legal Services Act 1990 (c. 41) (barristers and solicitors deemed to have rights of audience and rights to conduct litigation) is to be disregarded (see paragraphs 4 and 7 below). 10

Conveyancing services

- 2 (1) For the purposes of section 17, in the case of a licensed conveyancer who is authorised to carry on an activity which is a reserved instrument activity by a conveyancing licence, it is irrelevant whether the licence was granted before or on or after the appointed day. 15
- (2) For the purposes of this paragraph “conveyancing licence” means a licence to practise as a licensed conveyancer granted under Part 2 of the Administration of Justice Act 1985 (c. 61). 20

PART 2

RIGHTS DURING TRANSITIONAL PERIOD

The transitional period

- 3 (1) In this Part of this Schedule references to “the transitional period” are to the period which— 25
- (a) begins with the appointed day (within the meaning given by paragraph 16), and
 - (b) ends with the day appointed by the Secretary of State by order for the purposes of this paragraph. 30
- (2) Different days may be appointed under sub-paragraph (1)(b) for different purposes.
- (3) An order may be made under sub-paragraph (1)(b) only on the recommendation of the Board.

Barristers etc 35

- 4 (1) During the transitional period, every barrister is deemed to be authorised by the General Council of the Bar to carry on the activities in sub-paragraph (2).
- (2) Those activities are—
- (a) the exercise of a right of audience before every court in relation to all proceedings; 40
 - (b) reserved instrument activities;

- (c) probate activities;
 (d) the administration of oaths.
- (3) The authority conferred on a barrister by this paragraph is exercisable in accordance with, and subject to, the regulatory arrangements of the General Council of the Bar. 5
- (4) A person is not authorised under sub-paragraph (1) unless the person has in force a certificate issued by the General Council of the Bar authorising the person to practise as a barrister.
- 5 (1) During the transitional period, every registered European lawyer registered with the Inns of Court and the General Council of the Bar is deemed to be authorised by the General Council of the Bar to carry on activities which – 10
- (a) are within paragraph 4(2), and
 (b) the registered European lawyer is entitled to carry on under his home professional title by virtue of the European regulations.
- (2) The authority conferred on a registered European lawyer by virtue of this paragraph is exercisable in accordance with, and subject to, the regulatory arrangements of the General Council of the Bar (as they apply to the registered European lawyer by virtue of the European regulations). 15
- (3) In this paragraph –
- “European regulations” means the European Communities (Lawyer’s Practice) Regulations 2000 (S.I. 2000/1119); 20
- “home professional title” and “registered European lawyer” have the same meaning as in the European regulations.
- 6 During the transitional period members of the Bar not in actual practice are to continue to have the rights conferred by section 102A(2) of the Patents Act 1977 (c. 37) (right of audience, etc in proceedings on appeal from the comptroller). 25

Solicitors etc

- 7 (1) During the transitional period – 30
- (a) every qualified solicitor,
 (b) every legal partnership, and
 (c) every body recognised under section 9 of the Administration of Justice Act 1985 (c. 61) (incorporated practices) (“a recognised body”),
- is deemed to be authorised by the Law Society to carry on the activities in sub-paragraph (2). 35
- (2) Those activities are –
- (a) the exercise of a right of audience before every court in relation to all proceedings;
 (b) the conduct of litigation in relation to every court and all proceedings; 40
 (c) reserved instrument activities;
 (d) probate activities;
 (e) the administration of oaths.

- (3) The authority conferred on a qualified solicitor, legal partnership or recognised body by this paragraph is exercisable in accordance with, and subject to, the regulatory arrangements of the Law Society.
- (4) In this paragraph –
- “legal partnership” means a partnership in which a qualified solicitor, a registered European Lawyer or a body recognised under section 9 of the Administration of Justice Act 1985 (c. 61) is permitted to practise by virtue of rules made under that section or section 31 of the Solicitors Act 1974 (c. 47);
 - “qualified solicitor” means a person who is qualified under section 1 of the Solicitors Act 1974 to act as a solicitor;
 - “registered European lawyer” has the same meaning as in the European Communities (Lawyer’s Practice) Regulations 2000 (S.I. 2000/1119).
- 8 (1) During the transitional period, every registered European lawyer registered with the Law Society is deemed to be authorised by the Law Society to carry on activities which –
- (a) are within paragraph 7(2), and
 - (b) the registered European lawyer is entitled to carry on under his home professional title by virtue of the European regulations.
- (2) The authority conferred on a registered European lawyer by virtue of this paragraph is exercisable in accordance with, and subject to, the regulatory arrangements of the Law Society (as they apply to the registered European lawyer by virtue of the European regulations).
- (3) In this paragraph –
- “European regulations” means the European Communities (Lawyer’s Practice) Regulations 2000 (S.I. 2000/1119);
 - “home professional title” and “registered European lawyer” have the same meaning as in the European regulations.
- 9 (1) During the transitional period, solicitors are to continue to have the rights conferred on them by subsection (1) of section 102A of the Patents Act 1977 (c. 37) (rights of audience, etc in proceedings on appeal from the comptroller).
- (2) During that period, registered European lawyers are to continue to have the rights conferred on them by that subsection by virtue of the European regulations.
- (3) In this paragraph “European regulations” and “registered European lawyer” have the same meaning as in paragraph 8

Legal Executives

- 10 (1) During the transitional period, a person authorised by the Institute of Legal Executives to practise as a member of the profession of legal executives is deemed to be authorised by that Institute to administer oaths.
- (2) The authority conferred by sub-paragraph (1) is exercisable in accordance with and subject to the regulatory arrangements of the Institute of Legal Executives.

- (3) A person is not authorised under sub-paragraph (1) unless the person has in force a certificate issued by the Institute of Legal Executives authorising the person to practise as a legal executive.

Licensed conveyancers

- 11 (1) During the transitional period every individual who holds a conveyancing licence is deemed to be authorised by the Council for Licensed Conveyancers to administer oaths. 5
- (2) The authority conferred by sub-paragraph (1) is exercisable in accordance with and subject to the regulatory arrangements of the Council.
- (3) During that period, every conveyancing partnership and every body recognised under section 32 of the Administration of Justice Act 1985 (c. 61) (bodies corporate entitled to provide conveyancing services) is deemed to be authorised by the Council— 10
- (a) to carry on conveyancing services, and
- (b) to administer oaths. 15
- (4) The authority conferred by sub-paragraph (3) is exercisable in accordance with and subject to—
- (a) in the case of a body recognised under section 32 of the Administration of Justice Act 1985, any restriction imposed by virtue of rules within section 32(3)(d) of that Act (rules restricting conveyancing services carried on by recognised bodies), and 20
- (b) the regulatory arrangements of the Council.
- (5) In this section “conveyancing partnership” means a partnership at least some of the members of which are licensed conveyancers.
- (6) For the purposes of this paragraph a conveyancing licence is to be treated as not in force during any period when it is suspended. 25

Notaries public

- 12 (1) During the transitional period, every duly certificated notary is deemed to be authorised by the Master of the Faculties to carry on the activities in sub-paragraph (2). 30
- (2) Those activities are—
- (a) reserved instrument activities;
- (b) probate activities;
- (c) notarial activities;
- (d) the administration of oaths. 35
- (3) The authority conferred by sub-paragraph (1) is exercisable in accordance with and subject to the regulatory arrangements of the Master of the Faculties.
- (4) In this paragraph “duly certificated notary” means a notary who either— 40
- (a) has in force a practising certificate as a solicitor issued under the Solicitors Act 1974 (c. 47), and is duly entered in the Court of Faculties of the Archbishop of Canterbury in accordance with rules made by the Master of the Faculties, or

- (b) has in force a practising certificate as a public notary issued by the said Court of Faculties in accordance with rules so made.

Patent attorneys

- 13 (1) During the transitional period, every registered patent attorney is deemed to be authorised by the Chartered Institute of Patent Attorneys to carry on reserved instrument activities. 5
- (2) During that period, every authorised patent attorney is deemed to be authorised by the Chartered Institute of Patent Attorneys to administer oaths.
- (3) During that period, every patent attorney body is deemed to be authorised by the Chartered Institute of Patent Attorneys to carry on the activities in sub-paragraph (4). 10
- (4) Those activities are any activities which are reserved legal activities within sub-paragraph (5) and which—
- (a) if the body is a partnership, any partner who is a registered patent attorney is authorised to carry on; 15
- (b) if the body is a body corporate, any director who is a registered patent attorney is authorised to carry on.
- (5) Those activities are—
- (a) the exercise of a right of audience; 20
- (b) the conduct of litigation;
- (c) reserved instrument activities;
- (d) the administration of oaths.
- (6) The authority conferred by any of sub-paragraphs (1) to (3) is exercisable in accordance with and subject to the regulatory arrangements of the Chartered Institute of Patent Attorneys. 25
- (7) In this paragraph—
- “authorised patent attorney” means a registered patent attorney who is authorised by the Chartered Institute of Patent Attorneys to carry on one or both of the following activities— 30
- (a) the exercise of a right of audience;
- (b) the conduct of litigation;
- “patent attorney body” means—
- (a) a partnership all the partners of which are registered patent attorneys, 35
- (b) a body corporate all the directors of which are registered patent attorneys,
- (c) a partnership or body corporate which satisfies the conditions prescribed under section 279 of the Copyright, Designs and Patents Act 1988 (c. 48), or 40
- (d) a body corporate to which section 276(4) of that Act applies;
- “registered patent attorney” has the meaning given by section 275(1) of that Act;
- and, in the case of a patent attorney body to which section 276(4) of that Act applies, the reference in sub-paragraph (4)(b) to a director includes a 45

reference to the manager (within the meaning of section 276(4) of that Act) of the company.

- 14 (1) During the transitional period registered patent attorneys are to continue to have the rights conferred by section 102A(2) of the Patents Act 1977 (c. 37) and section 292 of the Copyright, Designs and Patents Act 1988 (c. 48). 5
- (2) In this paragraph “registered patent attorney” has the same meaning as in paragraph 13.

Trade mark attorneys

- 15 (1) During the transitional period, every registered trade mark attorney is deemed to be authorised by the Institute of Trade Mark Attorneys to carry on reserved instrument activities. 10
- (2) During that period, every authorised trade mark attorney is deemed to be authorised by the Institute of Trade Mark Attorneys to administer oaths.
- (3) During that period, every trade mark body is deemed to be authorised by the Institute of Trade Mark Attorneys to carry on the activities in sub-paragraph (4). 15
- (4) Those activities are any activities which are reserved legal activities within sub-paragraph (5) and which—
- (a) if the body is a partnership, any partner who is a registered trade mark attorney is authorised to carry on, or 20
- (b) if the body is a body corporate, any director who is a registered trade mark attorney is authorised to carry on.
- (5) Those activities are—
- (a) the exercise of a right of audience;
- (b) the conduct of litigation; 25
- (c) reserved instrument activities;
- (d) the administration of oaths.
- (6) The authority conferred by any of sub-paragraphs (1) to (3) is exercisable in accordance with and subject to the regulatory arrangements of the Institute of Trade Mark Attorneys. 30
- (7) In this paragraph—
- “authorised trade mark attorney” means a registered trade mark attorney who is authorised by the Institute of Trade Mark Attorneys to carry on one or both of the following activities— 35
- (a) the exercise of a right of audience;
- (b) the conduct of litigation;
- “trade mark body” means—
- (a) a partnership all the partners of which are registered trade mark attorneys,
- (b) a body corporate all the directors of which are registered trade mark attorneys, or 40
- (c) a partnership or body corporate which satisfies the conditions prescribed under section 85 of the Trade Marks Act 1994 (c. 26);

“registered trade mark attorney” has the same meaning as in the Trade Marks Act 1994 (c. 26).

PART 3

INTERPRETATION

- 16 In this Schedule – 5
- “the appointed day” means the day appointed for the coming into force of section 13 (entitlement to carry on a reserved legal activity);
 - “conveyancing licence” has the meaning given by paragraph 2.

SCHEDULE 6

Sections 23 and 25

ALTERATION OF RESERVED LEGAL ACTIVITIES 10

Introductory

- 1 In this Schedule, in relation to an activity –
- “section 23 investigation” means an investigation held with a view to determining whether or not the Board should make a recommendation in respect of the activity for the purposes of section 23 (recommendations and orders to extend the reserved legal activities); 15
 - “section 25 investigation” means an investigation held with a view to determining whether or not the Board should make a recommendation in respect of the activity for the purposes of section 25 (recommendations that an activity should cease to be a reserved legal activity). 20

Requests for Board to hold a full investigation

- 2 (1) A person may – 25
- (a) request the Board to hold a section 23 investigation in respect of an activity, or
 - (b) request the Board to hold a section 25 investigation in respect of an activity.
- (2) A request under sub-paragraph (1) must be in writing and specify the activity to which it relates. 30
- (3) In the case of a request for a section 23 investigation, the activity in respect of which the request is made must be a legal activity.

Board’s duty to hold preliminary inquiries in certain cases

- 3 (1) This paragraph applies where the Board receives a request under paragraph 2, in respect of an activity, from – 35
- (a) the Secretary of State,
 - (b) the OFT,
 - (c) the Consumer Panel, or
 - (d) the Lord Chief Justice.

- (2) The Board must –
- (a) carry out such inquiries as it considers appropriate to enable it to determine whether it is appropriate to hold a section 23 investigation or, as the case may be, a section 25 investigation in respect of the activity, and 5
 - (b) make that determination within the preliminary inquiry period.
- (3) “The preliminary inquiry period” means the period of 3 months beginning with the day on which the request under paragraph 2 was received by the Board.
- (4) The Board may, before the end of the preliminary inquiry period in relation to a request, issue a notice extending that period by a period specified in the notice. 10
- (5) More than one notice may be issued under sub-paragraph (4), but the total preliminary inquiry period must not exceed 4 months.
- (6) A notice under sub-paragraph (4) must state the Board’s reasons for extending the preliminary inquiry period. 15
- (7) The Board must publish a notice issued under sub-paragraph (4).

Board’s power to hold preliminary inquiries in other cases

- 4 (1) The Board may –
- (a) where it receives a request under paragraph 2 to which paragraph 3 does not apply, or 20
 - (b) in any other case where it considers it appropriate to do so, carry out such inquiries as it considers appropriate to enable it to determine whether it is appropriate to hold a section 23 investigation or a section 25 investigation in respect of an activity. 25
- (2) In the case of a section 23 investigation, that activity must be a legal activity.

Advice

- 5 (1) Before determining whether it is appropriate to hold a section 23 investigation or a section 25 investigation in respect of an activity, the Board may seek the advice of one or both of the following bodies – 30
- (a) the OFT;
 - (b) the Consumer Panel.
- (2) The OFT or the Consumer Panel must, if its advice is sought, give the Board such advice as it thinks fit, within such reasonable period as the Board may specify. 35
- (3) In deciding what advice to give –
- (a) the OFT must, in particular, consider whether making an order under section 23 or (as the case may be) provision in accordance with a recommendation under section 25, in respect of the activity would (or would be likely to) prevent, restrict or distort competition within the market for reserved legal services to any significant extent, and 40
 - (b) the Consumer Panel must have regard to the likely impact which making that order or (as the case may be) provision would have on consumers.

- (4) The OFT or the Consumer Panel may, for the purposes of giving advice under this paragraph, request any person to provide it with such information as may be specified by it.
- 6 (1) Before determining whether it is appropriate to hold a section 23 investigation or a section 25 investigation in respect of an activity the Board may also seek the advice of the Lord Chief Justice. 5
- (2) If the Board has sought advice under paragraph 5, the Board may not seek advice from the Lord Chief Justice until –
- (a) the period for giving advice under paragraph 5 has ended, and
- (b) it has given the Lord Chief Justice a copy of any advice duly given under that paragraph. 10
- (3) If advice is sought under sub-paragraph (1), the Lord Chief Justice –
- (a) must give the Board such advice as the Lord Chief Justice thinks fit, within such reasonable period as may be specified by the Board, and
- (b) may, for the purposes of giving that advice, request any person to provide the Lord Chief Justice with such information as may be specified by the Lord Chief Justice. 15
- (4) In deciding what advice to give, the Lord Chief Justice must, in particular, have regard to the likely impact on the courts in England and Wales of the making of an order under section 23 or (as the case may be) provision in accordance with a recommendation under section 25, in respect of the activity in question. 20
- 7 (1) The Board must consider, and publish, any advice given under paragraph 5 or 6.
- (2) Nothing in this paragraph operates to prevent a person who gives such advice from publishing it. 25

Restrictions on refusing a paragraph 2 request

- 8 (1) This paragraph applies where –
- (a) a request has been made under paragraph 2, and
- (b) paragraph 3 applies to that request. 30
- (2) The Board may refuse the request only if –
- (a) the consultation requirements are satisfied, and
- (b) either the consent requirement is satisfied or the request was made by the Secretary of State.
- (3) The consultation requirements are – 35
- (a) that the Board has consulted the OFT, the Consumer Panel and the Lord Chief Justice under paragraphs 5 and 6, and
- (b) that –
- (i) the Board has obtained advice from the OFT and the Consumer Panel or the period within which that advice is required to be given has expired, and
- (ii) the Board has obtained advice from the Lord Chief Justice or the period within which that advice is required to be given has expired. 40
- (4) The consent requirement is that – 45

- (a) the Board has given the Secretary of State a copy of any advice given under paragraph 5 or 6, and
- (b) the Secretary of State has consented to the Board’s refusal of the request.

Decision to hold investigation 5

- 9 (1) This paragraph applies where the Board has decided, following inquiries under paragraph 3 or 4, to hold a section 23 investigation or a section 25 investigation in respect of an activity.
- (2) The Board must, as soon as reasonably practicable, give notice of its decision to – 10
- (a) the Secretary of State,
 - (b) the OFT,
 - (c) the Consumer Panel, and
 - (d) the Lord Chief Justice,
- and publish the notice. 15
- (3) The notice must –
- (a) state the Board’s reasons for its decision to hold the investigation, and
 - (b) contain a description (in general terms) of the procedure set out in paragraphs 10 to 17 and in rules under this Schedule, including any relevant time limits. 20

Duty to investigate and produce a provisional report within the investigation period

- 10 (1) This paragraph applies where the Board has given notice under paragraph 9(2) of – 25
- (a) a decision to hold a section 23 investigation, or
 - (b) a decision to hold a section 25 investigation,
- in respect of an activity.
- (2) The Board must within the investigation period – 30
- (a) carry out such investigations as it considers appropriate for the purposes of enabling it to produce a provisional report in respect of the activity, and
 - (b) produce and publish such a report.
- (3) A provisional report is a report stating – 35
- (a) in a case within sub-paragraph (1)(a), whether or not the Board is minded to make a recommendation for the purposes of section 23 (recommendation that activity should become a reserved legal activity);
 - (b) in a case within sub-paragraph (1)(b), whether or not the Board is minded to make a recommendation for the purposes of section 25 (recommendation that activity should cease to be a reserved legal activity). 40
- (4) A provisional report must also state the Board’s reasons for it being, or not being, minded to make the recommendation in question.

“The investigation period”

- 11 (1) “The investigation period” means the period of 12 months beginning with the day on which the notice was given under paragraph 9(2).
- (2) The Board may, before the end of the investigation period, issue a notice extending that period by a period specified in the notice. 5
- (3) More than one notice may be issued under sub-paragraph (2) but the total investigation period must not exceed 16 months.
- (4) The Board may issue a notice under sub-paragraph (2) only after it has consulted – 10
- (a) the OFT,
- (b) the Consumer Panel, and
- (c) the Lord Chief Justice.
- (5) A notice under sub-paragraph (2) must state the Board’s reasons for extending the investigation period.
- (6) The Board must publish any notice issued under sub-paragraph (2). 15

Supplementary provisions about the investigation

- 12 (1) This paragraph applies for the purposes of investigations under paragraph 10(2)(a).
- (2) The Board may make rules governing the making of oral and written representations, and the giving of oral and written evidence, to the Board. 20
- (3) Rules under sub-paragraph (2) may (among other things) include –
- (a) provision about the time and place at which any oral evidence is to be given or oral representations are to be heard;
- (b) provision about the period within which any written evidence is to be given or written representations are to be made. 25
- (4) In relation to each investigation, the Board must determine if, and to what extent –
- (a) oral evidence or representations should be heard, and
- (b) written evidence or representations should be received.
- (5) The Board must, so far as is reasonably practicable, consider any written or oral representations duly made under this paragraph. 30

Consideration of the provisional report

- 13 (1) The Board may make rules governing the making to the Board of oral and written representations in respect of provisional reports.
- (2) Rules under sub-paragraph (1) may (among other things) include – 35
- (a) provision about the time and place at which any oral representations are to be heard;
- (b) provision about the period within which any written representations are to be made.
- (3) The Board must exercise the power conferred by sub-paragraph (1) to make provision – 40

- (a) enabling written representations and, so far as is reasonably practicable, oral representations to be made by affected practitioners, and
- (b) enabling written or oral representations to be made by bodies which represent affected practitioners. 5
- (4) An “affected practitioner” is a person carrying on the activity in respect of which the investigation is being held.
- 14 (1) For the purpose of making a decision under paragraph 16(1)(a) or (b), the Board must, after publication of a provisional report, determine if and to what extent further evidence should be heard or received. 10
- (2) The Board may make rules governing the giving of such evidence.
- (3) Rules under sub-paragraph (2) may (among other things) include –
- (a) provision about the time and place at which any oral evidence is to be given;
- (b) provision about the period within which any written evidence is to be given. 15
- 15 The Board must, so far as is reasonably practicable, consider –
- (a) any written or oral representations made in accordance with rules to which paragraph 13(3) applies, and
- (b) any other representations made in accordance with rules under paragraph 13(1), and any written or oral evidence given in accordance with rules under paragraph 14(2), which the Board considers relevant. 20

Duty to prepare final report within the final reporting period

- 16 (1) After complying with paragraph 15, the Board must decide – 25
- (a) in the case of a section 23 investigation, whether or not to make a recommendation for the purposes of that section, and
- (b) in the case of a section 25 investigation, whether or not to make a recommendation for the purposes of that section.
- (2) The Board must prepare a report (“the final report”) which sets out – 30
- (a) its decision and the reasons for it,
- (b) where it decides to make a recommendation for the purposes of section 23 or 25, that recommendation, and
- (c) where it decides to make a recommendation for the purposes of section 23, a statement of the provision which, in the Board’s opinion, will need to be made by virtue of section 194(2) or in an order under section 198 (power to make consequential provision, transitional provision etc) if an order is made under section 23 in accordance with that recommendation. 35
- (3) The Board must – 40
- (a) give a copy of the final report to the Secretary of State, and
- (b) publish that report.
- (4) The Board must comply with the obligations imposed by this paragraph within the final reporting period.

“The final reporting period”

- 17 (1) “The final reporting period” means the period of 3 months beginning with the date on which the provisional report was published under paragraph 10(2).
- (2) The Board may, before the end of the final reporting period, issue a notice extending that period by a period specified in the notice. 5
- (3) More than one notice may be issued under sub-paragraph (2), but the total final reporting period must not exceed 5 months.
- (4) The Board may issue a notice under sub-paragraph (2) only after it has consulted – 10
- (a) the OFT,
 - (b) the Consumer Panel, and
 - (c) the Lord Chief Justice.
- (5) A notice under sub-paragraph (2) must state the Board’s reasons for extending the final reporting period. 15
- (6) The Board must publish a notice issued under sub-paragraph (2).

Costs

- 18 The Board may pay such costs of a person as the Board considers reasonable for the purpose of facilitating the giving of oral evidence or the making of oral representations, by or on behalf of that person, in accordance with rules made under this Schedule. 20

SCHEDULE 7

Section 32

DIRECTIONS: PROCEDURE

Introductory

- 1 This Schedule applies where the Board proposes giving a direction to an approved regulator under section 31. 25

Notification of the approved regulator

- 2 (1) The Board must give the approved regulator a notice (“a warning notice”) accompanied by a copy of the proposed direction.
- (2) The warning notice must – 30
- (a) state that the Board proposes to give the approved regulator a direction in the form of the accompanying draft,
 - (b) specify why the Board is satisfied as mentioned in section 31(1) and (2), and
 - (c) specify a period within which the approved regulator may make 35
- (3) The period specified under sub-paragraph (2)(c) –

- (a) must begin with the date on which the warning notice is given to the approved regulator, and
 - (b) must not be less than 14 days.
- (4) The approved regulator may make to the Board –
- (a) written representations, and 5
 - (b) if the Board authorises it to do so, oral representations, about the proposed direction.
- (5) The Board must make rules governing the making of oral and written representations.
- (6) The Board must consider any representations duly made by the approved regulator. 10
- (7) Where oral representations are duly made, the Board must prepare a report of those representations.
- (8) Before preparing that report, the Board must –
- (a) give the approved regulator a reasonable opportunity to comment on a draft of the report, and 15
 - (b) have regard to any comments duly made.

Board's duty to seek advice

- 3 (1) After complying with paragraph 2, the Board must give each of the persons listed in sub-paragraph (2) – 20
- (a) a copy of the warning notice and the accompanying draft direction,
 - (b) a copy of any written representations duly made under paragraph 2 and a copy of the report (if any) prepared under that paragraph, and
 - (c) a notice specifying a period within which any advice under paragraphs 4 to 7 must be given. 25
- (2) Those persons are –
- (a) the Secretary of State,
 - (b) the OFT,
 - (c) the Consumer Panel,
 - (d) the Lord Chief Justice, and 30
 - (e) such other persons as the Board considers it reasonable to consult in respect of the proposed direction.
- (3) In this Schedule, in relation to a proposed direction, “selected consultee” means a person within sub-paragraph (2)(e).

Advice of the Secretary of State 35

- 4 The Secretary of State must give the Board such advice as the Secretary of State thinks fit in respect of the proposed direction.

Advice of Office of Fair Trading

- 5 (1) The OFT must give the Board such advice as it thinks fit regarding whether the proposed direction should be given. 40

- (2) In deciding what advice to give, the OFT must, in particular, have regard to whether giving the proposed direction would (or would be likely to) prevent, restrict or distort competition within the market for reserved legal services to any significant extent.

Advice of the Consumer Panel 5

- 6 (1) The Consumer Panel must give the Board such advice as it thinks fit regarding whether the proposed direction should be given.
- (2) In deciding what advice to give, the Consumer Panel must, in particular, have regard to the likely impact of the proposed direction on consumers.

Advice of selected consultees 10

- 7 A selected consultee may give the Board such advice as the selected consultee thinks fit in respect of the proposed direction.

Advice of the Lord Chief Justice

- 8 (1) The Board must give the Lord Chief Justice – 15
- (a) a copy of any advice duly given under paragraphs 4 to 7, and
 - (b) a notice specifying a period within which any advice under this paragraph must be given.
- (2) The Lord Chief Justice must then give such advice as the Lord Chief Justice thinks fit regarding whether the proposed direction should be given.
- (3) In deciding what advice to give, the Lord Chief Justice must, in particular, 20
- have regard to the likely impact of the proposed direction on the courts in England and Wales.

Consultees' powers to request information

- 9 A person (“the consultee”) to whom a copy of the warning notice is given under paragraph 3(1) may, for the purposes of giving advice under paragraphs 4 to 8, request the approved regulator or any other person to provide the consultee with such additional information as may be specified by the consultee. 25

Representations by approved regulator

- 10 (1) The Board must give the approved regulator a copy of any advice duly given under paragraphs 4 to 8. 30
- (2) The approved regulator may make to the Board –
- (a) written representations, and
 - (b) if the Board authorises it to do so, oral representations, 35
- about the advice.
- (3) The Board must make rules governing the making of oral and written representations.
- (4) Representations under this paragraph must be made within –
- (a) the period of 28 days beginning with the day on which the copy of the advice is given to the approved regulator, or 40

- (b) such longer period as the Board may specify in a particular case.
- (5) Where oral representations are made, the Board must prepare a report of those representations.
- (6) Before preparing that report, the Board must –
 - (a) give the approved regulator a reasonable opportunity to comment on a draft of the report, and 5
 - (b) have regard to any comments duly made.

Publication of advice etc

- 11 (1) The Board must, as soon as practicable after the end of the period within which representations under paragraph 10 may be made, publish – 10
 - (a) any advice duly given under paragraphs 4 to 8, and
 - (b) any written representations duly made under paragraph 10 and the report (if any) prepared under that paragraph.
- (2) Nothing in sub-paragraph (1) operates – 15
 - (a) to prevent a person who gives advice under paragraphs 4 to 8 from publishing that advice, or
 - (b) to prevent a person who makes representations under paragraph 10 from publishing those representations.
- (3) A person (“the publisher”) publishing any such material (whether under sub-paragraph (1) or otherwise) must, so far as practicable, exclude any matter which relates to the private affairs of a particular individual the publication of which, in the opinion of the publisher, would or might seriously and prejudicially affect the interests of that individual. 20

Decision by the Board

- 12 (1) After considering – 25
 - (a) any advice duly given under paragraphs 4 to 8,
 - (b) any representations duly made under paragraph 10, and
 - (c) any other information which the Board considers relevant,
 the Board must decide whether to give the approved regulator the proposed direction. 30
- (2) The Board must give notice of its decision (“the decision notice”) to the approved regulator.
- (3) Where the Board decides to give the proposed direction, the decision notice must – 35
 - (a) contain the direction,
 - (b) state the time at which the direction is to take effect, and
 - (c) specify the Board’s reasons for the decision to give the direction.
- (4) The Board must publish the decision notice.

SCHEDULE 8

Sections 40 and 43

INTERVENTION DIRECTIONS: PROCEDURE

PART 1

GIVING INTERVENTION DIRECTIONS

<i>Introductory</i>	5
1 (1) This Part of this Schedule applies where the Board proposes giving an intervention direction to an approved regulator in respect of a regulatory function.	
(2) In this Schedule “intervention condition” has the same meaning as in section 40.	10
<i>Notification of the approved regulator</i>	
2 (1) The Board must give the approved regulator a notice (“a warning notice”) accompanied by a draft of the proposed intervention direction.	
(2) The warning notice must –	
(a) state that the Board proposes to give the approved regulator an intervention direction in the form of the accompanying draft and the time when it is proposed that direction should take effect, and	15
(b) state the reasons why the Board is satisfied of the matters mentioned in section 40(1)(a) and (b).	
(3) The Board must publish a copy of the warning notice.	20
(4) The approved regulator may make to the Board –	
(a) written representations, and	
(b) if the Board authorises it to do so, oral representations, about the proposed intervention direction.	
(5) The Board must make rules governing the making of written and oral representations.	25
(6) Any representations under sub-paragraph (4) must be made before the end of –	
(a) the period of 28 days beginning with the day on which the warning notice is given to the approved regulator, or	30
(b) such longer period as the Board may specify in a particular case.	
(7) Where oral representations are duly made under this paragraph, the Board must prepare a report of those representations.	
(8) Before preparing that report, the Board must –	
(a) give the approved regulator a reasonable opportunity to comment on a draft of the report, and	35
(b) have regard to any comments duly made.	

Board’s duty to seek advice

- 3 (1) After complying with paragraph 2, the Board must give each of the persons listed in sub-paragraph (2) –
- (a) a copy of the warning notice and the accompanying draft,
 - (b) a copy of any written representations duly made under paragraph 2 and a copy of the report (if any) prepared under that paragraph, and
 - (c) a notice specifying a period within which any advice under paragraphs 4 to 7 must be given.
- 5
- (2) Those persons are –
- (a) the Secretary of State,
 - (b) the OFT,
 - (c) the Consumer Panel,
 - (d) the Lord Chief Justice, and
 - (e) such other persons as the Board considers it reasonable to consult in respect of the proposed intervention direction.
- 10
- (3) In this Part of this Schedule, in relation to a proposed intervention direction, “selected consultee” means a person within sub-paragraph (2)(e).
- 15

Advice of the Secretary of State

- 4 The Secretary of State must give the Board such advice as the Secretary of State thinks fit in respect of the proposed intervention direction.
- 20

Advice of Office of Fair Trading

- 5 (1) The OFT must give the Board such advice as it thinks fit regarding whether the proposed intervention direction should be given.
- (2) In deciding what advice to give, the OFT must, in particular, have regard to whether giving the proposed intervention direction would (or would be likely to) prevent, restrict or distort competition within the market for reserved legal services to any significant extent.
- 25

Advice of the Consumer Panel

- 6 (1) The Consumer Panel must give the Board such advice as it thinks fit regarding whether the proposed intervention direction should be given.
- (2) In deciding what advice to give, the Consumer Panel must, in particular, have regard to the likely impact of the proposed direction on consumers.
- 30

Advice of selected consultees

- 7 A selected consultee may give the Board such advice as the selected consultee thinks fit in respect of the proposed intervention direction.
- 35

Advice of the Lord Chief Justice

- 8 (1) The Board must give the Lord Chief Justice –
- (a) a copy of any advice duly given under paragraphs 4 to 7, and
 - (b) a notice specifying a period within which any advice under this paragraph must be given.
- 40

- (2) The Lord Chief Justice must then give such advice as the Lord Chief Justice thinks fit regarding whether the proposed intervention direction should be given.
- (3) In deciding what advice to give, the Lord Chief Justice must, in particular, have regard to the likely impact of the proposed intervention direction on the courts in England and Wales. 5

Consultees' powers to request information

- 9 A person (“the consultee”) to whom a copy of the warning notice is given under paragraph 3(1) may, for the purposes of giving advice under paragraphs 4 to 8, request the approved regulator or any other person to provide the consultee with such additional information as may be specified by the consultee. 10

Representations by the approved regulator etc

- 10 (1) The Board must –
 - (a) give the approved regulator a copy of any advice duly given under paragraphs 4 to 8, and 15
 - (b) publish that advice together with any written representations duly made by the approved regulator under paragraph 2 and the report (if any) prepared under that paragraph.
- (2) The approved regulator and any body within sub-paragraph (3) may make to the Board – 20
 - (a) written representations, and
 - (b) if the Board authorises it to do so, oral representations, about the advice.
- (3) A body is within this sub-paragraph if it represents persons authorised by the approved regulator to carry on activities which are reserved legal activities. 25
- (4) The Board may allow any other person to make written or oral representations about the advice.
- (5) The Board must make rules governing the making of oral and written representations. 30
- (6) Representations under this paragraph must be made within –
 - (a) the period of 28 days beginning with the day on which the representations and advice are published under sub-paragraph (1)(b), or 35
 - (b) such longer period as the Board may specify in a particular case.
- (7) Where oral representations are made, the Board must prepare a report of those representations.
- (8) Before preparing that report, the Board must –
 - (a) give each person who made oral representations a reasonable opportunity to comment on a draft of the report of those representations, and 40
 - (b) have regard to any comments duly made.

- (9) The Board must, as soon as reasonably practicable after the end of the period within which representations may be made under this paragraph, publish any written representations duly made and the report (if any) prepared under sub-paragraph (7).

Further provision about publishing of advice and representations 5

- 11 (1) Nothing in paragraph 10 operates –
- (a) to prevent a person who gives advice under paragraphs 4 to 8 from publishing that advice, or
 - (b) to prevent a person who makes representations under paragraph 2 or 10 from publishing those representations. 10
- (2) A person (“the publisher”) publishing any such material (whether under paragraph 10 or otherwise) must, so far as practicable, exclude any matter which relates to the private affairs of a particular individual the publication of which, in the opinion of the publisher, would or might seriously and prejudicially affect the interests of that individual. 15

Decision by the Board

- 12 (1) After considering –
- (a) any advice duly given under paragraphs 4 to 8,
 - (b) any representations duly made under paragraph 2 or 10, and
 - (c) any other information which the Board considers relevant, 20
- the Board must decide whether to give an intervention direction.
- (2) Where it decides to give an intervention direction, it may decide –
- (a) to give an intervention direction in the form of the proposed intervention direction, or
 - (b) to amend the form of the proposed intervention direction and give an intervention direction in that amended form. 25
- (3) The Board must give notice of its decision (“the decision notice”) to the approved regulator.
- (4) Where the Board decides to give an intervention direction, the decision notice must – 30
- (a) contain the intervention direction,
 - (b) state the time at which the intervention direction is to take effect,
 - (c) specify the reasons why the Board is satisfied of the matters mentioned in section 40(1)(a) and (b), and
 - (d) if the decision is under sub-paragraph (2)(b), set out the nature of any amendments made and the reasons for them. 35
- (5) The time specified under sub-paragraph (4)(b) must not be before –
- (a) the time specified in the warning notice in accordance with paragraph 2(2)(a), or
 - (b) the time the decision notice is given to the approved regulator. 40
- (6) The Board must publish the decision notice.

PART 2

REVOKING INTERVENTION DIRECTIONS

Introductory

- 13 (1) Where an intervention direction has effect in respect of a regulatory function of an approved regulator – 5
- (a) the approved regulator may apply to the Board for the Board to revoke the direction, or
 - (b) the Board may give the approved regulator a notice stating the Board’s intention to revoke the direction.
- (2) An application under sub-paragraph (1)(a) must – 10
- (a) be made in the form and manner specified by the Board, and
 - (b) be accompanied by such material as the applicant considers is likely to be needed for the purposes of this Part of this Schedule.

Board’s duty to seek advice

- 14 (1) Where the Board has received an application under paragraph 13(1)(a), it must give each of the persons listed in sub-paragraph (3) – 15
- (a) a copy of the application,
 - (b) a copy of any material which accompanied it, and
 - (c) a notice specifying a period within which any advice under paragraphs 15 to 18 must be given. 20
- (2) Where the Board has given a notice under paragraph 13(1)(b), it must give each of the persons listed in sub-paragraph (3) –
- (a) a copy of the notice, and
 - (b) a notice specifying a period within which any advice under paragraphs 15 to 18 must be given. 25
- (3) The persons are –
- (a) the Secretary of State,
 - (b) the OFT,
 - (c) the Consumer Panel,
 - (d) the Lord Chief Justice, and 30
 - (e) such other persons as the Board considers it reasonable to consult in respect of the proposed revocation.
- (4) In this Part of this Schedule, in relation to an application or notice, “selected consultee” means a person within sub-paragraph (3)(e).

Advice of the Secretary of State 35

- 15 The Secretary of State must give the Board such advice as the Secretary of State thinks fit in respect of the proposed revocation.

Advice of Office of Fair Trading

- 16 (1) The OFT must give the Board such advice as it thinks fit regarding the proposed revocation. 40

- (2) In deciding what advice to give, the OFT must, in particular, have regard to whether revoking the intervention direction would (or would be likely to) prevent, restrict or distort competition within the market for reserved legal services to any significant extent.

Advice of the Consumer Panel 5

- 17 (1) The Consumer Panel must give the Board such advice as it thinks fit regarding the proposed revocation.
- (2) In deciding what advice to give, the Consumer Panel must, in particular, have regard to the likely impact which revoking the intervention direction would have on consumers. 10

Advice of the selected consultees

- 18 A selected consultee may give the Board such advice as the selected consultee thinks fit in respect of the proposed revocation.

Advice of the Lord Chief Justice

- 19 (1) The Board must give the Lord Chief Justice— 15
- (a) a copy of any advice duly given under paragraphs 15 to 18, and
 - (b) a notice specifying a period within which any advice under this paragraph must be given.
- (2) The Lord Chief Justice must then give the Board such advice as the Lord Chief Justice thinks fit in respect of the proposed revocation. 20
- (3) In deciding what advice to give, the Lord Chief Justice must, in particular, have regard to the likely impact which revoking the intervention direction would have on the courts in England and Wales.

Information obtained by consultees

- 20 A person to whom a copy of the application or notice is given under paragraph 14(1) or (2) may, for the purposes of giving advice under paragraphs 15 to 19, request the approved regulator or any other person to provide that person with such additional information as may be specified by that person. 25

Representations by approved regulator etc 30

- 21 (1) The Board must—
- (a) give the approved regulator a copy of any advice duly given under paragraphs 15 to 19, and
 - (b) publish that advice.
- (2) The approved regulator and any body within sub-paragraph (3) may make to the Board— 35
- (a) written representations, and
 - (b) if the Board authorises it to do so, oral representations, about the advice.

- (3) A body is within this sub-paragraph if it represents persons authorised by the approved regulator to carry on activities which are reserved legal activities.
- (4) The Board may allow any other person to make written or oral representations about the advice. 5
- (5) The Board must make rules governing the making of oral and written representations.
- (6) Representations under this paragraph must be made within—
 - (a) the period of 28 days beginning with the day on which the advice is published under sub-paragraph (1), or 10
 - (b) such longer period as the Board may specify in a particular case.
- (7) Where oral representations are made, the Board must prepare a report of those representations.
- (8) Before preparing that report, the Board must—
 - (a) give each person who made oral representations a reasonable opportunity to comment on a draft of the report of those representations, and 15
 - (b) have regard to any comments duly made.
- (9) The Board must, as soon as practicable after the end of the period within which representations may be made under this paragraph, publish any written representations duly made and the report (if any) prepared under sub-paragraph (7). 20

Further provision about publishing advice and representations

- 22 (1) Nothing in paragraph 21 operates—
 - (a) to prevent a person who gives advice under paragraphs 15 to 19 from publishing that advice, or 25
 - (b) to prevent a person who makes representations under paragraph 21 from publishing those representations.
- (2) A person (“the publisher”) publishing any such material (whether under paragraph 21 or otherwise) must, so far as practicable, exclude any matter which relates to the private affairs of a particular individual the publication of which, in the opinion of the publisher, would or might seriously and prejudicially affect the interests of that individual. 30

Decision by the Board

- 23 (1) After considering—
 - (a) in a case within paragraph 13(1)(a), the application and any accompanying material, 35
 - (b) any advice duly given under paragraphs 15 to 19,
 - (c) any representations duly made under paragraph 21, and
 - (d) any other information which the Board considers relevant to the application or notice, 40
- the Board must decide whether to revoke the intervention direction in accordance with the application or notice.

- (2) The Board must give notice of its decision (“the decision notice”) to the approved regulator.
- (3) Where the Board decides to revoke the intervention direction, the decision notice must state the time the revocation is to take effect.
- (4) Where the Board decides not to revoke the intervention direction, the decision notice must specify the reasons for that decision. 5
- (5) The Board must publish the decision notice.

SCHEDULE 9

Section 44

CANCELLATION OF DESIGNATION AS APPROVED REGULATOR

Introductory 10

- 1 This Schedule applies where the Board considers that it may be appropriate for it to make a recommendation under section 44(5).

Notification of the approved regulator

- 2 (1) The Board must give the approved regulator a notice (“a warning notice”) accompanied by a draft of the proposed recommendation. 15
- (2) The warning notice must –
 - (a) state that the Board proposes to make a recommendation under subsection (5) of section 44 in the form of the accompanying draft, and
 - (b) state the reasons why the Board is satisfied of the matters mentioned in paragraphs (a) and (b) of that subsection. 20
- (3) The Board must publish a copy of the warning notice.
- (4) The approved regulator may make to the Board –
 - (a) written representations, and
 - (b) if the Board authorises it to do so, oral representations, about the proposed recommendation. 25
- (5) The Board must make rules governing the making of oral and written representations.
- (6) Representations under this paragraph must be made within –
 - (a) the period of 28 days beginning with the day on which the warning notice is given to the approved regulator, or
 - (b) such longer period as the Board may specify in a particular case. 30
- (7) The Board must consider any representations duly made by the approved regulator.
- (8) Where oral representations are duly made, the Board must prepare a report of those representations. 35
- (9) Before preparing that report, the Board must –

- (a) give the approved regulator a reasonable opportunity to comment on a draft of the report, and
- (b) have regard to any comments duly made.

Board’s duty to seek advice

- 3 (1) After complying with paragraph 2, the Board must give each of the persons listed in sub-paragraph (2) – 5
- (a) a copy of the warning notice and the accompanying draft,
 - (b) a copy of any written representations duly made by the approved regulator under paragraph 2 and a copy of the report (if any) prepared under that paragraph, and 10
 - (c) a notice specifying a period within which any advice under paragraphs 4 to 6 must be given.
- (2) Those persons are –
- (a) the OFT,
 - (b) the Consumer Panel, 15
 - (c) the Lord Chief Justice, and
 - (d) such other persons as the Board considers it reasonable to consult in respect of the proposed recommendation.
- (3) In this Schedule, in relation to a proposed recommendation, “selected consultee” means a person within sub-paragraph (2)(d). 20

Advice of Office of Fair Trading

- 4 (1) The OFT must give the Board such advice as it thinks fit regarding whether the proposed recommendation should be made.
- (2) In deciding what advice to give, the OFT must, in particular, have regard to whether making an order under section 44 in accordance with the proposed recommendation would (or would be likely to) prevent, restrict or distort competition within the market for reserved legal services to any significant extent. 25

Advice of the Consumer Panel

- 5 (1) The Consumer Panel must give the Board such advice as it thinks fit regarding whether the proposed recommendation should be made. 30
- (2) In deciding what advice to give, the Consumer Panel must, in particular, have regard to the likely impact on consumers of making an order under section 44 in accordance with the proposed recommendation.

Advice of selected consultees 35

- 6 A selected consultee may give the Board such advice as the selected consultee thinks fit in respect of the proposed recommendation.

Advice of the Lord Chief Justice

- 7 (1) The Board must give the Lord Chief Justice – 40
- (a) a copy of any advice duly given under paragraphs 4 to 6, and

- (b) a notice specifying a period within which advice under this paragraph must be given.
- (2) The Lord Chief Justice must then give such advice as the Lord Chief Justice thinks fit in respect of the proposed recommendation.
- (3) In deciding what advice to give, the Lord Chief Justice must, in particular, have regard to the likely impact on the courts in England and Wales of making an order under section 44 in accordance with the proposed recommendation. 5

Information obtained by consultees

- 8 A person (“the consultee”) to whom a copy of the warning notice is given under paragraph 3(1) may, for the purposes of giving advice under paragraphs 4 to 7, request the approved regulator or any other person to provide the consultee with such additional information as may be specified by the consultee. 10

Representations by the approved regulator etc 15

- 9 (1) The Board must—
 - (a) give the approved regulator a copy of any advice duly given under paragraphs 4 to 7, and
 - (b) publish that advice together with any written representations duly made by the approved regulator under paragraph 2 and the report (if any) prepared under that paragraph. 20
- (2) The approved regulator and any body within sub-paragraph (3) may make to the Board—
 - (a) written representations, and
 - (b) if authorised to do so by the Board, oral representations, 25
 about the advice.
- (3) A body is within this sub-paragraph if it represents persons authorised by the approved regulator to carry on activities which are reserved legal activities.
- (4) The Board may allow any other person to make written or oral representations about the advice. 30
- (5) The Board may make rules governing the making to the Board of written or oral representations.
- (6) Representations under this paragraph must be made within—
 - (a) the period of 28 days beginning with the day on which the representations and advice are published under sub-paragraph (1)(b), or 35
 - (b) such longer period as the Board may specify in a particular case.
- (7) Where oral representations are made, the Board must prepare a report of those representations. 40
- (8) Before preparing that report, the Board must—
 - (a) give each person who made oral representations a reasonable opportunity to comment on a draft of the report of those representations, and

- (b) have regard to any comments duly made.
- (9) The Board must, as soon as reasonably practicable after the end of the period within which representations under this paragraph may be made, publish any written representations duly made and the report (if any) prepared under sub-paragraph (7). 5

Publication of advice etc

- 10 (1) Nothing in paragraph 9 operates –
 - (a) to prevent a person who gives advice under paragraphs 4 to 7 from publishing that advice, or
 - (b) to prevent a person who makes representations under paragraph 2 or 9 from publishing those representations. 10
- (2) A person (“the publisher”) publishing any such material (whether under paragraph 9 or otherwise) must, so far as practicable, exclude any matter which relates to the private affairs of a particular individual the publication of which, in the opinion of the publisher, would or might seriously and prejudicially affect the interests of that individual. 15

Decision by the Board

- 11 (1) After considering –
 - (a) any advice duly given under paragraphs 4 to 7,
 - (b) any representations duly made under paragraph 2 or 9, and 20
 - (c) any other information which the Board considers relevant,the Board must decide whether to make the proposed recommendation.
- (2) The Board must give notice of its decision (“the decision notice”) to the approved regulator and to the Secretary of State.
- (3) If the Board decides to make the proposed recommendation, the decision notice must – 25
 - (a) contain the recommendation, and
 - (b) state why the Board is satisfied of the matters mentioned in section 44(5)(a) and (b).
- (4) The Board must publish the decision notice. 30

SCHEDULE 10

Sections 73 and 75

DESIGNATION OF APPROVED REGULATORS AS LICENSING AUTHORITIES

PART 1

DESIGNATION OF APPROVED REGULATORS BY ORDER

Application to the Board 35

- 1 (1) This paragraph applies where a body wishes to become a licensing authority in relation to one or more activities which constitute one or more reserved legal activities.

-
- (2) The body may apply to the Board for the Board –
- (a) to recommend that an order be made by the Secretary of State designating the applicant as a licensing authority in relation to the reserved legal activity or activities in question, and
 - (b) to approve what the applicant proposes as its licensing rules if such an order is made (“the proposed licensing rules”). 5
- (3) But the body may make an application under this paragraph in relation to a reserved legal activity only if –
- (a) it is a relevant approved regulator in relation to the activity, or
 - (b) it has made an application under Part 2 of Schedule 4 (designation of approved regulators) for the Board to recommend that an order be made by the Secretary of State designating the body as an approved regulator in relation to the activity. 10
- (4) An application under this paragraph must be made in such form and manner as the Board may specify in rules and must be accompanied by –
- (a) a statement of the reserved legal activity or activities to which it relates,
 - (b) details of the applicant’s proposed licensing rules,
 - (c) such explanatory material as the applicant considers is likely to be needed for the purposes of this Part of this Schedule, and 20
 - (d) the prescribed fee.
- (5) The prescribed fee is the fee specified in, or determined in accordance with, rules made by the Board with the consent of the Secretary of State.
- (6) An applicant may, at any time, withdraw the application by giving notice to that effect to the Board. 25

Dismissal of application

- 2 (1) The Board may refuse to consider, or to continue its consideration of, an application.
- (2) The Board must make rules about the procedures and criteria that it will apply when determining whether to refuse to consider, or to continue its consideration of, an application under sub-paragraph (1). 30
- (3) Where the Board decides to refuse to consider, or to continue its consideration of, an application it must give the applicant notice of that decision and of its reasons for it.
- (4) The Board must publish a notice given under sub-paragraph (3). 35

Board’s duty to seek advice

- 3 (1) The Board must give each of the persons listed in sub-paragraph (2) –
- (a) a copy of the application and accompanying material, and
 - (b) a notice specifying a period within which any advice given under paragraphs 4 to 6 must be given. 40
- (2) Those persons are –
- (a) the OFT,
 - (b) the Consumer Panel,
 - (c) the Lord Chief Justice, and

(d) such other persons as the Board considers it reasonable to consult regarding the application.

(3) In this Part of this Schedule, in relation to an application, “selected consultee” means a person within sub-paragraph (2)(d).

Advice of Office of Fair Trading 5

- 4 (1) The OFT must give the Board such advice as the OFT thinks fit regarding whether the application should be granted.
- (2) In deciding what advice to give, the OFT must, in particular, have regard to whether making an order under paragraph 15 in accordance with the recommendation applied for would (or would be likely to) prevent, restrict or distort competition within the market for reserved legal services to any significant extent. 10

Advice of the Consumer Panel

- 5 (1) The Consumer Panel must give the Board such advice as the Consumer Panel thinks fit regarding whether the application should be granted. 15
- (2) In deciding what advice to give, the Consumer Panel must, in particular, have regard to the likely impact on consumers of the making of an order under paragraph 15 in accordance with the recommendation applied for.

Advice of selected consultees

- 6 A selected consultee may give the Board such advice as the selected consultee thinks fit in respect of the application. 20

Advice of the Lord Chief Justice

- 7 (1) The Board must give the Lord Chief Justice –
- (a) a copy of any advice duly given under paragraphs 4 to 6, and
 - (b) a notice specifying a period within which any advice under this paragraph must be given. 25
- (2) The Lord Chief Justice must then give such advice to the Board as the Lord Chief Justice thinks fit regarding whether the application should be granted.
- (3) In deciding what advice to give, the Lord Chief Justice must, in particular, have regard to the likely impact on the courts in England and Wales of the making of an order under paragraph 15 in accordance with the recommendation applied for. 30

Information obtained by consultees

- 8 A person (“the consultee”) to whom a copy of the application is given under paragraph 3(1) may, for the purposes of giving advice under paragraphs 4 to 7, request the applicant or any other person to provide the consultee with such additional information as may be specified by the consultee. 35

Representations by applicant

- 9 (1) The Board must give the applicant a copy of any advice duly given under paragraphs 4 to 7.
- (2) The applicant may make to the Board –
- (a) written representations, and 5
 - (b) if the Board authorises it to do so, oral representations, about the advice.
- (3) The Board must make rules governing the making of oral and written representations.
- (4) Representations under this paragraph must be made within – 10
- (a) the period of 28 days beginning with the day on which the copy of the advice is given to the applicant, or
 - (b) such longer period as the Board may specify in a particular case.
- (5) Where oral representations are made, the Board must prepare a report of those representations. 15
- (6) Before preparing that report, the Board must –
- (a) give the applicant a reasonable opportunity to comment on a draft of the report, and
 - (b) have regard to any comments duly made.

Publication of advice and representations etc 20

- 10 (1) The Board must, as soon as practicable after the end of the period within which representations under paragraph 9 may be made, publish –
- (a) any advice duly given under paragraphs 4 to 7,
 - (b) any written representations duly made under paragraph 9 and the report (if any) prepared under that paragraph. 25
- (2) Nothing in sub-paragraph (1) operates –
- (a) to prevent a person who gives advice under paragraphs 4 to 7 from publishing that advice, or
 - (b) to prevent a person who makes representations under paragraph 9 from publishing those representations. 30
- (3) A person (“the publisher”) publishing any such material (whether under sub-paragraph (1) or otherwise) must, so far as practicable, exclude any matter which relates to the private affairs of a particular individual the publication of which, in the opinion of the publisher, would or might seriously and prejudicially affect the interests of that individual. 35

Rules governing decisions by the Board

- 11 (1) The Board must make rules specifying how it will determine applications.
- (2) Rules under sub-paragraph (1) must, in particular, provide that the Board may grant an application in relation to a particular reserved legal activity only if it is satisfied – 40
- (a) that the applicant’s proposed licensing rules in relation to the activity comply with the requirements of section 81;

- (b) that, if an order were to be made under paragraph 15 designating the body in relation to the activity, there would be a body with power to hear and determine appeals which, under this Part or the applicant’s proposed licensing rules, may be made against decisions of the applicant; 5
 - (c) that, if an order were to be made under paragraph 15 designating the body in relation to the activity, the applicant would have appropriate internal governance arrangements in place at the time the order takes effect;
 - (d) that, if an order were made under paragraph 15 designating the body in relation to the activity, the applicant would be competent, and have sufficient resources, to perform the role of licensing authority in relation to the activity at the time the order takes effect. 10
- (3) The rules made for the purposes of sub-paragraph (2)(c) must in particular require the Board to be satisfied – 15
- (a) that the exercise of the applicant’s regulatory functions would not be prejudiced by any of its representative functions, and
 - (b) that decisions relating to the exercise of its regulatory functions would so far as reasonably practicable be taken independently from decisions relating to the exercise of its representative functions. 20

Determination of applications

- 12 (1) After considering –
- (a) the application and accompanying material,
 - (b) any other information provided by the applicant,
 - (c) any advice duly given under paragraphs 4 to 7, 25
 - (d) any representations duly made under paragraph 9, and
 - (e) any other information which the Board considers relevant to the application,
- the Board must decide whether to grant the application.
- (2) Where the application relates to more than one reserved legal activity, the Board may grant the application in relation to all or any of them. 30
- (3) The Board must give notice of its decision to the applicant (“the decision notice”).
- (4) Where the Board decides to refuse the application (in whole or in part), the decision notice must specify the reasons for that decision. 35
- (5) The Board must publish the decision notice.
- 13 (1) Where an application is made under this Part, the Board must give the decision notice under paragraph 12 within the decision period.
- (2) The “decision period” is the period of 12 months beginning with the day on which the application is made to the Board. 40
- (3) The Board may, before the end of the decision period, issue a notice extending that period by a period specified in the notice.
- (4) More than one notice may be issued under sub-paragraph (3), but the decision period must not exceed 16 months.
- (5) The Board may issue a notice under sub-paragraph (3) only after it has – 45

- (a) consulted the OFT, the Consumer Panel and the Lord Chief Justice, and
 - (b) obtained the Secretary of State’s consent to the extension.
- (6) A notice under sub-paragraph (3) must state the Board’s reasons for extending the decision period. 5
- (7) The Board must publish any notice issued under sub-paragraph (3).

Effect of grant of application

- 14 (1) This paragraph applies where an application is granted in relation to a reserved legal activity or activities.
- (2) The Board must recommend to the Secretary of State that an order be made designating the applicant as a licensing authority in relation to the reserved legal activity or activities in question. 10
- (3) The Board must publish any recommendation made under sub-paragraph (2).
- (4) The Board must make available to the Secretary of State – 15
- (a) any advice duly given under paragraphs 4 to 7,
 - (b) any written representations duly made under paragraph 9 and the report (if any) prepared under that paragraph, and
 - (c) any other material considered by the Board for the purpose of determining the application. 20

Secretary of State’s decision to make an order

- 15 (1) Where a recommendation is made to the Secretary of State under paragraph 14, the Secretary of State may –
- (a) make an order in accordance with the recommendation, or
 - (b) refuse to make such an order. 25
- (2) Where the recommendation relates to more than one reserved legal activity, the Secretary of State may make an order under sub-paragraph (1)(a) in relation to all or any of them.
- (3) But if the application, in relation to a particular reserved legal activity, was made in reliance on paragraph 1(3)(b), the Secretary of State must not make an order in relation to that activity unless the Secretary of State has made an order under Part 2 of Schedule 4 designating the body as an approved regulator in relation to that activity. 30
- (4) The Secretary of State must –
- (a) decide whether to make an order under this paragraph, and
 - (b) give notice of that decision (“the decision notice”) to the applicant, within the period of 90 days beginning with the day on which the recommendation was made. 35
- (5) If the Secretary of State decides not to make an order in accordance with the whole or part of the recommendation, the decision notice must state the reasons for the decision. 40
- (6) The Secretary of State must publish the decision notice.

Approval of licensing rules

- 16 (1) Where an order is made by the Secretary of State under paragraph 15, the applicant’s proposed licensing rules are at the same time treated as having been approved by the Board.
- (2) But where the order relates to one or more (but not all) of the reserved legal activities to which the application related, sub-paragraph (1) has effect as if the reference to the applicant’s proposed licensing rules were a reference to those rules excluding any provision made in respect of any activities excluded from the order. 5
- (3) Sub-paragraph (1) is without prejudice to the Board’s power to give directions under section 31 (powers to direct an approved regulator to take steps in certain circumstances, including steps to amend its regulatory arrangements). 10

PART 2

CANCELLATION OF DESIGNATION BY ORDER 15

Introductory

- 17 This Part of this Schedule applies where the Board considers that it may be appropriate for it to make a recommendation under section 75(5).

Notification of the licensing authority

- 18 (1) The Board must give the licensing authority a notice (“a warning notice”) accompanied by a draft of the proposed recommendation. 20
- (2) The warning notice must –
- (a) state that the Board proposes to make a recommendation under subsection (5) of section 75 in the form of the accompanying draft, and 25
- (b) state the reasons why the Board is satisfied of the matters mentioned in paragraphs (a) and (b) of that subsection.
- (3) The Board must publish a copy of the warning notice.
- (4) The licensing authority may make to the Board –
- (a) written representations, and 30
- (b) if the Board authorises it to do so, oral representations, about the proposed recommendation.
- (5) The Board must make rules governing the making of oral and written representations.
- (6) Representations under this paragraph must be made within – 35
- (a) the period of 28 days beginning with the day on which the warning notice is given to the licensing authority, or
- (b) such longer period as the Board may specify in a particular case.
- (7) The Board must consider any representations duly made by the licensing authority. 40

- (8) Where oral representations are duly made, the Board must prepare a report of those representations.
- (9) Before preparing that report, the Board must –
- (a) give the licensing authority a reasonable opportunity to comment on a draft of the report, and
 - (b) have regard to any comments duly made.

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Board’s duty to seek advice

- 19 (1) After complying with paragraph 18, the Board must give each of the persons listed in sub-paragraph (2) –
- (a) a copy of the warning notice and the accompanying draft,
 - (b) a copy of any written representations duly made by the licensing authority under paragraph 18 and a copy of the report (if any) prepared under that paragraph, and
 - (c) a notice specifying a period within which any advice under paragraphs 20 to 22 must be given.
- (2) Those persons are –
- (a) the OFT,
 - (b) the Consumer Panel,
 - (c) the Lord Chief Justice, and
 - (d) such other persons as the Board considers it reasonable to consult in respect of the proposed recommendation.
- (3) In this Part of this Schedule, in relation to a proposed recommendation, “selected consultee” means a person within sub-paragraph (2)(d).

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Advice of Office of Fair Trading

- 20 (1) The OFT must give the Board such advice as it thinks fit regarding whether the proposed recommendation should be made.
- (2) In deciding what advice to give, the OFT must, in particular, have regard to whether making an order under section 75 in accordance with the proposed recommendation would (or would be likely to) prevent, restrict or distort competition within the market for reserved legal services to any significant extent.

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Advice of the Consumer Panel

- 21 (1) The Consumer Panel must give the Board such advice as it thinks fit regarding whether the proposed recommendation should be made.
- (2) In deciding what advice to give, the Consumer Panel must, in particular, have regard to the likely impact on consumers of making an order under section 75 in accordance with the proposed recommendation.

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Advice of selected consultees

- 22 A selected consultee may give the Board such advice as the selected consultee thinks fit in respect of the proposed recommendation.

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Advice of the Lord Chief Justice

- 23 (1) The Board must give the Lord Chief Justice—
- (a) a copy of any advice duly given under paragraphs 20 to 22, and
 - (b) a notice specifying a period within which advice under this paragraph must be given. 5
- (2) The Lord Chief Justice must then give such advice as the Lord Chief Justice thinks fit in respect of the proposed recommendation.
- (3) In deciding what advice to give, the Lord Chief Justice must, in particular, have regard to the likely impact on the courts in England and Wales of making an order under section 75 in accordance with the proposed recommendation. 10

Information obtained by consultees

- 24 A person (“the consultee”) to whom a copy of the warning notice is given under paragraph 19(1) may, for the purposes of giving advice under paragraphs 20 to 23, request the licensing authority or any other person to provide the consultee with such additional information as may be specified by the consultee. 15

Representations by the approved regulator etc

- 25 (1) The Board must—
- (a) give the licensing authority a copy of any advice duly given under paragraphs 20 to 23, and 20
 - (b) publish that advice together with any written representations duly made by the licensing authority under paragraph 18 and the report (if any) prepared under that paragraph.
- (2) The licensing authority and any body within sub-paragraph (3) may make to the Board— 25
- (a) written representations, and
 - (b) if authorised to do so by the Board, oral representations, about the advice.
- (3) A body is within this sub-paragraph if it represents licensed bodies authorised by the licensing authority to carry on activities which are reserved legal activities. 30
- (4) The Board may allow any other person to make written or oral representations about the advice.
- (5) The Board may make rules governing the making to the Board of written or oral representations. 35
- (6) Representations under this paragraph must be made within—
- (a) the period of 28 days beginning with the day on which the representations and advice are published under sub-paragraph (1)(b), or 40
 - (b) such longer period as the Board may specify in a particular case.
- (7) Where oral representations are made, the Board must prepare a report of those representations.

- (8) Before preparing that report, the Board must –
- (a) give each person who made oral representations a reasonable opportunity to comment on a draft of the report of those representations, and
 - (b) have regard to any comments duly made. 5
- (9) The Board must, as soon as reasonably practicable after the end of the period within which representations under this paragraph may be made, publish any written representations duly made and the report (if any) prepared under sub-paragraph (7).

Publication of advice etc 10

- 26 (1) Nothing in paragraph 25 operates –
- (a) to prevent a person who gives advice under paragraphs 20 to 23 from publishing that advice, or
 - (b) to prevent a person who makes representations under paragraph 18 or 25 from publishing those representations. 15
- (2) A person (“the publisher”) publishing any such material (whether under paragraph 25 or otherwise) must, so far as practicable, exclude any matter which relates to the private affairs of a particular individual the publication of which, in the opinion of the publisher, would or might seriously and prejudicially affect the interests of that individual. 20

Decision by the Board

- 27 (1) After considering –
- (a) any advice duly given under paragraphs 20 to 23,
 - (b) any representations duly made under paragraph 18 or 25, and
 - (c) any other information which the Board considers relevant, 25
- the Board must decide whether to make the proposed recommendation.
- (2) The Board must give notice of its decision (“the decision notice”) to the licensing authority and to the Secretary of State.
- (3) If the Board decides to make the proposed recommendation, the decision notice must – 30
- (a) contain the recommendation, and
 - (b) state why the Board is satisfied of the matters mentioned in section 75(5)(a) and (b).
- (4) The Board must publish the decision notice.

SCHEDULE 11

Section 81

LICENSING RULES

PART 1

LICENSING PROCEDURE

<i>Applications for licences</i>	5
1 (1) Licensing rules must make provision about the form and manner in which applications for licences are to be made, and the fee which is to accompany an application.	
(2) They may make provision about –	
(a) the information which applications must contain, and	10
(b) the documents which must accompany applications.	
<i>Determination of applications</i>	
2 (1) Licensing rules must make the following provision about the determination of applications for licences.	
(2) Before the end of the decision period the licensing authority must –	15
(a) decide the application,	
(b) notify the applicant of its decision, and	
(c) if it decides to refuse the application, set out in the notice the reasons for the refusal.	
(3) The decision period is the period of 6 months beginning with the day on which the application is made to the licensing authority.	20
(4) The licensing authority may, on one or more occasions, give the applicant a notice (an “extension notice”) extending the decision period by a period specified in the notice.	
(5) But –	25
(a) an extension notice may only be given before the time when the decision period would end, but for the extension notice, and	
(b) the total decision period must not exceed 9 months.	
(6) An extension notice must set out the reasons for the extension.	
<i>Review of determination</i>	30
3 Licensing rules must make provision for review by the licensing authority of –	
(a) a decision to refuse an application for a licence;	
(b) if a licence is granted, the terms of the licence.	
<i>Period of licence and renewal</i>	35
4 (1) The licensing rules may make provision –	

- (a) limiting the period for which any licence is (subject to the provision of this Part of this Schedule and of the licensing rules) to remain in force;
 - (b) about the renewal of licences, including provision about the form and manner in which an application for the renewal is to be made, and the fee which is to accompany an application. 5
- (2) The licensing rules may make provision about –
- (a) the information which applications for renewal must contain, and
 - (b) the documents which must accompany applications.
- (3) Licensing rules must provide that a licence issued to a licensed body by the licensing authority ceases to have effect if the licensed body is issued with a licence by another licensing authority. 10

Continuity of licences

- 5 (1) Licensing rules may make provision about the effect, on a licence issued to a partnership or other unincorporated body (“the existing body”), of any change in the membership of the existing body. 15
- (2) The provision which may be made includes provision for the existing body’s licence to be transferred where the existing body ceases to exist and another body succeeds to the whole or substantially the whole of its business.

Modification of licences

- 6 (1) Licensing rules must make provision about the form and manner in which applications are to be made for modification of the terms of a licence under section 84, and the fee which is to accompany the application. 20
- (2) They may make provision as to the circumstances in which the licensing authority may modify the terms of a licence under section 84 without an application being made. 25
- (3) They must make provision for review by the licensing authority of –
- (a) a decision to refuse an application for modification of the terms of a licence;
 - (b) if the licensing authority makes licensing rules under sub-paragraph (2), a decision under those rules to modify the terms of a licence. 30

Modifications under section 104 or 105

- 7 (1) Licensing rules must make provision about the form and manner in which applications are to be made under section 104 or 105, and the fee which is to accompany the application. 35
- (2) They may make provision as to the matters to which the licensing authority must have regard in determining whether to make an order under section 104, or to revoke or modify such an order.
- (3) They must make provision for review by the licensing authority of –
- (a) a decision to refuse an application under those sections; 40
 - (b) the terms of any order made under section 104 or any decision under section 105.

- 8 (1) Licensing rules must make the following provision in relation to licensed bodies to which section 104 applies (“special bodies”), and in relation to which an order under section 104 has been made.
- (2) If a special body becomes a special body of a different kind, it must notify the licensing authority of that fact before the end of the relevant period. 5
- (3) If a special body ceases to be a special body, it must notify the licensing authority of that fact before the end of the relevant period.
- (4) The relevant period is the period of 30 days (or such longer period as may be specified in licensing rules) beginning with the day on which the body first became a special body of a different kind, or ceased to be a special body. 10
- (5) Licensing rules may make provision requiring a special body to provide the licensing authority with such information relevant to the matters mentioned in section 104(5) as may be specified in the licensing rules.

PART 2

STRUCTURAL REQUIREMENTS 15

Management

- 9 (1) Licensing rules must require a licensed body to comply with the following requirement at all times.
- (2) At least one of the licensed body’s managers must be an individual who is an authorised person in relation to a licensed activity. 20
- (3) No manager of the licensed body may be a person who under this Part of this Act is disqualified from acting as a manager of a licensed body.
- 10 (1) Licensing rules may make further provision as to –
 - (a) the managers of licensed bodies, and
 - (b) the arrangements for the management by them of the licensed body and its activities. 25
- (2) They must not require all the managers of a licensed body to be authorised persons in relation to a reserved legal activity.

Head of Legal Practice

- 11 (1) Licensing rules must include the following requirements. 30
- (2) A licensed body must at all times have an individual –
 - (a) who is designated as Head of Legal Practice, and
 - (b) whose designation is approved by the licensing authority.
- (3) A designation of an individual as Head of Legal Practice has effect only while the individual – 35
 - (a) consents to the designation,
 - (b) is an authorised person in relation to one or more of the licensed activities, and
 - (c) is not under this Part of this Act disqualified from acting as Head of Legal Practice of a licensed body. 40

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- (4) The licensing authority may approve a person’s designation only if it is satisfied that the person is a fit and proper person to carry out the duties imposed by section 89 in relation to that body.
- (5) The licensing authority may approve a person’s designation in the course of determining an application for a licence under section 82. 5
- (6) If the licensing authority is satisfied that the person designated as a licensed body’s Head of Legal Practice has breached a duty imposed by section 89, it may withdraw its approval of that person’s designation.
- 12 (1) Licensing rules must make provision about –
- (a) the procedures and criteria that will be applied by the licensing authority when determining under paragraph 11(4) whether an individual is a fit and proper person; 10
- (b) the procedures and criteria that will be applied by the licensing authority in determining under paragraph 11(6) whether to withdraw its approval; 15
- (c) the procedure which is to apply where a licensed body ceases to comply with the requirement imposed by virtue of paragraph 11(2).
- (2) Rules made in accordance with sub-paragraph (1)(c) may in particular provide that the requirement imposed by virtue of paragraph 11(2) is suspended until such time as may be specified by the licensing authority if the licensed body complies with such other requirements as may be specified in the rules. 20

Head of Finance and Administration

- 13 (1) Licensing rules must include the following requirements.
- (2) A licensed body must at all times have an individual – 25
- (a) who is designated as Head of Finance and Administration, and
- (b) whose designation is approved by the licensing authority.
- (3) A designation of an individual as Head of Finance and Administration has effect only while the individual –
- (a) consents to the designation, and 30
- (b) is not under this Part of this Act disqualified from acting as Head of Finance and Administration of a licensed body.
- (4) The licensing authority may approve a person’s designation only if it is satisfied that the person is a fit and proper person to carry out the duties imposed by section 90 in relation to that body. 35
- (5) The licensing authority may approve a person’s designation in the course of determining an application for a licence under section 82.
- (6) If the licensing authority is satisfied that the person designated as a licensed body’s Head of Finance and Administration has breached a duty imposed by section 90, it may withdraw its approval of that person’s designation. 40
- 14 (1) Licensing rules must make provision about –
- (a) the procedures and criteria that will be applied by the licensing authority when determining under paragraph 13(4) whether an individual is a fit and proper person;

- (b) the procedures and criteria that will be applied by the licensing authority in determining under paragraph 13(6) whether to withdraw its approval;
 - (c) the procedure which is to apply where a licensed body ceases to comply with the requirement imposed by virtue of paragraph 13(2). 5
- (2) The rules made in accordance with sub-paragraph (1)(c) may in particular provide that the requirement imposed by virtue of sub-paragraph 13(2) is suspended until such time as may be specified by the licensing authority if the licensed body complies with such other requirements as may be specified in the rules. 10

PART 3

PRACTICE REQUIREMENTS

Practising address

- 15 (1) Licensing rules must require a licensed body, other than one to which sub-paragraph (3) applies, at all times to have a practising address in England and Wales. 15
- (2) For this purpose “practising address”, in relation to a licensed body, means an address from which the body provides services which consist of or include the carrying on of reserved legal activities.
- (3) This sub-paragraph applies to a licensed body – 20
 - (a) which is a company or limited liability partnership, and
 - (b) the registered office of which is situated in England and Wales (or in Wales).

Licensed activities

- 16 Licensing rules must provide that a licensed body may carry on a licensed activity only through a person who is entitled to carry on the activity. 25

Compliance with regulatory arrangements etc

- 17 (1) Licensing rules must include the following provision.
- (2) A licensed body must at all times have suitable arrangements in place to ensure that – 30
 - (a) it, and its managers and employees, comply with the duties imposed by section 169, and
 - (b) it, and any person to whom sub-paragraph (3) applies, maintain the professional principles set out in section 1(3).
- (3) This sub-paragraph applies to any manager or employee of the licensed body who is an authorised person in relation to an activity which is a reserved legal activity. 35
- (4) A licensed body must at all times have suitable arrangements in place to ensure that non-authorised persons subject to the duty imposed by section 88 in relation to the licensed body comply with that duty. 40
- (5) Licensing rules may make provision as to the arrangements which are suitable for the purposes of rules made under sub-paragraphs (2) and (4).

Disqualified employees

- 18 (1) Licensing rules must include the following requirement.
- (2) A licensed body may not employ a person who under this Part of this Act is disqualified from being an employee of a licensed body.

Indemnification arrangements and compensation arrangements 5

- 19 (1) For the purpose of giving effect to indemnification arrangements and compensation arrangements, licensing rules may –
- (a) authorise or require the licensing authority to establish and maintain a fund or funds;
 - (b) authorise or require the licensing authority to take out and maintain insurance with authorised insurers; 10
 - (c) require licensed bodies or licensed bodies of any specific description to take out and maintain insurance with authorised insurers.
- (2) In this paragraph “authorised insurer” has the same meaning as in section 63. 15

Accounts

- 20 (1) The licensing rules must make provision as to the treatment of money within sub-paragraph (2), and the keeping of accounts in respect of such money.
- (2) The money referred to in sub-paragraph (1) is money (including money held on trust) which is received, held or dealt with by the licensed body, its managers and employees for clients or other persons. 20

PART 4

REGULATION

Fees

- 21 (1) The licensing rules must require licensed bodies to pay periodical fees to the licensing authority. 25
- (2) The rules may provide for the payment of different fees by different descriptions of licensed body.

Financial penalties

- 22 The licensing rules must make provision as to – 30
- (a) the acts and omissions in respect of which the licensing authority may impose a penalty under section 93, and
 - (b) the criteria and procedure to be applied by the licensing authority in determining whether to impose a penalty under that section, and the amount of any penalty. 35

Disqualifications

- 23 (1) Licensing rules must make provision as to the criteria and procedure to be applied by the licensing authority in determining whether a person should be disqualified under section 97.

- (2) Licensing rules must make provision –
- (a) for a review by the licensing authority of a determination by the licensing authority that a person should be disqualified;
 - (b) as to the criteria and procedure to be applied by the licensing authority in determining whether a person’s disqualification should cease to be in force; 5
 - (c) requiring the licensing authority to notify the Board of any determination by the licensing authority that a person should be disqualified, of the results of any review of that determination, and of any decision by the licensing authority that a person’s disqualification should cease to be in force. 10

Suspension or revocation of licence under section 99

- 24 (1) Licensing rules must make the following provision.
- (2) The licensing authority may suspend or revoke a licensed body’s licence under section 99 in the following cases. 15
 - (3) The first case is that the licensed body becomes a body which is not a licensable body.
 - (4) The second case is that the licensed body fails to comply with licensing rules made under paragraph 16 (carrying on of licensed activities).
 - (5) The third case is that – 20
 - (a) a non-authorized person holds a restricted interest in the licensed body –
 - (i) as a result of the person taking a step in circumstances where that constitutes an offence under paragraph 24(1) of Schedule 13 (whether or not the person is charged with or convicted of an offence under that paragraph), 25
 - (ii) in breach of conditions imposed under paragraph 17, 28, or 33 of that Schedule, or
 - (iii) the person’s holding of which is subject to an objection by the licensing authority under paragraph 31 or 36 of that Schedule, 30
 - (b) if the relevant licensing rules make the provision mentioned in paragraph 38(1)(a) of that Schedule, a non-authorized person has under those rules an interest in shares in the body which exceeds the share limit, or 35
 - (c) if the relevant licensing rules make the provision mentioned in paragraph 38(1)(b) of that Schedule, the total proportion of shares in the licensed body in which non-authorized persons have an interest exceeds the limit specified in the rules.
 - (6) The fourth case is that a non-authorized person subject to the duty in section 88 in relation to the licensed body fails to comply with that duty. 40
 - (7) The fifth case is that the licensed body, or a manager or employee of the licensed body, fails to comply with the duties imposed by section 169.
 - (8) The sixth case is that –
 - (a) the licensed body fails to comply with licensing rules made under paragraph 9(3) or 18 (prohibition on disqualified managers and employees), and 45

- (b) the manager or employee concerned was disqualified as a result of breach of a duty within section 97(4)(c) or (d).
- (9) The seventh case is that the licensed body is unable to comply with licensing rules made under –
- (a) paragraph 11 (requirement for Head of Legal Practice), or 5
- (b) paragraph 13 (requirement for Head of Finance and Administration).
- (10) Before suspending or revoking a licence in accordance with sub-paragraph (2), the licensing authority must give the licensed body notice of its intention. 10
- (11) The licensing authority may not suspend or revoke the licence before the end of the period of 28 days beginning with the day on which the notice is given to the licensed body (or any longer period specified in the notice).
- 25 Licensing rules may make provision about other circumstances in which the licensing authority may exercise its power under section 99 to suspend or revoke a licence. 15
- 26 (1) Licensing rules must make provision about the criteria and procedure the licensing authority will apply in deciding whether to suspend or revoke a licence, or to end the suspension of a licence, under section 99.
- (2) They must make provision for review by the licensing authority of a decision by the licensing authority to suspend or revoke a licence. 20

SCHEDULE 12

Section 82

ENTITLEMENT TO MAKE AN APPLICATION FOR A LICENCE TO THE BOARD

Application to Board

- 1 (1) A licensable body may apply to the Board for a decision that the body is entitled to make an application for a licence to the Board acting in its capacity as a licensing authority. 25
- (2) An application under sub-paragraph (1) may be made only on one of the grounds specified in this paragraph.
- (3) The first ground is that – 30
- (a) there is no competent licensing authority, and
- (b) there is no potentially competent licensing authority.
- (4) The second ground is that –
- (a) each competent licensing authority has determined that it does not have suitable regulatory arrangements, 35
- (b) if one or more competent licensing authorities have made an application to the Board under Part 3 of Schedule 4 for the approval of alterations in their regulatory arrangements, each of those authorities has determined that it will not have suitable regulatory arrangements if the application is granted, and 40

- (c) each potentially competent licensing authority has determined that it will not have suitable regulatory arrangements if it becomes a competent licensing authority.
- (5) The third ground applies only in relation to a licensable body within sub-paragraph (6), and is that – 5
 - (a) the body has made an application for a licence to each competent licensing authority which has suitable regulatory arrangements, and
 - (b) no such licensing authority is prepared to grant the body a licence on terms which are appropriate to that body.
- (6) The licensable bodies within this sub-paragraph are – 10
 - (a) a not for profit body;
 - (b) a community interest company;
 - (c) a trade union;
 - (d) if an order under section 104(1)(e) so provides in relation to a description of body prescribed under that section, a body of that description. 15

Board's decision on an application under paragraph 1

- 2 (1) On an application under paragraph 1 the Board must, before the end of the decision period, decide whether the licensable body is entitled to make an application for a licence to the Board acting in its capacity as a licensing authority. 20
- (2) The decision period is –
 - (a) in relation to an application on the first ground, the period of 14 days beginning with the day on which the application is made,
 - (b) in relation to an application on the second ground, the period of 28 days beginning with the day on which the application is made, and 25
 - (c) in relation to an application on the third ground, the period of 60 days beginning with the day on which the application is made.
- (3) The Board must give a notice to the licensable body –
 - (a) stating its decision, and 30
 - (b) giving reasons for its decision.
- (4) The Board must make rules providing for a review of any decision made by it under this paragraph.
- (5) The rules may in particular provide that if the Board decides to grant the application, the Board may review that decision if the ground on which the application was granted ceases to be made out before the Board (in its capacity as a licensing authority) determines any application for a licence made by the licensable body. 35

Licensing authority's duty to make relevant determinations

- 3 (1) A licensable body may apply to each competent licensing authority for – 40
 - (a) a determination as to whether the authority has suitable regulatory arrangements;
 - (b) a statement as to whether the authority has made an application as mentioned in paragraph 1(4)(b) and if it has, a determination as to

whether, if the application is granted, the authority will have suitable regulatory arrangements.

- (2) A licensable body may apply to each potentially competent licensing authority for a determination as to whether it will have suitable regulatory arrangements in place if it becomes a competent licensing authority. 5
- (3) A competent (or potentially competent) licensing authority to which a licensable body makes an application under sub-paragraph (1) or (2) may require the licensable body to provide it with such information in relation to the licensable body as it may specify.
- (4) The authority may specify only information which it reasonably requires for the purpose of making the determination applied for. 10
- (5) A competent (or potentially competent) licensing authority to which an application is made under sub-paragraph (1) or (2) must make the determination before the end of –
- (a) the decision period, or 15
 - (b) if it requires the licensable body to provide it with information under sub-paragraph (3), the period of 28 days beginning with the day on which the information is provided.
- (6) The decision period, in relation to an application under sub-paragraph (1) or (2), is the period of 28 days beginning with the day on which the application is made. 20

“The Board”

- 4 In this Schedule references to the Board, unless otherwise stated, are to the Board acting otherwise than in its capacity as a licensing authority or an approved regulator. 25

“Competent licensing authority”

- 5 “Competent licensing authority”, in relation to a licensable body, means an approved regulator designated as a licensing authority in relation to each reserved legal activity which the licensable body proposes to carry on.

“Potentially competent licensing authority” 30

- 6 (1) “Potentially competent licensing authority”, in relation to a licensable body, means an approved regulator –
- (a) which has made an application to the Board under Part 1 of Schedule 10 for a recommendation that the Secretary of State make a relevant designation order, and whose application has not been determined, or 35
 - (b) in respect of which the Board has made such a recommendation, but in respect of which no relevant designation order (or decision not to make such an order) has been made by the Secretary of State.
- (2) A relevant designation order is an order – 40
- (a) designating the approved regulator as a licensing authority in respect of one or more reserved legal activities, and
 - (b) the effect of which will be that the approved regulator becomes a competent licensing authority in relation to the licensable body.

“Suitable regulatory arrangements”

- 7 (1) “Suitable regulatory arrangements”, in relation to a licensable body and a competent licensing authority, means regulatory arrangements which are suitable in relation to the licensable body, having regard to –
- (a) the composition of the licensable body, including in particular the matters in sub-paragraph (2); 5
 - (b) the services the licensable body proposes to provide;
 - (c) if the licensable body proposes to carry on non-reserved activities, any regulation to which the carrying on of such activities is subject;
 - (d) the persons to whom the licensable body proposes to provide services. 10
- (2) The matters are –
- (a) the kinds of authorised persons who are managers of, or have an interest in shares in, the licensable body,
 - (b) the proportion of persons who are managers of, or have an interest in shares in, the licensable body who are authorised persons or authorised persons of a particular kind, 15
 - (c) the kinds of non-authorised persons who are managers of, or have an interest in shares in, the licensable body, and
 - (d) the proportion of persons who are managers of, or have an interest in shares in, the licensable body who are non-authorised persons or non-authorised persons of a particular kind. 20
- (3) In sub-paragraph (2) –
- (a) “authorised person” means a person who is an authorised person in relation to any activity which is a reserved legal activity, and 25
 - (b) authorised persons are of different kinds if they are authorised to carry on such activities by different approved regulators.

SCHEDULE 13

Section 87

OWNERSHIP OF LICENSED BODIES

PART 1 30

INTRODUCTORY

Restricted interests subject to approval

- 1 (1) The holding by a non-authorised person of a restricted interest in a licensed body is subject to the approval of the relevant licensing authority in accordance with the provisions of this Schedule. 35
- (2) In relation to a licensed body which is a partnership, for the purposes of section 34 of the Partnership Act 1890 (c. 39) (dissolution by illegality) the holding by a non-authorised person of a restricted interest in the body without the approval of the relevant licensing authority does not make it unlawful for the business of the partnership to be carried on, or for the partners to carry it on in partnership. 40

Restricted interest

- 2 (1) “Restricted interest” means each of the following –
- (a) a material interest;
 - (b) if licensing rules are made by the relevant licensing authority under sub-paragraph (2), a controlled interest. 5
- (2) Licensing rules may specify that a controlled interests is a restricted interest for the purposes of this Schedule.

Material interest

- 3 (1) For the purposes of this Part of this Act, a person holds a material interest in a body (“B”) if the person – 10
- (a) has an interest in at least 10% of the shares in B,
 - (b) is able to exercise significant influence over the management of B by virtue of the person’s interest in shares in B,
 - (c) has an interest in at least 10% of the shares in a parent undertaking (“P”) of B, 15
 - (d) is able to exercise significant influence over the management of P by virtue of the person’s interest in shares in P,
 - (e) is entitled to exercise, or control the exercise of, at least 10% of the voting power in B,
 - (f) is able to exercise significant influence over the management of B by virtue of the person’s voting power in B, 20
 - (g) is entitled to exercise, or control the exercise of, at least 10% of the voting power in P, or
 - (h) is able to exercise significant influence over the management of P by virtue of the person’s voting power in P. 25
- (2) Licensing rules made by the relevant licensing authority may provide –
- (a) that the references in sub-paragraph (1) to 10% are to have effect as references to such lesser percentage as may be specified in the rules;
 - (b) that in relation to a partnership, for the purposes of this Part a person has a material interest in the partnership if he is a partner (whether or not the person has a material interest by virtue of sub-paragraph (1)). 30
- (3) For the purposes of sub-paragraph (1) “the person” means –
- (a) the person,
 - (b) any of the person’s associates, or 35
 - (c) the person and any of his associates taken together.
- (4) For the purposes of this Schedule, material interests held by virtue of different paragraphs of sub-paragraph (1) are restricted interests of different kinds.

Controlled interest 40

- 4 (1) For the purposes of this Schedule, a person holds a controlled interest in a body (“B”) if the person –
- (a) has an interest in at least x% of the shares in B,
 - (b) has an interest in at least x% of the shares in a parent undertaking (“P”) of B, 45

- (c) is entitled to exercise, or control the exercise of, at least x% of the voting power in B, or
 - (d) is entitled to exercise, or control the exercise of, at least x% of the voting power in P.
- (2) For the purposes of sub-paragraph (1) “the person” means – 5
 - (a) the person,
 - (b) any of the person’s associates, or
 - (c) the person and any of his associates taken together.
- (3) In sub-paragraph (1), “x” means such percentage as may be specified in licensing rules made by the relevant licensing authority under paragraph 2(2). 10
- (4) Licensing rules made under paragraph 2(2) may specify more than one percentage.
- (5) Any percentage specified by licensing rules made under paragraph 2(2) must be greater than – 15
 - (a) 10%, or
 - (b) if the relevant licensing authority makes licensing rules under paragraph 3(2)(a), the percentage specified in those rules.
- (6) For the purposes of this Schedule – 20
 - (a) controlled interests held by virtue of different paragraphs of sub-paragraph (1) are restricted interests of different kinds;
 - (b) if licensing rules made under paragraph 2(2) specify more than one percentage, controlled interests held by virtue of each of those percentages are restricted interests of different kinds.
- Associates, parent undertakings and voting power* 25
- 5 (1) For the purposes of this Schedule “associate”, in relation to a person (“A”) and –
 - (a) an interest in the shares of a body (“S”), or
 - (b) an entitlement to exercise or control the exercise of voting power in a body (“V”), 30means a person listed in sub-paragraph (2).
- (2) The persons are –
 - (a) the spouse or civil partner of A,
 - (b) a child or stepchild of A (if under 18),
 - (c) the trustee of any settlement under which A has a life interest in possession (in Scotland a life interest), 35
 - (d) an undertaking of which A is a director,
 - (e) an employee or partner of A,
 - (f) if A is an undertaking –
 - (i) a director of A, 40
 - (ii) a subsidiary undertaking of A, or
 - (iii) a director or employee of such a subsidiary undertaking,
 - (g) if A has with any other person an agreement or arrangement with respect to the acquisition, holding or disposal of shares or other interests in S or V, that other person, or 45

-
- (h) if A has with any other person an agreement or arrangement under which they undertake to act together in exercising their voting power in relation to S or V, that person.
- (3) In sub-paragraph (2)(c), “settlement” means any disposition or arrangement under which property is held on trust (or subject to a comparable obligation). 5
- (4) For the purposes of this Schedule –
- “parent undertaking” and “subsidiary undertaking” have the same meaning as in the Financial Services and Markets Act 2000 (c. 8) (see section 420 of that Act); 10
- “voting power”, in relation to a body which does not have general meetings at which matters are decided by the exercise of voting rights, means the right under the constitution of the body to direct the overall policy of the body or alter the terms of its constitution.
- The approval requirements* 15
- 6 (1) For the purposes of this Schedule, the approval requirements are met in relation to a person’s holding of a restricted interest if –
- (a) the person’s holding of that interest does not compromise the regulatory objectives,
- (b) the person’s holding of that interest does not compromise compliance with the duties imposed by section 169 by the licensed body or persons to whom sub-paragraph (2) applies, and 20
- (c) the person is otherwise a fit and proper person to hold that interest.
- (2) This sub-paragraph applies to any employee or manager of the licensed body who is an authorised person in relation to an activity which is a reserved legal activity. 25
- (3) In determining whether it is satisfied of the matters mentioned in sub-paragraph (1)(a) to (c), the licensing authority must in particular have regard to –
- (a) the person’s probity and financial position, 30
- (b) whether the person is disqualified as mentioned in section 98(1), or included in the list kept by the Board under paragraph 52,
- (c) the person’s associates, and
- (d) any other matter which may be specified in licensing rules.
- (4) Licensing rules must make provision about the procedures that will be applied by the licensing authority when determining whether it is satisfied of the matters mentioned in sub-paragraph (1)(a) to (c). 35

Approval of multiple restricted interests

- 7 (1) This paragraph applies if a person (“P”) holds a kind of restricted interest in a body (“B”) by virtue of – 40
- (a) an interest in a particular percentage of the shares in B or a parent undertaking of B, or
- (b) an entitlement to exercise, or control the exercise of, a particular percentage of the voting power in B or a parent undertaking of B.

- (2) If the relevant licensing authority approves P’s holding of that interest, it is to be treated as also approving P’s holding of any lesser restricted interest in B held by P.
- (3) A lesser restricted interest is a kind of restricted interest held by P by virtue of – 5
- (a) an interest in a smaller percentage of the shares mentioned in sub-paragraph (1)(a), or
 - (b) an entitlement to exercise, or control the exercise of, a smaller percentage of the voting power mentioned in sub-paragraph (1)(b).
- Board’s power to prescribe rules* 10
- 8 In this Schedule “prescribed” means prescribed by rules made by the Board for the purposes of this Schedule.
- Secretary of State’s power to modify*
- 9 The Secretary of State may, on the recommendation of the Board, by order modify – 15
- (a) paragraph 3 (material interest);
 - (b) paragraphs 4(2), 5, 6(3)(c), 38(2), 42(3) and 43(3) (associates).
- PART 2
- APPROVAL OF RESTRICTED INTERESTS ON APPLICATION FOR LICENCE
- Requirement to identify non-authorised persons* 20
- 10 (1) Where a body applies to a licensing authority for a licence, it must identify in its application –
- (a) any non-authorised person who holds a restricted interest in the body, or whom the body expects to hold such an interest when the licence is issued, and 25
 - (b) the kind of restricted interest held, or expected to be held, by that person.
- (2) If, before the licence is issued, there is any change in –
- (a) the identity of the non-authorised persons within sub-paragraph (1)(a), or 30
 - (b) the kind of restricted interest held, or expected to be held, by a person identified to the licensing authority under that sub-paragraph,
- the applicant must inform the relevant licensing authority within such period as may be specified by order made by the Secretary of State on the recommendation of the Board. 35
- 11 (1) It is an offence for a person to fail to comply with a requirement imposed on the person by paragraph 10.
- (2) A person who is guilty of an offence under sub-paragraph (1) is liable on summary conviction to a fine not exceeding level 5 on the standard scale. 40

- (3) It is a defence for a person charged with an offence under sub-paragraph (1) to show that at the time of the alleged offence the person had no knowledge of the facts by virtue of which the duty to notify arose.
- 12 (1) This paragraph applies if a person under a duty to notify imposed by paragraph 10 – 5
- (a) had no knowledge of the facts by virtue of which that duty arose, but
- (b) subsequently becomes aware of those facts.
- (2) The person must give the licensing authority the required notification within such period, after the person becomes so aware, as may be specified by order made by the Secretary of State on the recommendation of the Board. 10
- (3) A person who fails to comply with the duty to notify imposed by sub-paragraph (2) is guilty of an offence.
- (4) A person who is guilty of an offence under sub-paragraph (3) is liable on summary conviction to a fine not exceeding level 5 on the standard scale. 15

Requirement to notify non-authorised persons

- 13 (1) Where an applicant for a licence identifies a non-authorised person to a licensing authority in accordance with paragraph 10 or 12, it must give that person a notice – 20
- (a) stating that it has applied for a licence and identified the person to the licensing authority in accordance with paragraph 10 or 12, and
- (b) explaining the effect of paragraph 14.
- (2) It is an offence for a person to fail to comply with a requirement imposed on it by sub-paragraph (1).
- (3) A person who is guilty of an offence under sub-paragraph (2) is liable on summary conviction to a fine not exceeding level 5 on the standard scale. 25

Licensing authority's power to require information

- 14 (1) A licensing authority may require a non-authorised person identified to it in accordance with paragraph 10 or 12 to provide it with such documents and information as it may require. 30
- (2) It is an offence for a person who is required to provide information or documents under sub-paragraph (1) knowingly to provide false or misleading information or documents.
- (3) A person who is guilty of an offence under sub-paragraph (2) is liable – 35
- (a) on summary conviction, to a fine not exceeding the statutory maximum, and
- (b) on conviction on indictment, to a term of imprisonment not exceeding 2 years or a fine (or both).

Licence may not be granted unless non-authorised persons approved

- 15 (1) This paragraph applies where an applicant for a licence (“the applicant”) gives the licensing authority notification under paragraph 10 or 12 in relation to one or more non-authorised persons. 40

- (2) The licensing authority may not grant the application for a licence unless, in relation to each non-authorised person in respect of which notification is given (“the investor”), it approves the investor’s holding of the restricted interest to which the notification relates (“the notified interest”).
- (3) Sub-paragraph (2) does not apply in relation to a non-authorised person who does not hold the notified interest when the licence is issued. 5
- (4) In this Part of this Schedule, “the applicant”, “the investor” and “the notified interest” are to be construed in accordance with this paragraph.

Unconditional approval of notified interest

- 16 (1) If the licensing authority is satisfied that the approval requirements are met in relation to the investor’s holding of the notified interest, it must approve the investor’s holding of that interest without conditions. 10
- (2) If the licensing authority approves the investor’s holding of the notified interest without conditions, it must notify the investor and the applicant of its approval as soon as reasonably practicable. 15

Conditional approval of notified interest

- 17 (1) If the licensing authority is not satisfied that the approval requirements are met in relation to the investor’s holding of the notified interest, it may approve the investor’s holding of the notified interest subject to conditions. 20
- (2) It may do so only if it considers that, if the conditions are complied with, it will be appropriate for the investor to hold the notified interest without the approval requirements being met. 25
- (3) If the licensing authority proposes to approve the investor’s holding of the notified interest subject to conditions it must give the investor and the applicant a warning notice. 25
- (4) The warning notice must –
- (a) specify the nature of the conditions proposed and the reasons for their imposition, and
 - (b) state that representations may be made to the licensing authority within the prescribed period. 30
- (5) The licensing authority must consider any representations made within the prescribed period.
- (6) If the licensing authority approves the investor’s holding of the notified interest subject to conditions, it must notify the investor and the applicant of its approval as soon as reasonably practicable. 35
- (7) The notice must –
- (a) specify the reasons for the imposition of the conditions, and
 - (b) explain the effect of Part 5 of this Schedule.
- 18 (1) The investor and the applicant may before the end of the prescribed period appeal to the relevant appellate body against the imposition of any or all of the conditions. 40
- (2) The relevant appellate body may dismiss the appeal, or allow the appeal and –

- (a) order the licensing authority to approve the investor’s holding of the notified interest without conditions, or subject to such conditions as may be specified in the order, or
 - (b) remit the matter to the licensing authority.
- (3) A party to the appeal may before the end of the prescribed period appeal to the High Court on a point of law arising from the decision of the relevant appellant body, but only with the permission of the High Court. 5
- (4) The High Court may make such order as it thinks fit.
- (5) If the investor’s holding of the notified interest is subject to conditions as a result of an order made on an appeal under this paragraph, for the purposes of this Schedule the conditions are to be treated as having been imposed under paragraph 17. 10

Objection to notified interest

- 19 (1) If the licensing authority is not satisfied that the approval requirements are met in relation to the investor’s holding of the notified interest, it may object to the investor’s holding of that interest. 15
- (2) If the licensing authority proposes to object to the investor’s holding of the notified interest, it must give the investor and the applicant a warning notice.
- (3) The warning notice must – 20
- (a) specify the reasons for the proposed objection, and
 - (b) state that representations may be made to the licensing authority within the prescribed period.
- (4) The licensing authority must consider any representations made within the prescribed period. 25
- (5) If the licensing authority objects to the investor’s holding of the notified interest, it must notify the investor and the applicant of its objection as soon as reasonably practicable.
- (6) The notice must – 30
- (a) specify the reasons for the objection, and
 - (b) explain the effect of Part 5 of this Schedule.
- 20 (1) The investor and the applicant may before the end of the prescribed period appeal to the relevant appellate body against the objection.
- (2) The relevant appellate body may dismiss the appeal, or allow the appeal and – 35
- (a) order the licensing authority to approve the investor’s holding of the notified interest without conditions, or subject to such conditions as may be specified in the order, or
 - (b) remit the matter to the licensing authority.
- (3) A party to the appeal may before the end of the prescribed period appeal to the High Court on a point of law arising from the decision of the relevant appellate body, but only with the permission of the High Court. 40
- (4) The High Court may make such order as it thinks fit.

- (5) If the investor’s holding of the notified interest is subject to conditions as a result of an order made on an appeal under this paragraph, for the purposes of this Schedule the conditions are to be treated as having been imposed under paragraph 17.

PART 3

5

APPROVAL OF RESTRICTED INTERESTS AFTER LICENCE IS ISSUED

Powers of licensing authority in relation to change of interests

Continuing notification requirements

- 21 (1) This paragraph applies where a non-authorized person (“the investor”) –
- (a) proposes to take a step which would result in the investor acquiring a restricted interest in a licensed body (or, if the investor already has one or more kinds of restricted interest, acquiring an additional kind of restricted interest), or
 - (b) acquires such an interest in a licensed body without taking such a step.
- (2) In a case within sub-paragraph (1)(a) the investor must notify the licensed body and the relevant licensing authority of the proposal.
- (3) In a case within sub-paragraph (1)(b) the investor must notify the licensed body and the relevant licensing authority of the acquisition within such period, after the investor becomes aware of it, as may be specified by order made by the Secretary of State on the recommendation of the Board.
- (4) In this Part of this Schedule –
- (a) references to “the investor” are to be construed in accordance with this paragraph, and
 - (b) references to a notifiable interest are to the restricted interest which the investor will have as a result of the step the investor proposes to take (or has as a result of the acquisition which has taken place).

Offences in connection with paragraph 21

- 22 (1) It is an offence for a person to fail to comply with a requirement imposed by –
- (a) paragraph 21(2), or
 - (b) paragraph 21(3).
- (2) A person who is guilty of an offence under sub-paragraph (1) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (3) It is a defence for a person charged with an offence under sub-paragraph (1)(a) to show that at the time of the alleged offence the person had no knowledge of the facts by virtue of which the duty to notify arose.
- 23 (1) This paragraph applies if a person under the duty to notify imposed by paragraph 21(2) –
- (a) had no knowledge of the facts by virtue of which that duty arose, but
 - (b) subsequently becomes aware of those facts.

- (2) The person must give the licensed body and the licensing authority the required notification within such period, after the person becomes so aware, as may be specified by order made by the Secretary of State on the recommendation of the Board.
- (3) A person who fails to comply with the duty to notify imposed by sub-paragraph (2) is guilty of an offence. 5
- (4) A person who is guilty of an offence under sub-paragraph (3) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- 24 (1) It is an offence for a non-authorised person, who under paragraph 21(2) is required to notify the licensed body and the relevant licensing authority of a proposal to take a step, to take the step, unless the relevant licensing authority has approved the investor's holding of the notifiable interest under paragraph 27 or 28. 10
- (2) If paragraph 22(3) applies, the reference in sub-paragraph (1) to paragraph 21(2) is to be read as a reference to paragraph 23(2). 15
- (3) A person who is guilty of an offence under sub-paragraph (1) is liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum, and
- (b) on conviction on indictment, to a term of imprisonment not exceeding 2 years or a fine (or both). 20

Duty of licensing authority following notification etc.

- 25 (1) The relevant licensing authority must—
- (a) following receipt of a notification under paragraph 21(2) or (3) or 23(2), or
- (b) if the licensing authority becomes aware that an investor has failed to comply with a notification requirement imposed by paragraph 21(2) or (3) or 23(2), 25
- determine which of the steps in sub-paragraph (3) to take.
- (2) The licensing authority must make the determination within such period as may be prescribed. 30
- (3) The steps are—
- (a) to approve the investor's holding of the notifiable interest unconditionally under paragraph 27,
- (b) to warn the investor under paragraph 28(3) that it proposes to approve the investor's holding of the notifiable interest subject to conditions, 35
- (c) to approve under paragraph 28(4) the investor's holding of the notifiable interest subject to conditions,
- (d) to warn the investor under paragraph 31(2) that it proposes to object to the investor's holding of the notifiable interest, or 40
- (e) to object under paragraph 31(3) to the investor's holding of the notifiable interest.

Licensing authority's power to require information

- 26 (1) A licensing authority may require the investor to provide it with such documents and information as it may require. 45

- (2) It is an offence for a person who is required to provide information or documents under sub-paragraph (1) knowingly to provide false or misleading information or documents.
- (3) A person who is guilty of an offence under sub-paragraph (2) is liable –
- (a) on summary conviction, to a fine not exceeding the statutory maximum, and
 - (b) on conviction on indictment, to a term of imprisonment not exceeding 2 years or a fine (or both).

Unconditional approval of notifiable interest

- 27 (1) If the licensing authority is satisfied that the approval requirements are met in relation to the investor’s holding of the notifiable interest, it must approve the investor’s holding of that interest without conditions. 10
- (2) If the licensing authority approves the investor’s holding of the notifiable interest without conditions, it must notify the investor and the licensed body of its approval as soon as reasonably practicable. 15

Conditional approval of notifiable interest

- 28 (1) If the licensing authority is not satisfied that the approval requirements are met in relation to the investor’s holding of the notifiable interest, it may approve the investor’s holding of that interest subject to conditions.
- (2) It may do so only if it considers that, if the conditions are complied with, it will be appropriate for the investor to hold the notifiable interest without the approval requirements being met. 20
- (3) If the licensing authority proposes to approve the investor’s holding of the notifiable interest subject to conditions it must give the investor and the licensed body a warning notice. 25
- (4) But the licensing authority may approve the investor’s holding of the notifiable interest subject to conditions without giving a warning notice if it considers it necessary or desirable to do so for the purpose of protecting any of the regulatory objectives.
- (5) The warning notice must – 30
- (a) specify the nature of the conditions proposed and the reasons for their imposition, and
 - (b) state that representations may be made to the licensing authority within the prescribed period.
- (6) The licensing authority must consider any representations made within the prescribed period. 35
- (7) If the licensing authority approves the investor’s holding of the notifiable interest subject to conditions, it must notify the investor and the licensed body of its approval as soon as reasonably practicable.
- (8) The notice must – 40
- (a) specify the reasons for the imposition of the conditions and (if the investor already holds the notifiable interest) the time from which they have effect, and
 - (b) explain the effect of Part 5 of this Schedule.

-
- 29 (1) The investor and the licensed body may before the end of the prescribed period appeal to the relevant appellate body against the imposition of any or all the conditions.
- (2) The relevant appellate body may dismiss the appeal, or allow the appeal and – 5
- (a) order the licensing authority to approve the investor’s holding of the notifiable interest without conditions, or subject to such conditions as may be specified in the order, or
- (b) remit the matter to the licensing authority.
- (3) A party to the appeal may before the end of the prescribed period appeal to the High Court on a point of law arising from the decision of the relevant appellate body, but only with the permission of the High Court. 10
- (4) The High Court may make such order as it thinks fit.
- (5) If the investor’s holding of the notifiable interest is subject to conditions as a result of an order made on an appeal under this paragraph, for the purposes of this Schedule the conditions are to be treated as having been imposed under paragraph 28. 15

Duration of unconditional or conditional approval

- 30 In a case within paragraph 21(1)(a), the licensing authority’s approval under paragraph 27 or 28 remains effective only if the investor acquires the notifiable interest – 20
- (a) before the end of such period as may be specified in the notice under paragraph 27(2) or 28(7), or
- (b) if no such period is specified, before the end of the period of one year beginning with the date of that notice. 25

Objection to acquisition of notifiable interest

- 31 (1) If the licensing authority is not satisfied that the approval requirements are met in relation to the investor’s holding of the notifiable interest, it may object to the investor’s holding of that interest.
- (2) If the licensing authority proposes to object to the investor’s holding of the notifiable interest, it must give the investor and the licensed body a warning notice. 30
- (3) But the licensing authority may object to the investor’s holding of the notifiable interest without giving a warning notice if it considers it necessary or desirable to do so for the purpose of protecting any of the regulatory objectives. 35
- (4) The warning notice must – 40
- (a) specify the reasons for the proposed objection, and
- (b) state that representations may be made to the licensing authority within the prescribed period.
- (5) The licensing authority must consider any representations made within the prescribed period.

- (6) If the licensing authority objects to the investor’s holding of the notifiable interest, it must notify the investor and the licensed body of its objection as soon as reasonably practicable.
- (7) The notice must –
- (a) specify the reasons for the objection, and 5
 - (b) explain the effect of Part 5 of this Schedule.
- 32 (1) The investor and the licensed body may before the end of the prescribed period appeal to the relevant appellate body against the objection.
- (2) The relevant appellate body may dismiss the appeal, or allow the appeal and – 10
- (a) order the licensing authority to approve the investor’s holding of the notifiable interest without conditions, or subject to such conditions as may be specified in the order, or
 - (b) remit the matter to the licensing authority.
- (3) A party to the appeal may before the end of the prescribed period appeal to the High Court on a point of law arising from the decision of the relevant appellant body, but only with the permission of the High Court. 15
- (4) The High Court may make such order as it thinks fit.
- (5) If the investor’s holding of the notifiable interest is subject to conditions as a result of an order made on an appeal under this paragraph, for the purposes of this Schedule the conditions are to be treated as having been imposed under paragraph 28. 20

Powers of licensing authority where no change of interests

Imposition of conditions (or further conditions) on existing restricted interest

- 33 (1) The relevant licensing authority may impose conditions (or further conditions) on a person’s holding of a restricted interest in a licensed body (or a restricted interest of a particular kind) if – 25
- (a) it is not satisfied that the approval requirements are met in relation to the person’s holding of that interest, or
 - (b) it is satisfied that a condition imposed under paragraph 17 or 28 or this paragraph on the person’s holding of that interest has not been, or is not being, complied with. 30
- (2) The licensing authority may act under sub-paragraph (1) only –
- (a) if it considers that, if the conditions are complied with, it will be appropriate for the investor to hold the restricted interest without the approval requirements being met, and 35
 - (b) before the end of such period (beginning with the time when the licensing authority becomes aware of the matters in question) as may be prescribed.
- (3) If the licensing authority proposes to impose conditions (or further conditions) on the person’s holding of the restricted interest, it must give the person and the licensed body a warning notice. 40
- (4) But the licensing authority may impose conditions (or further conditions) on the person’s holding of the restricted interest without giving a warning

- notice if it considers it necessary or desirable to do so for the purpose of protecting any of the regulatory objectives.
- (5) The warning notice must –
- (a) specify the nature of the conditions proposed and the reasons for their imposition, and 5
 - (b) state that representations may be made to the licensing authority within the prescribed period.
- (6) The licensing authority must consider any representations made within the prescribed period.
- (7) If the licensing authority imposes conditions (or further conditions) on the person’s holding of the restricted interest, it must notify the person and the licensed body as soon as reasonably practicable. 10
- (8) The notice must –
- (a) specify the reasons for the imposition of the conditions, and the time from which they are to take effect, and 15
 - (b) explain the effect of Part 5 of this Schedule.
- 34 (1) The person and the licensed body may before the end of the prescribed period appeal to the relevant appellate body against any or all of the conditions (or further conditions).
- (2) The relevant appellate body may dismiss the appeal, or allow the appeal and – 20
- (a) modify or quash the conditions imposed by the licensing authority under paragraph 33, or
 - (b) remit the matter to the licensing authority.
- (3) A party to the appeal may before the end of the prescribed period appeal to the High Court on a point of law arising from the decision of the relevant appellate body, but only with the permission of the High Court. 25
- (4) The High Court may make such order as it thinks fit.
- (5) If the person’s holding of the restricted interest is subject to any conditions as a result of an order made on an appeal under this paragraph, for the purposes of this Schedule those conditions are to be treated as having been imposed under paragraph 33. 30

Variation and cancellation of conditions

- 35 (1) A person whose holding of a restricted interest in a licensed body is subject to a condition imposed under paragraph 17, 28 or 33 may apply to the relevant licensing authority – 35
- (a) for the condition to be varied, or
 - (b) for the condition to be cancelled.
- (2) The licensing authority may, on its own initiative, cancel a condition imposed under one of those paragraphs. 40
- (3) If the licensing authority varies or cancels a condition under this paragraph, it must notify the person and the licensed body as soon as reasonably practicable.

Objection to existing restricted interest

- 36 (1) The relevant licensing authority may object to a person's holding of a restricted interest in a licensed body (or a restricted interest of a particular kind) if –
- (a) it is not satisfied that the approval requirements are met in relation to the person's holding of that interest, or 5
 - (b) it is satisfied that a condition imposed under paragraph 17, 28 or 33 on the person's holding of the interest has not been, or is not being, complied with.
- (2) The licensing authority may act under sub-paragraph (1) only before the end of such period (beginning with the time when the licensing authority becomes aware of the matters in question) as may be prescribed. 10
- (3) If the licensing authority proposes to object to a person's holding of the restricted interest, it must give the person and the licensed body a warning notice. 15
- (4) But the licensing authority may object to the person's holding of the restricted interest without giving a warning notice if it considers it necessary or desirable to do so for the purpose of protecting any of the regulatory objectives.
- (5) The warning notice must – 20
- (a) specify the reasons for the proposed objection, and
 - (b) state that representations may be made to the licensing authority within the prescribed period.
- (6) The licensing authority must consider any representations made within the prescribed period. 25
- (7) If the licensing authority objects to the person's holding of the restricted interest, it must notify the person and the licensed body of its objection as soon as reasonably practicable.
- (8) The notice must – 30
- (a) specify the reasons for the objection, and
 - (b) explain the effect of Part 5 of this Schedule.
- 37 (1) The person and the licensed body may before the end of the prescribed period appeal to the relevant appellate body against the objection.
- (2) The relevant appellate body may dismiss or allow the appeal.
- (3) If the relevant appellate body allows the appeal it may also – 35
- (a) order the licensing authority to impose under paragraph 33 such conditions on the person's holding of the restricted interest as may be specified in the order, or
 - (b) remit the matter to the licensing authority.
- (4) A party to the appeal may before the end of the prescribed period appeal to the High Court on a point of law arising from the decision of the relevant appellate body, but only with the permission of the High Court. 40
- (5) The High Court may make such order as it thinks fit.

- (6) If the person’s holding of the restricted interest is subject to conditions as a result of an order made on an appeal under this paragraph, for the purposes of this Schedule the conditions are to be treated as having been imposed under paragraph 33.

PART 4

5

ADDITIONAL RESTRICTIONS

Power to impose share limit

- 38 (1) Licensing rules may provide that –
- (a) a non-authorised person may not have an interest in shares in a licensed body which exceeds a limit specified in the rules (“the share limit”); 10
 - (b) the total proportion of shares in a licensed body in which non-authorised persons have an interest may not exceed a limit specified in the rules.
- (2) Licensing rules made under sub-paragraph (1)(a) may provide that a person may be treated as having an interest in shares by virtue of an associate of the person having such an interest. 15
- (3) In relation to a licensed body which is a partnership, for the purposes of section 34 of the Partnership Act 1890 (c. 39) (dissolution by illegality) a breach of licensing rules made under sub-paragraph (1) does not make it unlawful for the business of the partnership to be carried on, or for the partners to carry it on in partnership. 20

Obligation to notify where share limit exceeded

- 39 (1) This paragraph applies in relation to a licensed body if licensing rules made by the relevant licensing authority make the provision mentioned in paragraph 38(1)(a). 25
- (2) Any non-authorised person who acquires an interest in shares in a licensed body which exceeds the share limit must notify the licensed body and the licensing authority of the acquisition within such period, after the person becomes aware of it, as may be specified by order made by the Secretary of State on the recommendation of the Board. 30
- (3) It is an offence for a person to fail to comply with a requirement imposed by sub-paragraph (2).
- (4) A person who is guilty of an offence under sub-paragraph (3) is liable on summary conviction to a fine not exceeding level 5 on the standard scale. 35
- (5) It is a defence for a person charged with an offence under sub-paragraph (3) to show that at the time of the alleged offence the person had no knowledge of the facts by virtue of which the duty to notify arose.
- 40 (1) This paragraph applies if a person under the duty to notify imposed by paragraph 39(2) – 40
- (a) had no knowledge of the facts by virtue of which that duty arose, but
 - (b) subsequently becomes aware of those facts.

- (2) The person must give the licensed body and the licensing authority the required notification within such period, after the person becomes so aware, as may be specified by order made by the Secretary of State on the recommendation of the Board.
- (3) A person who fails to comply with the duty to notify imposed by sub-paragraph (2) is guilty of an offence. 5
- (4) A person who is guilty of an offence under sub-paragraph (3) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

PART 5

ENFORCEMENT

10

Divestiture

Applicability of divestiture rules

- 41 Paragraphs 42 to 46 apply to a licensed body which is a body corporate with a share capital (referred to in those paragraphs as a “relevant licensed body”). 15

The divestiture condition

- 42 (1) The divestiture condition is satisfied in relation to a non-authorized person and a relevant licensed body if –
 - (a) the person holds a restricted interest in the licensed body in the circumstances mentioned in sub-paragraph (2), and 20
 - (b) the person holds that interest, in whole or in part, by virtue of the person’s interest in shares in any body (in this Part of this Schedule referred to as “the relevant shares”).
- (2) The circumstances are that the person holds the restricted interest –
 - (a) as a result of the person taking a step in circumstances in which that constitutes an offence under paragraph 24(1) (whether or not the person is charged with or convicted of an offence under that paragraph), 25
 - (b) in breach of conditions imposed under paragraph 17, 28, or 33, or
 - (c) in contravention of an objection by the licensing authority under paragraph 31 or 36. 30
- (3) For the purposes of sub-paragraph (1)(b), a person has an interest in shares if the person or an associate of the person has an interest in the shares.

- 43 (1) If the relevant licensing rules make the provision mentioned in paragraph 38(1)(a), the divestiture condition is also satisfied in relation to a non-authorized person and a relevant licensed body if the person has an interest in shares in the body which exceeds the share limit. 35
- (2) In this Part of this Schedule, “excess shares” means the number of shares by which the shares in which the person has an interest exceed the share limit.
- (3) If licensing rules made under paragraph 38(2) so provide, for the purposes of this paragraph a person has an interest in shares in which an associate of the person has an interest. 40

Application for divestiture

- 44 (1) If the divestiture condition is satisfied in relation to a non-authorized person and a relevant licensed body, the licensing authority may give the person a restriction notice under paragraph 45 and apply to the High Court for an order under paragraph 46. 5
- (2) The licensing authority may not make an application to the High Court for an order under paragraph 46 unless –
- (a) it has notified the person that it intends to do so if the divestiture condition is satisfied in relation to the person and the body at the end of the relevant period, and 10
- (b) the relevant period has expired.
- (3) The relevant period is such period (not less than the prescribed period) as may be specified in the notice.

Restriction notice

- 45 (1) A restriction notice is a notice directing that such of the relevant shares or excess shares (as the case may be) as are specified in the notice are, until further notice, subject to one or more of the following restrictions. 15
- (2) The restrictions are –
- (a) a transfer of (or agreement to transfer) those shares, or in the case of unissued shares a transfer of (or agreement to transfer) the right to be issued with them, is void; 20
- (b) no voting rights are to be exercisable in respect of the shares;
- (c) no further shares are to be issued in right of them or in pursuance of any offer made to their holder;
- (d) except in a liquidation, no payment is to be made of any sums due from the company on the shares, whether in respect of capital or otherwise. 25
- (3) A copy of the restriction notice must be given to the body to whose shares it relates.
- (4) A restriction notice ceases to have effect – 30
- (a) in accordance with an order of the High Court under paragraph 46(4);
- (b) if no application has been made to the High Court for an order under paragraph 46 before the end of such period as may be prescribed, at the end of that period; 35
- (c) if the licensed body ceases to be licensed by the licensing authority.

Divestiture by High Court

- 46 (1) If the divestiture condition is satisfied by virtue of paragraph 42 the High Court may, on the application of the licensing authority, order the sale of the appropriate number of the relevant shares. 40
- (2) The appropriate number of the relevant shares is the number of those shares, the sale of which will result in the non-authorized person no longer holding –
- (a) a restricted interest in the licensed body, or

- (b) if the non-authorised person holds more than one kind of restricted interest, a restricted interest the person's holding of which is within paragraph 42(2).
- (3) If the divestiture condition is satisfied by virtue of paragraph 43 the High Court may, on the application of the licensing authority, order the sale of the excess shares. 5
- (4) If shares are for the time being subject to any restriction under paragraph 45, the court may order that they are to cease to be subject to that restriction.
- (5) If the divestiture condition is satisfied by virtue of paragraph 42(2)(b) or (c), no order may be made under sub-paragraph (1) or (4) – 10
- (a) until the end of the period within which an appeal may be made against the imposition of the conditions or the objection, or
- (b) if an appeal is made, until the appeal has been determined or withdrawn.
- (6) If an order has been made under sub-paragraph (1) or (3) the court may, on the application of the licensing authority, make such further order relating to the sale or transfer of the shares as it thinks fit. 15
- (7) If shares are sold in pursuance of an order under this paragraph, the proceeds of sale, less the costs of sale, must be paid into court for the benefit of the persons beneficially interested in them. 20
- (8) Any such person may apply to the court for the whole or part of the proceeds to be paid to the person.

Conditions

Enforcement of conditions

- 47 (1) If a person holds a restricted interest in a licensed body in breach of conditions imposed under paragraph 17, 28 or 33, the licensing authority may make an application to the High Court for an order under this paragraph. 25
- (2) The licensing authority may not make such an application unless – 30
- (a) it has notified the person that it intends to do so if the conditions are not complied with before the end of the relevant period, and
- (b) the relevant period has expired.
- (3) The relevant period is such period (not less than the prescribed period) as may be specified in the notice.
- (4) The High Court may, on the application of the licensing authority, make such order as the court thinks fit to secure compliance with the conditions to which the person's holding of the restricted interest is subject. 35
- (5) No order may be made under this paragraph – 40
- (a) until the end of the period within which an appeal may be made against the imposition of the conditions, or
- (b) if an appeal is made, until the appeal has been determined or withdrawn.

Records of decisions

Duty to notify Board of decisions under this Schedule

- 48 (1) The relevant licensing authority must notify the Board where –
- (a) it has objected under paragraph 19, 31, or 36 to a person’s holding of a restricted interest, or 5
 - (b) it has imposed conditions under paragraph 17, 28, or 33 on a person’s holding of a restricted interest.
- (2) The notification must state –
- (a) the reasons for the objection or imposition of conditions, and
 - (b) the kind of restricted interest to which the objection or conditions related. 10
- (3) If the licensing authority takes any action under paragraph 44 in relation to a person notified to the Board under sub-paragraph (1), it must notify the Board of that fact.
- (4) If there is an appeal to the relevant appellate body against the objection or imposition of conditions, the licensing authority must notify the Board of the outcome of that appeal (and any subsequent appeal to the High Court). 15
- (5) If the licensing authority has imposed conditions on a person’s holding of a restricted interest, it must notify the Board of any decision taken by it under paragraph 35 (variation and cancellation of conditions). 20
- (6) The licensing authority must give the person and the licensed body concerned a copy of any notification it gives the Board under this paragraph.
- 49 (1) A licensing authority must notify the Board where under paragraph 16, 17, 27 or 28 it approves the holding of a restricted interest in a licensed body by a person included in the list kept by the Board under paragraph 52. 25
- (2) The notification must state –
- (a) if the approval was under paragraph 17 or 28, the conditions to which the approval was subject, and
 - (b) the reasons for the licensing authority’s decision to approve the person’s holding of the interest. 30
- (3) If the approval was under paragraph 17 or 28 and there is an appeal to the relevant appellate body against the imposition of conditions, the licensing authority must notify the Board of the outcome of that appeal (and any subsequent appeal to the High Court).
- (4) If the approval was under paragraph 17 or 28, the licensing authority must notify the Board of any decision taken by it under paragraph 35 (variation and cancellation of conditions). 35
- (5) The licensing authority must give the person and the licensed body concerned a copy of any notification it gives the Board under this paragraph.

Power to notify Board where share limit breached 40

- 50 (1) This paragraph applies if the relevant licensing rules make the provision mentioned in paragraph 38(1)(a).

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- (2) The licensing authority may, if it considers it appropriate to do so in all the circumstances of the case, notify the Board where any person acquires an interest in shares which exceeds the share limit in a licensed body licensed by the licensing authority.
- (3) If the licensing authority proposes to make a notification under sub-paragraph (2), it must give the person and the licensed body a warning notice. 5
- (4) The warning notice must –
- (a) specify the reasons for the proposed notification, and
 - (b) state that representations may be made to the licensing authority within the prescribed period. 10
- (5) The licensing authority must consider any representations made within the prescribed period.
- (6) If the licensing authority notifies the Board under sub-paragraph (2), it must give the person concerned and the licensed body a copy of the notification and a notice stating the reasons for the notification. 15
- 51 (1) The person concerned and the licensed body may before the end of the prescribed period appeal to the relevant appellate body against the notification.
- (2) The relevant appellate body may – 20
- (a) dismiss the appeal, or
 - (b) allow the appeal and order the person’s name to be removed from the list kept by the Board under paragraph 52.
- (3) A party to the appeal may before the end of the prescribed period appeal to the High Court on a point of law arising from the decision of the relevant appellant body, but only with the permission of the High Court. 25
- (4) The High Court may make such order as it thinks fit.
- (5) The licensing authority must notify the Board of the outcome of any appeal under this paragraph, and give the person concerned and the licensed body a copy of the notification. 30

Board’s list of persons subject to objections and conditions

- 52 (1) The Board must keep a list of the persons in respect of which it receives a notification under paragraph 48(1) or 50(2).
- (2) The list must record –
- (a) in relation to a person notified to the Board under paragraph 48(1), the information included in the notification by virtue of paragraph 48(2) and any notification under paragraph 48(3), and 35
 - (b) in relation to any person included in the list, the information included in any notification relating to that person under paragraph 49. 40
- (3) If the Board receives a notification under paragraph 48(4) or (5), 49(3) or (4) or 51(5) it must make such alterations to the list as it considers appropriate having regard to the decision of the licensing authority or the outcome of the appeal (which may include removing a person from the list).

- (4) The Board must make the list kept by it under this paragraph available to every licensing authority.

SCHEDULE 14

Section 100

LICENSING AUTHORITY'S POWERS OF INTERVENTION

<i>Introductory</i>	5
1 (1) This Schedule applies –	
(a) where, in relation to a licensed body and the relevant licensing authority, one or more of the intervention conditions is satisfied;	
(b) where a licence granted to a body has expired (and has not been renewed or replaced by the relevant licensing authority).	10
(2) The intervention conditions are –	
(a) that the licensing authority is satisfied that one or more of the terms of the licensed body's licence have not been complied with;	
(b) that a person has been appointed receiver or manager of property of the licensed body;	15
(c) that a relevant insolvency event has occurred in relation to the licensed body;	
(d) that the licensing authority has reason to suspect dishonesty on the part of any manager or employee of the licensed body in connection with –	20
(i) that body's business,	
(ii) any trust of which that body is or was a trustee,	
(iii) any trust of which the manager or employee of the body is or was a trustee in that person's capacity as such a manager or employee, or	25
(iv) the business of another body in which the manager or employee is or was a manager or employee, or the practice (or former practice) of the manager or employee;	
(e) that the licensing authority is satisfied that there has been undue delay –	30
(i) on the part of the licensed body in connection with any matter in which it is or was acting for a client or with any trust of which it is or was a trustee, or	
(ii) on the part of a person who is or was a manager or employee of the licensed body in connection with any trust of which that person is or was a trustee in that person's capacity as such a manager or employee,	35
and the notice conditions are satisfied;	
(f) that the licensing authority is satisfied that it is necessary to exercise the powers conferred by this Schedule (or any of them) in relation to a licensed body to protect –	40
(i) the interests of clients (or former or potential clients) of the licensed body,	
(ii) the interests of the beneficiaries of any trust of which the licensed body is or was a trustee, or	45

- (iii) the interests of the beneficiaries of any trust of which a person who is or was a manager or employee of the licensed body is or was a trustee in that person’s capacity as such a manager or employee.
- (3) For the purposes of sub-paragraph (2) a relevant insolvency event occurs in relation to a licensed body if – 5
- (a) a resolution for a voluntary winding-up of the body is passed without a declaration of solvency under section 89 of the Insolvency Act 1986 (c. 45);
 - (b) the body enters administration within the meaning of paragraph 1(2)(b) of Schedule B1 to that Act; 10
 - (c) an administrative receiver within the meaning of section 251 of that Act is appointed;
 - (d) a meeting of creditors is held in relation to the body under section 95 of that Act (creditors’ meeting which has the effect of converting a members’ voluntary winding up into a creditors’ voluntary winding up); 15
 - (e) an order for the winding up of the body is made.
- (4) The notice conditions referred to in sub-paragraph (2)(e) are –
- (a) that the licensing authority has given the licensed body a notice inviting it to give an explanation within such period (of not less than 8 days) following the giving of the notice as may be specified in it; 20
 - (b) that the licensed body has failed within that period to give an explanation which the licensing authority regards as satisfactory; 25
 - (c) that the licensing authority gives notice of the failure to the licensed body and (at the same time or later) notice that this Schedule applies in its case by virtue of sub-paragraph (2)(e).
- (5) Where this Schedule applies in relation to a licensed body by virtue of sub-paragraph (1)(a) it continues to apply after the body’s licence has been revoked or has otherwise ceased to have effect. 30
- (6) For the purposes of this Schedule “licensed body” includes –
- (a) a body whose licence is suspended;
 - (b) a body to whom this Schedule continues to apply by virtue of sub-paragraph (5); 35
 - (c) except in this paragraph, a body whose licence has ceased to have effect as mentioned in sub-paragraph (1)(b).

Money: prohibition on payment

- 2 (1) The licensing authority may apply to the High Court for an order under sub-paragraph (2), and the High Court may make the order if it thinks fit. 40
- (2) The order is that a person holding money on behalf of the licensed body may not make any payment of the money, except with the leave of the court.
- (3) An order under sub-paragraph (2) may take effect in relation to a person –
- (a) whether or not the person is named in the order;
 - (b) however the money is held; 45
 - (c) whether the money was received before or after the order was made.

- (4) But an order under sub-paragraph (2) does not take effect in relation to a person until the licensing authority –
- (a) has given the person a copy of the order, and
 - (b) (in the case of a bank or other financial institution) has indicated the branches at which it believes money to which the order relates is held. 5
- (5) A person is not to be treated as having disobeyed an order under sub-paragraph (2) by making a payment of money if the court is satisfied that the person –
- (a) exercised due diligence to ascertain whether it was money to which the order related, and 10
 - (b) failed to ascertain that the order related to it.

Money etc: vesting in licensing authority

- 3 (1) The sums of money to which this paragraph applies, and the right to recover or receive them, vest in the licensing authority if the licensing authority decides that they should do so. 15
- (2) This paragraph applies to all sums of money held by or on behalf of the licensed body in connection with –
- (a) its activities as a licensed body,
 - (b) any trust of which it is or was a trustee, or 20
 - (c) any trust of which a person who is or was a manager or employee of the licensed body is or was a trustee in that person's capacity as such a manager or employee.
- (3) Sub-paragraph (1) applies whether the sums were received by the person holding them before or after the licensing authority's decision. 25
- (4) Those sums and that right are held by the licensing authority –
- (a) on trust to exercise the powers conferred by this Schedule in relation to them, and
 - (b) subject to that and to rules under paragraph 6, on trust for the persons beneficially entitled. 30
- (5) The licensing authority must give the licensed body, and any other person in possession of sums of money to which this paragraph applies –
- (a) a copy of the licensing authority's decision, and
 - (b) a notice prohibiting the payment out of those sums.
- (6) A person to whom a notice under sub-paragraph (5) is given may apply to the High Court for an order directing the licensing authority to withdraw the notice. 35
- (7) An application under sub-paragraph (6) must be made within 8 days of the licensing authority giving the person notice under sub-paragraph (5).
- (8) The person must give not less than 48 hours notice of any application under sub-paragraph (6) – 40
- (a) to the licensing authority, and
 - (b) if the notice under sub-paragraph (5) gives the name of a solicitor instructed by the licensing authority, to that solicitor.

- (9) If the court makes the order, it may make any other order it thinks fit with respect to the matter.
- (10) It is an offence for a person to whom a notice has been given under sub-paragraph (5) to pay out sums of money at a time when such payment is prohibited by the notice. 5
- (11) A person who is guilty of an offence under sub-paragraph (10) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- 4 (1) Any rights to which this paragraph applies shall vest in the licensing authority if the licensing authority decides that they should do so.
- (2) This paragraph applies to any right to recover or receive debts due to the licensed body in connection with its business. 10
- (3) Any sums recovered by the licensing authority by virtue of the exercise of rights vested under sub-paragraph (1) vest in the licensing authority and are held by it – 15
- (a) on trust to exercise the powers conferred by this Schedule in relation to them, and
- (b) subject to that and to rules under paragraph 6, on trust for the persons beneficially entitled.
- (4) The licensing authority must give the licensed body, and any other person who owes a debt to which the order applies a copy of the licensing authority’s decision. 20
- 5 (1) If the licensing authority takes possession of any sum of money to which paragraph 3 applies or by virtue of paragraph 4, it must pay it into a special account in the name of the licensing authority or a person nominated on its behalf. 25
- (2) A person nominated under sub-paragraph (1) holds that sum –
- (a) on trust to permit the licensing authority to exercise the powers conferred by this Schedule in relation to it, and
- (b) subject to that and rules under paragraph 6, on trust for the persons beneficially entitled. 30
- (3) A bank or other financial institution at which a special account is kept is under no obligation to ascertain whether it is being dealt with properly.
- 6 (1) The licensing authority may make rules governing its treatment of sums vested in it under paragraph 3 or 4(3).
- (2) The rules may, in particular, make provision in respect of cases where the licensing authority is unable to trace the person or persons beneficially entitled to any sum vested in the licensing authority under paragraph 3 or 4(3) (including provision which requires amounts to be paid into or out of any fund maintained by the licensing authority in connection with its compensation arrangements). 40

Money: information

- 7 (1) The licensing authority may apply to the High Court for an order requiring a person to give the licensing authority – 45
- (a) information about any money held by the person on behalf of the licensed body, and the accounts in which it is held, or

- (b) information relevant to identifying any money held by the licensed body or by another person on its behalf.
- (2) The High Court may make the order if it is satisfied that there is reason to suspect –
- (a) in a case within sub-paragraph (1)(a), that the person holds money on behalf of the licensed body, and 5
- (b) in a case within sub-paragraph (1)(b), that the person has the information in question.
- (3) This paragraph is without prejudice to paragraphs 2 to 6.
- Notice to produce or deliver documents* 10
- 8 (1) The licensing authority may give notice to the licensed body requiring it to produce or deliver all documents in its possession or under its control in connection with –
- (a) its activities as a licensed body,
- (b) any trust of which it is or was a trustee, or 15
- (c) any trust of which a person who is or was a manager or employee of the licensed body is or was a trustee in that person's capacity as such a manager or employee.
- (2) The notice may require the documents to be produced –
- (a) to any person appointed by the licensing authority; 20
- (b) at a time and place to be fixed by the licensing authority.
- (3) The person appointed by the licensing authority may take possession of any such documents on behalf of the licensing authority.
- (4) It is an offence for a person having possession of such documents to refuse, neglect or otherwise fail to comply with a notice under sub-paragraph (1). 25
- (5) Sub-paragraph (4) does not apply where an application has been made to the High Court under paragraph 9(1)(a).
- (6) A person who is guilty of an offence under sub-paragraph (4) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- Order to produce or deliver documents* 30
- 9 (1) The High Court may, on the application of the licensing authority, make an order for production or delivery –
- (a) in relation to a person required to produce documents under paragraph 8 and the documents the person was required to produce;
- (b) if it is satisfied that there is reason to suspect that documents in relation to which the powers in paragraph 8 are exercisable have come into the possession or under the control of some person other than the licensed body, in relation to that person and those documents. 35
- (2) An order for production or delivery is an order – 40
- (a) requiring a person to produce or deliver documents to any person appointed by the licensing authority, at a time and place specified in the order, and

- (b) authorising the appointed person to take possession of the documents on behalf of the licensing authority.
- (3) The court may, on the application of the licensing authority, authorise a person appointed by the licensing authority to enter any premises (using such force as is reasonably necessary) to search for and take possession of—
 - (a) any documents to which an order for production or delivery relates;
 - (b) any property—
 - (i) in the possession of or under the control of the licensed body, or
 - (ii) in the case of an order under sub-paragraph (1)(b), which was in the possession or under the control of that body and has come into the possession or under the control of the person in respect of whom the order is made, which the licensing authority reasonably requires for the purpose of accessing information contained in any such documents, and to use property obtained under paragraph (b) for that purpose.
- (4) It may do so on making the order for production or delivery, or at any later time.

Taking possession of documents etc under notice or order

- 10 (1) This paragraph applies where the licensing authority takes possession of documents or any other property under paragraph 8 or 9.
- (2) On taking possession, it must give a notice to—
 - (a) the licensed body, and
 - (b) any other person from whom the documents or property were received or from whose possession they were taken.
- (3) The notice must state that possession has been taken and specify the date on which possession was taken.
- (4) A person to whom a notice under sub-paragraph (2) is given may apply to the High Court for an order directing the licensing authority to deliver the documents or other property to such person as the applicant requires.
- (5) An application under sub-paragraph (4) must be made within 8 days of the licensing authority giving the person notice under sub-paragraph (2).
- (6) The person must give not less than 48 hours notice of the application—
 - (a) to the licensing authority, and
 - (b) if the notice under sub-paragraph (2) gives the name of a solicitor instructed by the licensing authority, to that solicitor.
- (7) The court may make any order it thinks fit.

Mail and other forms of communication

- 11 (1) The High Court, on the application of the licensing authority, may from time to time make a communications redirection order.
- (2) A communications redirection order is an order that specified communications to the licensed body are to be directed, in accordance with

- the order, to the licensing authority or any person appointed by the licensing authority.
- (3) For the purposes of this paragraph –
- (a) “specified communications” means communications of such description as are specified in the order; 5
 - (b) the descriptions of communications which may be so specified include –
 - (i) communications in the form of a postal packet;
 - (ii) electronic communications;
 - (iii) communications by telephone. 10
- (4) A communications redirection order has effect for such time not exceeding 18 months as is specified in the order.
- (5) Where a communications redirection order has effect, the licensing authority or the person appointed by the licensing authority may take possession or receipt of the communications redirected in accordance with the order. 15
- (6) Where a communications redirection order is made the licensing authority must pay to the designated payee the like charges (if any) as would have been payable for the redirection of the communications to which the order relates if the addressee – 20
- (a) had permanently ceased to occupy or use the premises or other destination of the communications, and
 - (b) had applied to the designated payee to redirect the communications as mentioned in the order
- (7) For this purpose “the designated payee” means – 25
- (a) in the case of an order relating to postal packets, the postal operator concerned, and
 - (b) in any other case, the person specified in the order as the designated payee.
- (8) The High Court may, on the application of the licensing authority, authorise the licensing authority, or a person appointed by it, to take such steps as may be specified in the order in relation to any website purporting to be or have been maintained by or on behalf of the licensed body, if the High Court is satisfied that the taking of those steps is necessary to protect the public interest or the interests of clients (or potential or former clients) of the licensed body. 30
35
- (9) In this paragraph “postal operator” and “postal packet” have the meaning given by section 125(1) of the Postal Services Act 2000 (c. 26).
- (10) This paragraph does not apply where the powers conferred by this Part of this Schedule are exercisable by virtue of paragraph 1(2)(e). 40

Use of documents in licensing authority’s possession

- 12 (1) The licensing authority may apply to the High Court for an order as to the disposal or destruction of any document or other property in its possession by virtue of paragraph 8, 9 or 11.
- (2) The court may make any order it thinks fit. 45

- 13 (1) The licensing authority may take copies of or extracts from any documents in its possession by virtue of paragraph 8, 9 or 11.
- (2) If the licensing authority proposes to deliver such documents to any person, it may make the delivery conditional on the person giving a reasonable undertaking to supply copies or extracts to the licensing authority. 5
- (3) Sub-paragraphs (1) and (2) are subject to any order made by the court under paragraph 10 or 12.

Trusts

- 14 (1) If the licensed body is a trustee of any trust, the licensing authority may apply to the High Court for an order for the appointment of a new trustee in substitution for it. 10
- (2) If a person who is a manager or employee of the licensed body is a trustee of any trust in that person’s capacity as such a manager or employee, the licensing authority may apply to the High Court for an order for the appointment of a new trustee in substitution for that person. 15
- (3) The Trustee Act 1925 (c. 19) has effect in relation to an appointment of a new trustee under this paragraph as it has effect in relation to an appointment under section 41 of that Act.

General powers of licensing authority

- 15 The powers conferred by this Schedule in relation to sums of money, documents or other property may be exercised despite any lien on them or right to their possession. 20
- 16 The licensing authority may do all things which are reasonably necessary to facilitate the exercise of its powers under this Schedule.

Licensing authority’s costs 25

- 17 (1) Any costs incurred by the licensing authority for the purposes of this Schedule (including the costs of any person exercising powers under this Schedule on behalf of the licensing authority) –
- (a) are to be paid by the licensed body, and
- (b) may be recovered from the licensed body as a debt owing to the licensing authority. 30
- (2) Sub-paragraph (1) is subject to any order for payment of costs that may be made on an application to the court under this Schedule.
- 18 (1) The High Court, on the application of the licensing authority, may order a liable party to pay a specified proportion of the costs mentioned in paragraph 17. 35
- (2) For this purpose a “liable party” means –
- (a) if the licensed body is a partnership, any former partner in the licensed body,
- (b) in any other case, any manager or former manager of the licensed body. 40

- (3) The High Court may make an order under this paragraph in respect of a liable party only if it is satisfied that the conduct (or any part of the conduct) by reason of which this Schedule applies was conduct carried on with the consent or connivance of, or was attributable to any neglect on the part of, the liable party. 5
- (4) In this paragraph “specified” means specified in the order made by the High Court.

SCHEDULE 15

Section 111

THE OFFICE FOR LEGAL COMPLAINTS

- Membership* 10
- 1 (1) The OLC is to consist of the following members –
- (a) a chairman appointed by the Board with the approval of the Secretary of State, and
 - (b) at least 6, but not more than 8, other persons appointed by the Board after consultation with the chairman. 15
- (2) The Secretary of State may by order amend sub-paragraph (1) by substituting, for the limit on the maximum number of persons for the time being specified in paragraph (b) of that sub-paragraph, a different limit.
- 2 (1) In appointing members of the OLC, the Board must ensure that a majority of the members of the OLC are lay persons. 20
- (2) The chairman must be a lay person.
- (3) In this Schedule a reference to a “lay person” is a reference to a person who has never been –
- (a) an authorised person in relation to an activity which is a reserved legal activity, 25
 - (b) an advocate in Scotland,
 - (c) a solicitor in Scotland,
 - (d) a member of the Bar of Northern Ireland, or
 - (e) a solicitor of the Court of Judicature of Northern Ireland.
- (4) For the purposes of sub-paragraph (3), a person is deemed to have been an authorised person in relation to an activity which is a reserved legal activity if that person has before the appointed day been – 30
- (a) a barrister,
 - (b) a solicitor,
 - (c) a public notary, 35
 - (d) a licensed conveyancer, or
 - (e) granted a right of audience or right to conduct litigation in relation to any proceedings by virtue of section 27(2)(a) or section 28(2)(a) of the Courts and Legal Services Act 1990 (c. 41) (rights of audience and rights to conduct litigation). 40
- (5) For the purpose of sub-paragraph (4) –

- “appointed day” means the day appointed for the coming into force of section 13;
- “licensed conveyancer” has the meaning given by section 11(2) of the Administration of Justice Act 1985 (c. 61).
- 3 (1) An ombudsman may be a member (but not chairman) of the OLC. 5
- (2) In appointing members of the OLC, the Board must ensure that a majority of the members of the OLC are not ombudsmen.
- 4 In appointing members of the OLC, the Board must have regard to the desirability of securing that the OLC includes members who (between them) have experience in or knowledge of – 10
- (a) the handling of complaints,
 - (b) the provision of legal services,
 - (c) legal education and legal training,
 - (d) consumer affairs,
 - (e) civil or criminal proceedings and the working of the courts, 15
 - (f) the maintenance of the professional standards of persons who provide legal services,
 - (g) non-commercial legal services,
 - (h) the differing needs of consumers, and
 - (i) the provision of claims management services (within the meaning of Part 2 of the Compensation Act 2006 (c. 29)). 20

Terms of appointment and tenure of members

- 5 A member of the OLC is to hold and vacate office in accordance with the terms and conditions of the member’s appointment (subject to this Schedule). 25
- 6 (1) A member of the OLC must be appointed for a fixed period.
- (2) The period for which a member is appointed must not exceed 5 years.
- (3) A person who has held office as a member may be re-appointed once only, for a further period (whether consecutive or not) not exceeding 5 years.
- 7 If a member of the OLC who is a lay person becomes a person within paragraph (a) to (e) of paragraph 2(3), that person ceases to be a member of the OLC. 30
- 8 (1) A member may at any time –
- (a) resign from office by giving notice to the Board;
 - (b) be removed from office by the Board. 35
- (2) The Board may not under sub-paragraph (1)(b) remove a member (including the chairman) from office unless the Board is satisfied that the member –
- (a) has failed without reasonable excuse to discharge the functions of the office for a continuous period of at least 6 months,
 - (b) has been convicted of an offence, 40
 - (c) is an undischarged bankrupt, or
 - (d) is otherwise unfit to hold the office or unable to discharge its functions.

(3)	The chairman may be removed from office under sub-paragraph (1)(b) only with the consent of the Secretary of State.	
(4)	The Board must consult the chairman before removing a member (other than the chairman) under sub-paragraph (1)(b).	
(5)	The Board may not remove an ordinary member on the ground mentioned in paragraph (a) of sub-paragraph (2) more than 3 months after the end of the period mentioned in that paragraph.	5
9	The chairman ceases to be chairman upon ceasing to be a member of the OLC.	
<i>Remuneration etc of members</i>		10
10	The chairman and other members of the OLC are to be paid by the Board in accordance with provision made by or under their terms of appointment.	
<i>Staff</i>		
11	The OLC may appoint such staff as it considers appropriate to assist in the performance of its functions.	15
12	Staff appointed under paragraph 11 are to be – (a) appointed on terms and conditions determined by the OLC, and (b) paid by the OLC in accordance with provision made by or under the terms of appointment.	
13	A member of staff appointed under paragraph 11 may be a member (but not chairman) of the OLC.	20
14	The terms and conditions on which an ombudsman, or any member of staff appointed under paragraph 11, is appointed may provide for the OLC to pay, or make payments towards the provision of, a pension, allowance or gratuity to or in respect of that person.	25
<i>Arrangements for assistance</i>		
15	(1) The OLC may make arrangements with such persons as it considers appropriate for assistance to be provided to it or to an ombudsman. (2) Arrangements may include the paying of fees to such persons.	
<i>Committees</i>		30
16	(1) The OLC may establish committees. (2) Any committee so established may establish sub-committees. (3) Only members of the OLC may be members of a committee or sub-committee. (4) A majority of the members of a committee or sub-committee must be lay persons.	35

Proceedings

- 17 (1) The OLC may regulate its own procedure, and the procedure of its committees and sub-committees, including quorum.
- (2) But the quorum of a committee or sub-committee must not be less than 3.
- (3) The OLC must publish any rules of procedure made under this paragraph. 5
- (4) This paragraph is without prejudice to any other power the OLC has under this Act to make rules.
- 18 The validity of any act of the OLC is not affected –
- (a) by a vacancy in the office of chairman or amongst the other members, or 10
- (b) by a defect in the appointment or any disqualification of a person as chairman or another member of the OLC.

Delegation of functions

- 19 (1) The OLC may authorise –
- (a) the chairman or any other member of the OLC, 15
- (b) a committee or sub-committee of the OLC,
- (c) an ombudsman, or
- (d) a member of the OLC’s staff appointed under paragraph 11, to exercise, on behalf of the OLC, such of its functions, in such circumstances, as it may determine. 20
- (2) Sub-paragraph (1) does not apply to –
- (a) the OLC’s functions under section 115(1) (annual report),
- (b) the OLC’s functions under section 119 (appointment of Chief Ombudsman and assistant ombudsmen),
- (c) the OLC’s functions under paragraph 17 or 20 of this Schedule, or 25
- (d) any power or duty the OLC has to make rules under this Part of this Act.
- (3) A committee may delegate functions (including functions delegated to the committee) to –
- (a) a sub-committee, 30
- (b) the chairman or any other member of the OLC,
- (c) an ombudsman, or
- (d) a member of the OLC’s staff appointed under paragraph 11.

Budget

- 20 (1) The OLC must, before the start of each financial year, adopt an annual budget which has been approved by the Board. 35
- (2) The OLC may, with the approval of the Board, vary the budget for a financial year at any time after its adoption.
- (3) The annual budget must include an indication of –
- (a) the distribution of resources deployed in the operation of the ombudsman scheme, and 40

- (b) the amounts of income of the OLC arising or expected to arise from the operation of the scheme.

Land

- 21 (1) During the initial 5 year period, the OLC must not acquire or dispose of an interest in land, except with the approval of the Secretary of State. 5
- (2) The initial 5 year period is the period of 5 years beginning with the day on which the appointment of the first Interim Chief Executive under paragraph 4 of Schedule 22 takes effect or the day on which the first appointment of a member of the OLC takes effect, whichever first occurs.

Borrowing

- 22 (1) The OLC must not borrow money, except— 10
- (a) with the consent of the Board, or
- (b) in accordance with a general authorisation given by the Board.
- (2) The Board may not consent or give a general authorisation for the purposes of sub-paragraph (1), except with the consent of the Secretary of State. 15

Accounts

- 23 (1) The OLC must—
- (a) keep proper accounts and proper records in relation to the accounts, and
- (b) prepare in respect of each financial year a statement of accounts. 20
- (2) Each statement of accounts must comply with any directions given by the Secretary of State, with the approval of the Treasury, as to—
- (a) the information to be contained in it and the manner in which it is to be presented;
- (b) the methods and principles according to which the statement is to be prepared; 25
- (c) the additional information (if any) which is to be provided for the information of Parliament.
- (3) The OLC must give a copy of each statement of accounts to the Board before the end of the month of August next following the financial year to which the statement relates. 30
- (4) The Board must give a copy of each statement received under sub-paragraph (3)—
- (a) to the Secretary of State, and
- (b) to the Comptroller and Auditor General. 35
- (5) The Comptroller and Auditor General must—
- (a) examine, certify and report on each statement of accounts which is received under sub-paragraph (4), and
- (b) lay a copy of each statement and of the Comptroller and Auditor General's report before Parliament. 40
- (6) “Financial year” means—

- (a) the period beginning with the day on which the OLC is established and ending with the next following 31 March, and
- (b) each successive period of 12 months.

Status

- 24 (1) The OLC is not to be regarded – 5
- (a) as the servant or agent of the Crown, or
 - (b) as enjoying any status, immunity or privilege of the Crown.
- (2) Accordingly –
- (a) the OLC’s property is not to be regarded as property of or held on behalf of the Crown, and 10
 - (b) the staff appointed under paragraph 11 are not to be regarded as servants or agents of the Crown or as enjoying any status, immunity or privilege of the Crown.

Application of seal and proof of instruments

- 25 The application of the seal of the OLC is to be authenticated by the signature of any member of the OLC, or of its staff, who has been authorised (whether generally or specifically) by the OLC for the purpose. 15
- 26 Any contract or instrument which, if entered into or executed by an individual, would not need to be under seal, may be entered into or executed on behalf of the OLC by any person who has been authorised (whether generally or specifically) by the OLC for the purpose. 20
- 27 A document purporting to be duly executed under the seal of the OLC, or signed on its behalf –
- (a) is to be received in evidence, and
 - (b) is to be taken to be executed or signed in that way, unless the contrary is proved. 25

Disqualification

- 28 (1) In Part 2 of Schedule 1 to the House of Commons Disqualification Act 1975 (c. 24) (bodies of which all members are disqualified) at the appropriate place insert – 30
- “The Office for Legal Complaints.”
- (2) In Part 3 of that Schedule (other disqualifying offices) at the appropriate place insert –
- “The Chief Ombudsman or an assistant ombudsman appointed under section 119 of the Legal Services Act 2007 (Chief Ombudsman and assistant ombudsmen appointed for the purposes of the ombudsman scheme).” 35
- (3) In Part 2 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (c. 25) (bodies of which all members are disqualified) at the appropriate place insert – 40
- “The Office for Legal Complaints.”
- (4) In Part 3 of that Schedule (other disqualifying offices) at the appropriate

	place insert –	
	“The Chief Ombudsman or an assistant ombudsman appointed under section 119 of the Legal Services Act 2007 (Chief Ombudsman and assistant ombudsmen appointed for the purposes of the ombudsman scheme).”	5
	<i>Freedom of information</i>	
29	In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (c. 36) (other public bodies and offices which are public authorities) at the appropriate place insert –	
	“The Office for Legal Complaints.”	10
	<i>Public records</i>	
30	In Schedule 1 to the Public Records Act 1958 (c. 51) (definition of public records) at the appropriate place in Part 2 of the Table at the end of paragraph 3 insert –	
	“The Office for Legal Complaints.”	15
	<i>Exemption from liability in damages</i>	
31	(1) This paragraph applies to –	
	(a) the OLC,	
	(b) a member of the OLC,	
	(c) an ombudsman, and	20
	(d) a member of the OLC’s staff appointed under paragraph 11.	
	(2) A person to whom this paragraph applies is not liable in damages for anything done or omitted in the exercise or purported exercise of the functions conferred on the person concerned by or by virtue of this or any other enactment.	25
	(3) But sub-paragraph (2) does not apply –	
	(a) if it is shown that the act or omission was in bad faith, or	
	(b) so as to prevent an award of damages made in respect of an act or omission on the ground that the act or omission was unlawful as a result of section 6(1) of the Human Rights Act 1998 (c. 42).	30

SCHEDULE 16

Section 170

THE LAW SOCIETY, SOLICITORS, RECOGNISED BODIES AND FOREIGN LAWYERS

PART 1

THE SOLICITORS ACT 1974 (C. 47)

1	The Solicitors Act 1974 is amended in accordance with this Part of this Schedule.	35
2	In section 1A(c) (practising certificates: employed solicitors) omit “by the Council of the Law Society”.	

- 3 In section 2 (training regulations) –
- (a) in subsection (1) omit “, with the concurrence of the Secretary of State, the Lord Chief Justice and the Master of the Rolls,”,
 - (b) in subsection (3)(a) –
 - (i) in sub-paragraph (i) omit “, whether by service under articles or otherwise,” 5
 - (ii) in sub-paragraph (v) omit “articles may be discharged or”, and
 - (iii) in that sub-paragraph after “be” (in the second place) insert “started or”, and 10
 - (c) omit subsections (4) and (5).
- 4 In section 3 (admission as solicitor), in subsection (2) –
- (a) for “Master of the Rolls” (in each place) substitute “Society”, and
 - (b) for “his” substitute “its”.
- 5 In section 6 (keeping of the roll) omit subsections (2) to (4). 15
- 6 In section 7 (entry of name and restoration of name struck off) –
- (a) for paragraph (a) substitute –
 - “(a) of written evidence of admission of any person as a solicitor by the Society,”, and
 - (b) for “Council” substitute “Society”. 20
- 7 (1) Section 8 (removal or restoration of name at solicitor’s request) is amended as follows.
- (2) In subsection (2) for “Council” substitute “Society”.
 - (3) In subsection (4) for “Master of the Rolls” substitute “High Court”.
 - (4) After that subsection insert – 25
 - “(4A) The decision of the High Court on an appeal under subsection (4) shall be final.”
 - (5) Omit subsection (5).
- 8 For sections 9 and 10 (applications for and issue of practising certificates) substitute – 30
- “9 Applications for practising certificates**
- (1) A person whose name is on the roll may apply to the Society to be issued with a practising certificate.
 - (2) An application must be –
 - (a) made in accordance with regulations under section 28, and 35
 - (b) accompanied by the appropriate fee.
 - (3) “The appropriate fee”, in relation to an application, means –
 - (a) any fee payable under subsection (1) of section 11 in respect of the practising certificate applied for, and
 - (b) any additional fee payable under subsection (2) of that section in respect of the application. 40

-
- 10 The issue of practising certificates**
- (1) Subject to the following provisions of this section, where an application is made in accordance with section 9, the Society must issue a practising certificate to the applicant if it is satisfied that the applicant – 5
- (a) is not suspended from practice, and
- (b) is complying with any prescribed requirements imposed on the applicant.
- (2) A practising certificate issued to an applicant of a prescribed description must be issued subject to any conditions prescribed in relation to applicants of that description. 10
- (3) In such circumstances as may be prescribed, the Society must, if it considers it is in the public interest to do so – 15
- (a) refuse to issue a practising certificate under this section, or
- (b) where it decides to issue a practising certificate, issue it subject to one or more conditions.
- (4) The conditions which may be imposed include – 20
- (a) conditions requiring the person to whom the certificate is issued to take specified steps that will, in the opinion of the Society, be conducive to the carrying on by that person of an efficient practice as a solicitor;
- (b) conditions which prohibit that person from taking any specified steps, except with the approval of the Society.
- (5) In this section – 25
- “prescribed” means prescribed by regulations under section 28;
- “specified”, in relation to a condition imposed on a practising certificate, means specified in the condition.”
- 9 After section 10 (as inserted by paragraph 8) insert –
- “10A Register of holders of practising certificates**
- (1) The Society must keep a register of all solicitors who hold practising certificates. 30
- (2) The register must contain –
- (a) the full name of each solicitor who holds a practising certificate, and
- (b) such other information as may be specified in regulations under section 28(1)(d).” 35
- 10 For section 11 (fee payable on issue of practising certificate) substitute –
- “11 Fee payable on issue of practising certificates**
- (1) Before a practising certificate is issued, there must be paid to the Society in respect of the certificate a fee of such amount as the Society may from time to time determine. 40
- (2) Different fees may be specified for different categories of applicant and in respect of different circumstances.

- (3) Subsection (4) applies where a solicitor makes an application for a practising certificate if –
- (a) the solicitor has failed to deliver an accountant’s report required under section 34(1) within the period allowed by section 34(2), and 5
 - (b) a practising certificate free of conditions has not been issued by the Society to the solicitor since the Society became aware of the failure.
- (4) Where this subsection applies, the solicitor’s application must be accompanied by an additional fee of such amount as the Society from time to time determines.” 10
- 11 Omit section 12 (discretion of Society with respect to issue of practising certificates in special cases).
- 12 Omit section 12A (additional fee payable by certain solicitors on applying for practising certificates). 15
- 13 For section 13 (appeals in connection with issue of practising certificates) substitute –

“13 Appeals etc in connection with the issue of practising certificates

- (1) A person who makes an application in accordance with section 9 may appeal to the High Court against – 20
- (a) a decision to refuse the application, or
 - (b) a decision to impose a condition on a practising certificate issued in consequence of the application.
- (2) A person who holds a practising certificate subject to a condition within section 10(4)(b) may appeal to the High Court against any decision by the Society to refuse to approve the taking of any step for the purposes of that condition. 25
- (3) The Society may make rules which provide, as respects any application for a practising certificate that is neither granted nor refused by the Society within such period as may be specified in the rules, for enabling an appeal to be brought under this section in relation to the application as if it had been refused by the Society. 30
- (4) On an appeal under subsection (1), the High Court may –
- (a) affirm the decision of the Society,
 - (b) direct the Society to issue a certificate to the applicant free from conditions or subject to such conditions as the High Court may think fit, 35
 - (c) direct the Society not to issue a certificate,
 - (d) if a certificate has been issued, by order suspend it, or
 - (e) make such other order as the High Court thinks fit. 40
- (5) On an appeal under subsection (2), the High Court may –
- (a) affirm the decision of the Society,
 - (b) direct the Society to approve the taking of one or more steps for the purposes of a condition within section 10(4)(b), or
 - (c) make such other order as the High Court thinks fit. 45

- (6) In relation to an appeal under this section the High Court may make such order as it thinks fit as to payment of costs.
- (7) The decision of the High Court on an appeal under subsection (1) or (2) shall be final.”
- 14 (1) Section 13A (imposition of conditions while practising certificates are in force) is amended as follows. 5
- (2) For subsections (2) to (5) substitute –
- “(2) The power conferred by subsection (1) is exercisable in relation to a solicitor at any time during the period for which the solicitor’s current certificate is in force if it appears to the Society that the case is of a prescribed description. 10
- (3) “Prescribed” means prescribed by regulations under section 28.”
- (3) In subsection (6) for “Master” to the end substitute “High Court against the decision of the Society.”
- (4) In subsection (7) – 15
- (a) for “Master of the Rolls” (in both places) substitute “High Court”, and
- (b) for “he” substitute “it”.
- (5) After that subsection insert –
- “(7A) The decision of the High Court on an appeal under subsection (6) shall be final.” 20
- (6) For subsection (8) substitute –
- “(8) Subsections (4) and (5) of section 10 apply for the purposes of subsection (1) of this section as they apply for the purposes of that section.” 25
- (7) After that subsection insert –
- “(9) A solicitor who holds a practising certificate subject to a condition imposed under subsection (1) which prohibits that solicitor from taking any steps specified in the condition, except with the approval of the Society, may appeal to the High Court against any decision by the Society to refuse to approve the taking of any step for the purposes of that condition. 30
- (10) On an appeal under subsection (9), the High Court may – 35
- (a) affirm the decision of the Society,
- (b) direct the Society to approve the taking of one or more steps for the purposes of the condition, or
- (c) make such other order as the High Court thinks fit.
- (11) In relation to an appeal under this section the High Court may make such order as it thinks fit as to payment of costs.”
- 15 In section 13B (suspension of practising certificates where solicitors convicted of fraud or serious crime) – 40
- (a) in subsection (7) for “Master of the Rolls” substitute “High Court”,
- (b) in subsection (8) –

- (i) for “Master of the Rolls” (in both places) substitute “High Court”, and
(ii) in paragraph (d) for “he” substitute “it”, and
(c) after that subsection insert –
 “(9) The decision of the High Court on an appeal under subsection (7) shall be final.” 5
- 16 Omit section 14 (commencement, expiry and replacement of practising certificates).
- 17 In section 15 (suspension of practising certificates), in subsection (1A) after “section” insert “31 or”. 10
- 18 (1) Section 16 (duration of suspension of practising certificates) is amended as follows.
(2) For subsection (1) substitute –
 “(1) Where a practising certificate is suspended, it expires on such date as may be prescribed by regulations under section 28.” 15
(3) In subsection (3)(c) for “the replacement date of the certificate” substitute “the date on which his certificate will expire”.
(4) In subsection (5) –
 (a) for “Master of the Rolls, who” substitute “High Court, which”, and
 (b) in paragraph (b) for “he” substitute “it”. 20
(5) After that subsection insert –
 “(6) In relation to an appeal under this section the High Court may make such order as it thinks fit as to payment of costs.”
 (7) The decision of the High Court on an appeal under subsection (5) shall be final.” 25
- 19 In section 17 (publicity in relation to suspension of practising certificates) in subsections (1) and (2) omit “in the London Gazette”.
- 20 For section 18 (evidence as to holding of practising certificates) substitute –
“18 Extracts from the roll or register etc as evidence
(1) An extract from the roll, or an extract from the register kept under section 10A, which is certified as correct by the Society is evidence of the matters mentioned in it. 30
(2) A certificate from the Society stating that –
 (a) a person’s name is or was on the roll, or
 (b) a person is or was registered in the register kept under section 10A, 35
is evidence of the matters stated.”
- 21 Omit section 19 (rights of practising and rights of audience).
- 22 For section 20 (unqualified person not to act as solicitor) substitute –
“20 Unqualified person not to act as solicitor 40
(1) No unqualified person is to act as a solicitor.

- (2) Any person who contravenes subsection (1) is guilty of an offence and liable on conviction on indictment to imprisonment for not more than 2 years or to a fine, or to both.”
- 23 Omit—
- (a) sections 22 and 22A (unqualified person not to prepare certain instruments etc), and 5
- (b) section 23 (unqualified person not to prepare papers for probate etc).
- 24 In section 24 (application of penal provisions to body corporate), in subsection (2) from “sections” to the end substitute “section 20 the reference to an unqualified person and the reference to a person both include a reference to a body corporate.” 10
- 25 In section 26 (time limit for commencement of certain proceedings) omit “, 22 or 23”.
- 26 Omit section 27 (saving for persons authorised to conduct legal proceedings). 15
- 27 (1) Section 28 (regulations) is amended as follows.
- (2) In subsection (1)—
- (a) for “Master of the Rolls” substitute “Society”,
- (b) omit “, with the concurrence of the Secretary of State and the Lord Chief Justice,” 20
- (c) in paragraph (c) omit “and applications for them”, and
- (d) in paragraph (d) for “section 9” substitute “section 10A”.
- (3) Omit subsections (2) and (3).
- (4) In subsection (3A)—
- (a) for “may —” insert “may (among other things)— 25
- (za) make provision about the form in which the roll is to be kept and the manner in which entries are to be made, altered and removed;”,
- (b) omit “and” at the end of paragraph (b), and
- (c) after paragraph (d) insert— 30
- “(e) require the information on the roll to be made available to the public;
- (f) specify the manner in which information is to be made so available and require it to be made so available during office hours and without charge.” 35
- (5) After that subsection insert—
- “(3B) Regulations about practising certificates may (among other things)—
- (a) prescribe the form and manner in which applications for, or relating to, practising certificates are to be made;
- (b) prescribe information which must be included in or accompany such applications; 40
- (c) make provision about time limits for dealing with such applications, and confer on a person power to extend or bring forward such a time limit in prescribed circumstances;

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|------|--|----|
| (d) | prescribe the requirements which applicants for practising certificates must satisfy before they may be issued with a practising certificate; | |
| (e) | prescribe descriptions of applicants, and conditions in relation to them, for the purposes of section 10(2) (circumstances in which practising certificates must be issued subject to prescribed conditions); | 5 |
| (f) | prescribe circumstances for the purposes of section 10(3) (circumstances in which application may be refused etc in the public interest); | 10 |
| (g) | make provision about when conditions imposed on practising certificates take effect (including provision conferring power on the Society to direct that a condition is not to have effect until the conclusion of any appeal in relation to it); | 15 |
| (h) | make provision for the commencement, duration, replacement, withdrawal and expiry of practising certificates; | |
| (i) | prescribe circumstances for the purposes of section 13A(2) (circumstances in which conditions can be imposed during period of practising certificate); | 20 |
| (j) | require solicitors who hold practising certificates to notify the Society of such matters as may be prescribed at such times, or in such circumstances, as may be prescribed. | |
| (3C) | Regulations about the keeping of the register under section 10A may (among other things) – | 25 |
| (a) | make provision about the form in which the register is to be kept and the manner in which entries are to be made, altered and removed; | |
| (b) | require information of a specified kind to be included in entries in the register; | 30 |
| (c) | require information (or information of a specified description) on the register to be made available to the public; | |
| (d) | specify the manner in which it is to be made so available and require it to be made so available during office hours and without charge. | 35 |
| (3D) | Regulations under this section may make provision for appeals to the High Court against decisions made by the Society under the regulations. | |
| (3E) | The decision of the High Court on an appeal under regulations made by virtue of subsection (3D) shall be final. | 40 |
| (3F) | Regulations under this section may – | |
| (a) | provide for a person to exercise a discretion in dealing with any matter; | |
| (b) | include incidental, supplementary and consequential provision; | 45 |
| (c) | make transitory or transitional provision and savings; | |
| (d) | make provision generally or only in relation to specified cases or subject to specified exceptions; | |
| (e) | make different provision for different cases.” | 50 |

- (6) Omit subsections (4) and (5).
- 28 (1) Section 31 (rules as to professional practice, conduct and discipline) is amended as follows.
- (2) In subsection (1) –
- (a) for “Council may, if they think fit,” substitute “Society may”, 5
 - (b) omit “, with the concurrence of the Master of the Rolls,”,
 - (c) after “conduct” insert “, fitness to practise”,
 - (d) for “Council” (in the second place) substitute “Society”, and
 - (e) after “being” insert “, or have been,”.
- (3) Omit subsections (3) and (4). 10
- 29 (1) Section 32 (accounts rules and trust accounts rules) is amended as follows.
- (2) In subsection (1) –
- (a) for “Council” (in the first place) substitute “Society”,
 - (b) omit “, with the concurrence of the Master of the Rolls”,
 - (c) for paragraphs (a) and (b) substitute – 15
 - “(a) as to the opening and keeping by solicitors of accounts at banks or with building societies for money within subsection (1A);
 - (aa) as to the operation by solicitors of accounts kept by their clients or other persons at banks or with building societies; 20
 - (b) as to the keeping by solicitors of accounts containing information as to money received, held or paid by them for or on account of their clients or other persons (including money received, held or paid under a trust); and”, 25
 - (d) in paragraph (c) of that subsection –
 - (i) for “Council” substitute “Society”,
 - (ii) for “them” substitute “it”, and
 - (iii) after “being” insert “, or have been,”, and 30
 - (e) omit from “and the rules” to the end.
- (3) After that subsection insert –
- “(1A) The money referred to in subsection (1) is money (including money held on trust) which is received, held or dealt with for clients or other persons.” 35
- (4) Omit subsection (2).
- (5) In subsection (4) –
- (a) for “Council” substitute “Society”, and
 - (b) omit “or (2)”.
- (6) In subsection (5) for “by virtue” to the end substitute “or a part of the rules.” 40
- (7) Omit subsection (6).
- 30 (1) Section 33 (interest on clients’ money) is amended as follows.

- (2) For subsection (1) substitute –
- “(1) Rules under section 32 may require a solicitor to pay interest, or sums in lieu of and equivalent to interest, to a client, any other person or any trust, for whom the solicitor holds money.”
- (3) For subsection (3) substitute – 5
- “(3) Except as provided by the rules, a solicitor is not liable to account to any client, other person or trust for interest received by the solicitor on money held at a bank or building society in an account which is for money received or held for, or on account of, the solicitor’s clients, other persons or trusts, generally.” 10
- (4) For subsection (4) substitute –
- “(4) Rules under section 32 may –
- (a) prescribe the circumstances in which a solicitor may make arrangements to limit or exclude an obligation imposed on the solicitor by rules made by virtue of this section, and 15
- (b) prescribe the requirements to be met by and in relation to those arrangements.”
- 31 (1) Section 33A (inspection of practice bank accounts etc) is amended as follows.
- (2) In subsection (1) –
- (a) for “Council” (in each place) substitute “Society”, and 20
- (b) omit “, with the concurrence of the Master of the Rolls,”.
- (3) In subsection (2) for “Council” substitute “Society”.
- 32 (1) Section 34 (accountants’ reports) is amended as follows.
- (2) For subsections (1) to (5A) substitute –
- “(1) The Society may make rules requiring solicitors to provide the Society with reports signed by an accountant (in this section referred to as an “accountant’s report”) at such times or in such circumstances as may be prescribed by the rules. 25
- (2) The rules may specify requirements to be met by, or in relation to, an accountant’s report (including requirements relating to the accountant who signs the report).” 30
- (3) In subsection (6) for “this section or of any rules made under it” substitute “any rules made under this section”.
- (4) Omit subsections (7) and (8).
- (5) At the end insert – 35
- “(9) Where an accountant, during the course of preparing an accountant’s report –
- (a) discovers evidence of fraud or theft in relation to money held by a solicitor for a client or any other person (including money held on trust) or money held in an account of a client of a solicitor which is operated by the solicitor, or 40
- (b) obtains information which the accountant has reasonable cause to believe is likely to be of material significance in

- determining whether a solicitor is a fit and proper person to hold money for clients or other persons (including money held on trust) or to operate an account of a client of the solicitor,
- the accountant must immediately give a report of the matter to the Society. 5
- (10) No duty to which an accountant is subject is to be regarded as contravened merely because of any information or opinion contained in a report under subsection (9).”
- 33 (1) Section 36 (provision for compensation fund) is amended as follows. 10
- (2) In subsection (2) –
- (a) for “Council are” substitute “Society is”,
- (b) in paragraph (a), after “loss” insert “or hardship”,
- (c) in paragraph (b), after “suffer” insert “loss or”, and
- (d) after paragraph (c) insert “or 15
- (d) that a person has suffered or is likely to suffer loss or hardship in consequence of an act or omission on the part of a solicitor, or of an employee of a solicitor, in such other circumstances as may be prescribed by rules made by the Society for the purposes of this paragraph;”. 20
- (3) In subsection (3) –
- (a) for “Council” (in the first place) substitute “Society”, and
- (b) for “the Council think” substitute “it thinks”.
- (4) In subsection (7) for “Council” substitute “Society”. 25
- (5) In subsection (8) –
- (a) for “Council” substitute “Society”, and
- (b) for “for making grants from it” substitute “and criteria for making grants from it, and the determination of their amount.”
- 34 In section 37 (professional indemnity) – 30
- (a) in subsection (1) for “Council, with the concurrence of the Master of the Rolls,” substitute “Society”, and
- (b) in subsection (3)(h) –
- (i) for “Council” substitute “Society”,
- (ii) for “they consider” substitute “it considers”, and 35
- (iii) after “being” insert “, or have been,”.
- 35 Omit section 37A (redress for inadequate professional services).
- 36 Omit section 40 (solicitor not to commence or defend actions while in prison).
- 37 (1) Section 41 (employment by solicitor of person struck off or suspended) is amended as follows. 40
- (2) After subsection (1A) insert –
- “(1B) Where –

- (a) a solicitor (“the employed solicitor”) is employed by another solicitor in accordance with a written permission granted under this section, and
- (b) the employed solicitor is disqualified from practising as a solicitor by reason of a fact mentioned in subsection (1)(b) or (c),
- 5 section 20(1) does not apply in relation to anything done by the employed solicitor in the course of that employment.”
- (3) In subsection (3) –
- (a) for “Master of the Rolls who” substitute “High Court which”, and
- 10 (b) in paragraph (b) for “he” substitute “it”.
- (4) In subsection (4) for “shall” to the end substitute “may –
- (a) order that his name be struck off the roll,
- (b) order that he be suspended from practice for such period as the Tribunal or court thinks fit, or
- 15 (c) make such other order in the matter as it thinks fit.”
- (5) After that subsection insert –
- “(4A) The decision of the High Court on an appeal under subsection (3) shall be final.”
- (6) Omit subsection (5). 20
- 38 (1) Section 43 (control of solicitors’ employees and consultants) is amended as follows.
- (2) For subsections (1), (1A) and (2) substitute –
- “(1) Where a person who is or was involved in a legal practice but is not a solicitor or a registered European lawyer –
- 25 (a) has been convicted of a criminal offence which is such that in the opinion of the Society it would be undesirable for the person to be involved in a legal practice in one or more of the ways mentioned in subsection (1A), or
- (b) has, in the opinion of the Society, occasioned or been a party to, with or without the connivance of a solicitor or registered European lawyer, an act or default in relation to a legal practice which involved conduct on his part of such a nature that in the opinion of the Society it would be undesirable for him to be involved in a legal practice in one or more of the
- 35 ways mentioned in subsection (1A),
- the Society may either make, or make an application to the Tribunal for it to make, an order under subsection (2) with respect to that person.
- (1A) A person is involved in a legal practice for the purposes of this section if the person –
- 40 (a) is employed or remunerated by a solicitor in connection with the solicitor’s practice;
- (b) is employed or remunerated by a registered European lawyer in connection with the lawyer’s practice;
- 45 (c) is undertaking work in the name of, or under the direction or supervision of, a solicitor or registered European lawyer;

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- (d) is employed or remunerated by a recognised body;
 - (e) is employed or remunerated by a manager or employee of a recognised body in connection with that body’s business;
 - (f) is a manager of a recognised body;
 - (g) has or intends to acquire an interest in such a body. 5
- (1B) Where the Society investigates whether there are grounds for making, or making an application to the Tribunal for it to make, an order under subsection (2) with respect to a person, the Society may direct that person to pay to the Society an amount which—
- (a) is calculated by the Society as the cost to the Society of investigating the matter, or 10
 - (b) in the opinion of the Society represents a reasonable contribution towards that cost.
- (2) An order made by the Society or the Tribunal under this section is an order which states one or more of the following— 15
- (a) that as from the specified date—
 - (i) no solicitor or registered European lawyer shall employ or remunerate, in connection with his practice as a solicitor or registered European lawyer, the person with respect to whom the order is made, 20
 - (ii) no recognised body shall employ or remunerate that person, and
 - (iii) no manager or employee of a recognised body shall employ or remunerate that person in connection with the business of that body, 25
 except in accordance with a Society permission;
 - (b) that as from the specified date no recognised body shall, except in accordance with a Society permission, permit the person with respect to whom the order is made to be a manager of the body; 30
 - (c) that as from the specified date no recognised body or manager or employee of such a body shall, except in accordance with a Society permission, permit the person with respect to whom the order is made to have an interest in the body.” 35
- (3) In subsection (5) omit—
- (a) “by any solicitor”, and
 - (b) the words from “but” to the end.
- (4) After that subsection insert—
- “(5A) In this section— 40
- “manager” in relation to a recognised body means—
- (a) if the body is a body corporate whose affairs are managed by its members, a member of the body;
 - (b) if the body is a body corporate and paragraph (a) does not apply, a director of the body; 45
 - (c) if the body is a partnership, a partner;
 - (d) if the body is an unincorporated body (other than a partnership), a member of its governing body;

- “recognised body” means a body recognised under section 9 of the Administration of Justice Act 1985;
- “registered European lawyer” means a person who is registered with the Society under regulation 17 of the European Communities (Lawyer’s Practice) Regulations 2000 (S.I. 2000/1119); 5
- “specified date” means such date as may be specified in the order;
- “Society permission” means permission in writing granted by the Society for such period and subject to such conditions as the Society may think fit to specify in the permission. 10
- (5B) A person has an interest in a recognised body for the purposes of this paragraph if the person has an interest in shares in that body within the meaning of section 71 of the Legal Services Act 2007.”
- 39 In section 44 (offences in connection with orders under section 43(2))— 15
- (a) in subsection (1) —
- (i) for “section 43(2)” substitute “section 43(2)(a)”,
- (ii) after “solicitor” insert “, registered European lawyer or recognised body”,
- (iii) for “that solicitor’s practice” substitute “the practice carried on by that solicitor, registered European lawyer or recognised body”, and 20
- (iv) for “him” substitute “that solicitor, registered European lawyer or recognised body”,
- (b) in subsection (2) for “the employment of that person” substitute “the taking of any action”, and 25
- (c) after subsection (4) insert —
- “(5) In this section “registered European lawyer” and “recognised body” have the same meaning as in section 43.”
- 40 Section 44B(1) (examination of files) is amended as follows— 30
- (a) for “Council are” substitute “Society is”,
- (b) in paragraph (b) for “Council” substitute “Society”, and
- (c) omit paragraph (c).
- 41 For section 44C (payment of costs of investigations) substitute — 35
- “44C Power to charge for costs of investigations**
- (1) The Society may make regulations prescribing charges to be paid to the Society by solicitors who are the subject of a discipline investigation.
- (2) A “discipline investigation” is an investigation carried out by the Society into — 40
- (a) possible professional misconduct by a solicitor, or
- (b) a failure or apprehended failure by a solicitor to comply with any requirement imposed by or by virtue of this Act or any rules made by the Society.
- (3) Regulations under this section may — 45
- (a) make different provision for different cases or purposes;

- (b) provide for the whole or part of a fee payable under the regulations to be repaid in such circumstances as may be prescribed by the regulations.
- (4) Any fee which a solicitor is required to pay under regulations under this section is recoverable by the Society as a debt due to the Society from the solicitor.” 5
- 42 (1) Section 46 (solicitors disciplinary tribunal) is amended as follows.
- (2) For subsection (5) substitute –
- “(5) The Tribunal may pay its members such remuneration, fees or allowances as it may determine with the approval of the Legal Services Board.” 10
- (3) Omit subsections (6) to (8).
- (4) In subsection (9) –
- (a) for “Subject to subsections (6) to (8), the” substitute “The”,
- (b) omit “, with the concurrence of the Master of the Rolls,”, and 15
- (c) in paragraph (b) after “complaints” insert “(including provision about the composition of the Tribunal)”.
- 43 After that section insert –
- “46A Funding of the Tribunal**
- (1) The Tribunal must submit to the Society in respect of each year a budget for the year approved by the Legal Services Board. 20
- (2) A budget for a year is a statement of the amount of money which the Tribunal estimates is required to enable it to meet all of its expenditure in that year (having regard to any amounts received but not spent in previous years). 25
- (3) Before approving a statement for the purposes of subsection (1) the Legal Services Board must consult the Society.
- (4) The budget for a year must be submitted to the Society under subsection (1) no later than the date in the preceding year specified by the Society for the purposes of this subsection. 30
- (5) Before specifying a date for this purpose the Society must consult the Tribunal.
- (6) The amount specified in a budget submitted under subsection (1) must be paid by the Society to the Tribunal –
- (a) in such instalments and at such times as may be agreed 35
between the Society and the Tribunal, or
- (b) in the absence of such agreement, before the beginning of the year to which the budget relates.
- (7) The Society may pay the Tribunal such other amounts as the Society considers appropriate. 40
- (8) In this section “year” means a calendar year.”
- 44 In section 47 (jurisdiction and powers of Tribunal) –
- (a) in subsection (2)(c) omit “not exceeding £5,000”, and

- (b) omit subsections (4) and (5).
- 45 (1) Section 49 (appeals from Tribunal) is amended as follows.
- (2) In subsection (1) for “lie –” to the end substitute “lie to the High Court”.
- (3) In subsection (4) –
- (a) omit “and the Master of the Rolls”, and 5
- (b) for “they” substitute “it”.
- (4) For subsection (6) substitute –
- “(6) Any decision of the High Court –
- (a) on an application under section 43(3) or 47(1)(d), (e) or (f), or
- (b) against an order under section 43(3A), 10
- shall be final.”
- (5) Omit subsection (7).
- 46 After that section insert –
- “49A Appeals to the Tribunal instead of the High Court**
- (1) The Society may, with the approval of the Tribunal, make rules 15
- which provide that in such circumstances as may be prescribed by
- the rules an appeal under any of the provisions listed in subsection
- (2) lies to the Tribunal and not to the High Court.
- (2) Those provisions are –
- (a) section 8(4); 20
- (b) section 13A(6);
- (c) section 16(5);
- (d) section 28(3D);
- (e) section 41(3);
- (f) paragraph 14 of Schedule 14 to the Courts and Legal Services 25
- Act 1990 (foreign lawyers: appeals against conditions or
- refusals).
- (3) Any decision of the Tribunal on an appeal by virtue of rules made
- under this section shall be final.”
- 47 In section 54 (restrictions on powers to strike names off roll) – 30
- (a) in subsection (1) for “service under articles” substitute “persons
- seeking admission as solicitors”, and
- (b) in subsection (2) for paragraphs (a) and (b) substitute –
- “(a) that a solicitor who undertook a training 35
- responsibility for him under training regulations
- neglected or omitted to take out a practising
- certificate; or
- (b) that the name of a solicitor who undertook such a
- responsibility for a period has been removed from or
- struck off the roll after the end of that period.” 40
- 48 (1) Section 56 (orders as to remuneration for non-contentious business) is
- amended as follows.

- (2) In subsection (1), after paragraph (d) insert –
 “(da) a member of the Legal Services Board nominated by that Board;”.
- (3) In subsection (2) for “and regulating in such manner as they think fit” substitute “the general principles to be applied when determining”. 5
- (4) In subsection (3) for “Council” (in both places) substitute “Society”.
- (5) In subsection (4) for “An order” to the end of paragraph (a) substitute –
 “The principles prescribed by an order under this section may provide that solicitors should be remunerated –”.
- (6) In subsection (5) for “An order” to “reference” substitute – 10
 “The general principles prescribed by an order under this section may provide that the amount of such remuneration is to be determined by having regard”.
- (7) In subsection (6)(a) for “taxation” substitute “assessment”.
- (8) In subsection (7) – 15
 (a) for “taxation” substitute “assessment”, and
 (b) for “regulated by” substitute “subject to”.
- 49 In section 57 (non-contentious business agreements) –
 (a) in subsection (2) for “stamps” substitute “taxes”,
 (b) in subsection (5) – 20
 (i) for “taxation” substitute “assessment”, and
 (ii) for “taxing officer” substitute “costs officer”, and
 (c) in subsection (7) –
 (i) for “taxation” substitute “assessment”, and
 (ii) for “taxing officer” substitute “costs officer”. 25
- 50 In section 60 (effect of contentious business agreements) –
 (a) in subsection (1) for “taxation” substitute “assessment”, and
 (b) in subsection (2) –
 (i) for “taxed” substitute “assessed”, and
 (ii) for “taxation” substitute “assessment”. 30
- 51 In section 61 (enforcement of contentious business agreements) –
 (a) in subsection (2)(b) for “taxed” substitute “assessed”,
 (b) in subsection (3) for “taxing officer” substitute “costs officer”,
 (c) in subsection (4) –
 (i) for “taxing officer” substitute “costs officer”, and 35
 (ii) for “taxed” substitute “assessed”,
 (d) in subsection (4B) –
 (i) for “taxation” substitute “assessment”, and
 (ii) for “taxing officer” substitute “costs officer”, and
 (e) in subsection (5) for “taxed” substitute “assessed”. 40
- 52 In section 62 (contentious business agreements by certain representatives) –
 (a) in subsection (1) for “taxing officer” substitute “costs officer”, and
 (b) in subsection (2) –

-
- (i) for “taxing officer” substitute “costs officer”, and
(ii) for “taxed” substitute “assessed”.
- 53 In section 63 (effect on contentious business agreement of death etc) –
- (a) in subsection (2) –
- (i) for “taxation” substitute “assessment”, and 5
(ii) for “taxing officer” substitute “costs officer”, and
- (b) in subsection (3) –
- (i) for “taxation” substitute “assessment”, and
(ii) for “taxing officer” (in both places) substitute “costs officer”.
- 54 In section 64 (form of bill of costs for contentious business) – 10
- (a) in subsection (3) for “taxed” substitute “assessed”, and
(b) in subsection (4) –
- (i) for “taxed” substitute “assessed”,
(ii) for “taxation” substitute “assessment”, and
(iii) for “taxing officer” (in both places) substitute “costs officer”. 15
- 55 In section 65 (security for costs and termination of retainer), in subsection (1)
for “taxation” substitute “assessment”.
- 56 In section 66 (taxations with respect to contention business) –
- (a) in the section heading for “Taxations” substitute “Assessments”,
(b) for “taxation” substitute “assessment”, and 20
(c) for “taxing officer” substitute “costs officer”.
- 57 In section 67 (inclusion of disbursements in bill of costs), in paragraph (b) –
- (a) for “taxed” substitute “assessed”,
(b) for “taxing officer” substitute “costs officer”, and
(c) for “taxation” substitute “assessment”. 25
- 58 In section 69 (action to recover solicitor’s costs), in subsection (1) for “taxed”
substitute “assessed”.
- 59 In section 70 (taxation on application of party chargeable or solicitor) –
- (a) in the section heading for “Taxation” substitute “Assessment”,
(b) in subsection (1) – 30
- (i) for “taxed” substitute “assessed”, and
(ii) for “taxation” substitute “assessment”,
- (c) in subsection (2) –
- (i) for “taxation” (in both places) substitute “assessment”, and
(ii) for “taxed” substitute “assessed”, 35
- (d) in subsections (3) to (5) for “taxation” (in each place) substitute
“assessment”,
- (e) in subsection (6) –
- (i) for “taxation” substitute “assessment”, and
(ii) for “taxed” substitute “assessed”, 40
- (f) in subsection (7) –
- (i) for “taxation” (in each place) substitute “assessment”,
(ii) for “taxing officer” substitute “costs officer”, and
(iii) for “tax” substitute “assess”,

-
- (g) in subsection (8) for “taxation” (in each place) substitute “assessment”,
- (h) in subsection (9) –
- (i) for “for taxation” (in both places) substitute “for assessment”,
 - (ii) for “the taxation” (in both places) substitute “the assessment”, 5
 - (iii) for “a taxation” substitute “an assessment”, and
 - (iv) for “one fifth of the amount of the bill is taxed off” substitute “the amount of the bill is reduced by one fifth”,
- (i) in subsection (10) –
- (i) for “taxing officer” substitute “costs officer”, and 10
 - (ii) for “taxation” (in both places) substitute “assessment”,
- (j) omit subsection (11), and
- (k) in subsection (12) –
- (i) for “of the bill taxed off” substitute “of the reduction in the bill”, 15
 - (ii) for “taxation” substitute “assessment”, and
 - (iii) for “taxed” (in the second place) substitute “assessed”.
- 60 In section 71 (taxation on application of third parties) –
- (a) in the section heading for “Taxation” substitute “Assessment”,
 - (b) in subsection (1) for “taxation” substitute “assessment”, 20
 - (c) in subsection (3) –
 - (i) for “taxed” substitute “assessed”, and
 - (ii) for “taxation” substitute “assessment”,
 - (d) in subsection (4) for “taxation” substitute “assessment”,
 - (e) in subsection (6) – 25
 - (i) for “taxation” substitute “assessment”, and
 - (ii) for “taxed” substitute “assessed”, and
 - (f) in subsection (7) for “taxed” substitute “assessed”.
- 61 In section 72 (supplementary provisions as to taxations) –
- (a) in the section heading for “taxations” substitute “assessments”, 30
 - (b) in subsection (1) for “taxation” substitute “assessment”,
 - (c) in subsection (2) –
 - (i) for “taxing officer” (in each place) substitute “costs officer”,
 - (ii) for second and fourth “taxing” substitute “assessing”, and
 - (iii) for “tax” substitute “assess”, 35
 - (d) in subsection (3) –
 - (i) for “taxing officer” (in both places) substitute “costs officer”,
 - (ii) for “tax” substitute “assess”, and
 - (iii) for “taxing” (in second place) substitute “assessing”, and
 - (e) in subsection (4) – 40
 - (i) for “taxing officer” substitute “costs officer”, and
 - (ii) for “taxed” substitute “assessed”.
- 62 In section 73 (charging orders), in subsection (1) –
- (a) for “taxed” substitute “assessed”, and
 - (b) for “taxation” substitute “assessment”. 45

- 63 In section 74 (special provisions as to contentious business done in county courts) –
- (a) in subsection (2) –
 - (i) for “registrar” substitute “district judge”,
 - (ii) for “taxing officer” substitute “costs officer”, and
 - (iii) for “taxation” (in both places) substitute “assessment”, and
 - (b) in subsection (3) for “taxation” substitute “assessment”.
- 64 Omit the following provisions –
section 76 (non-practising solicitors eligible for membership of Society),
section 77 (annual subscription to Society), and
section 78 (cessation and suspension of membership of Society).
- 65 For section 79 (committees and sub-committees of the Council) substitute –
- “79 Discharge of the Council’s functions**
- (1) The Council may arrange for any function of the Council (including any function exercisable by the Council by virtue of section 80) to be exercised by –
 - (a) a committee of the Council,
 - (b) a sub-committee of such a committee, or
 - (c) an individual (whether or not a member of the Society’s staff).
 - (2) Arrangements made under this section in respect of a function may provide that the function is to be exercised in accordance with the arrangements only (and not by the Council).
 - (3) Where by virtue of subsection (1) any function may be discharged by a committee, the committee may arrange for the discharge of the function by –
 - (a) a sub-committee of that committee, or
 - (b) an individual (whether or not a member of the Society’s staff).
 - (4) A committee or sub-committee may include or consist of individuals other than –
 - (a) members of the Council;
 - (b) members of the Society;
 - (c) solicitors.
 - (5) A sub-committee of a committee may also include or consist of individuals other than members of the committee.
 - (6) The Council may make arrangements for the appointment and removal of members of any committee to be made other than by the Council.
 - (7) A committee or sub-committee may regulate its own procedure, including quorum.
 - (8) The validity of any proceedings of a committee or sub-committee is not affected by any vacancy among its members.

- (9) This section is subject to any provision to the contrary made by or under any enactment.”
- 66 In section 80 (powers to act on behalf of Society) –
- (a) in subsection (1) for “of any instrument made under it” substitute “any other enactment (or of any instrument made under this Act or any other enactment)”, and 5
- (b) omit subsection (2).
- 67 Omit sections 81 and 81A (administration of oaths and taking of affidavits).
- 68 In section 87(1) (interpretation) omit the following definitions –
- “articles” 10
- “controlled trust”
- “employee”
- “indemnity conditions”
- “training conditions”.
- 69 (1) Schedule 1 (intervention in solicitor’s practice) is amended as follows. 15
- (2) In paragraph 1 (grounds for intervention) –
- (a) in sub-paragraph (1)(a) –
- (i) for “Council have” substitute “Society has”, and
- (ii) after “solicitor’s practice” insert “or former practice”,
- (b) in sub-paragraph (1)(b) – 20
- (i) for “Council consider” substitute “Society considers”, and
- (ii) for “controlled trust” substitute “trust”,
- (c) in sub-paragraph (1)(c) for “Council are” substitute “Society is”,
- (d) in sub-paragraph (1)(ee) –
- (i) for “Council are” substitute “Society is”, and 25
- (ii) after “illness” insert “, injury”,
- (e) in sub-paragraph (1)(h), (i) and (k) for “Council are” substitute “Society is”,
- (f) in sub-paragraph (1)(l) –
- (i) for “Council are” substitute “Society is”, and 30
- (ii) in sub-paragraph (iii) for “Council of the Law Society” substitute “Society”,
- (g) after sub-paragraph (1)(l) insert –
- “(m) the Society is satisfied that it is necessary to exercise the powers conferred by Part 2 of this Schedule (or any of them) in relation to a solicitor to protect –
- (i) the interests of clients (or former or potential clients) of the solicitor or his firm, or
- (ii) the interests of the beneficiaries of any trust of which the solicitor is or was a trustee.”, 40
- and
- (h) omit sub-paragraph (2).
- (3) In paragraph 3 (intervention following an undue delay), in paragraph (a) –
- (a) for “a complaint is made to the Society” substitute “the Society is satisfied”, 45

- (b) for “was instructed” substitute “is or was acting”, and
(c) for “controlled trust” substitute “trust”.
- (4) In paragraph 4(2) (continuation of powers after death etc of solicitor) –
(a) after “6(2) and (3)” insert “, 6A”,
(b) for “and (5)” substitute “, (5) and (6)”, and 5
(c) for “10(1)” substitute “10(2) and (7)”.
- (5) In paragraph 6 (vesting of sums in Society) –
(a) in sub-paragraph (1) –
(i) for “Council pass” substitute “Society passes”,
(ii) for “Council’s” substitute “Society’s”, and 10
(iii) after “thereto” insert “and to rules under paragraph 6B”, and
(b) in sub-paragraph (2)(a) after “practice” insert “or former practice”.
- (6) After paragraph 6 insert –
“6A (1) Without prejudice to paragraph 5, if the Society passes a
resolution to the effect that any rights to which this paragraph 15
applies shall vest in the Society, those rights shall vest accordingly.
(2) This paragraph applies to any right to recover or receive debts due
to the solicitor or his firm in connection with his practice or former
practice.
(3) Any sums recovered by the Society by virtue of the exercise of 20
rights vested under sub-paragraph (1) shall vest in the Society and
shall be held by it on trust to exercise in relation to them the
powers conferred by this Part of this Schedule and, subject to those
powers and to rules under paragraph 6B, upon trust for the
persons beneficially entitled to them. 25
(4) The Society shall serve on the solicitor or his firm, and any person
who owes a debt to which the order applies, a certified copy of the
Society’s resolution.
- 6B (1) The Society may make rules governing its treatment of sums
vested in it under paragraph 6 or 6A(3). 30
(2) The rules may in particular make provision in respect of cases
where the Society is unable to trace the person or persons
beneficially entitled to any sum vested in the Society under
paragraph 6 or 6A(3) (including provision which requires
amounts to be paid into or out of the Compensation Fund).” 35
- (7) In paragraph 7(1) (holding of sums vested in Society) after “thereto” insert
“and to rules under paragraph 6B”.
- (8) In paragraph 8 (information as to money held) for “holds money” to the end
substitute –
“(a) holds money on behalf of the solicitor or his firm, or 40
(b) has information which is relevant to identifying any
money held by or on behalf of the solicitor or his firm,
the court may require that person to give the Society information
as to any such money and the accounts in which it is held.”
- (9) In paragraph 9 (documents) – 45

- (a) in sub-paragraph (1)(a) –
- (i) after “possession” insert “or under the control”, and
- (ii) for “or with any controlled trust” substitute “or former practice or with any trust of which the solicitor is or was a trustee”, 5
- (b) in sub-paragraph (1)(b) –
- (i) after “possession” insert “or under the control”, and
- (ii) for “to which the complaint relates” substitute “of which the Society is satisfied”,
- (c) in sub-paragraph (3) after “possession” insert “or control”, 10
- (d) in sub-paragraph (5) after “the possession” insert “or under the control”,
- (e) after sub-paragraph (5) insert –
- “(5A) In the case of a document which consists of information which is stored in electronic form, a requirement imposed by a notice under sub-paragraph (1) or an order under sub-paragraph (4) or (5), is a requirement to produce or deliver the information in a form in which it is legible or from which it can readily be produced in a legible form.”, 15
- (f) in sub-paragraph (6) after “possession of” insert “(a)”, 20
- (g) at the end of that sub-paragraph insert –
- “(b) any property –
- (i) in the possession of or under the control of the solicitor or his firm, or
- (ii) in the case of an order under sub-paragraph (5), which was in the possession or under the control of such a person and has come into the possession or under the control of the person in respect of whom the order is made, 25
- which the Society reasonably requires for the purpose of accessing information contained in such documents. 30
- and to use property obtained under paragraph (b) for that purpose.”, 35
- (h) in sub-paragraph (7) after “documents” insert “or other property”,
- (i) in sub-paragraph (8) after “documents” insert “or other property”, and
- (j) in sub-paragraph (10) after “documents” insert “or other property”.
- (10) For paragraph 10 (mail) substitute – 40

“Mail and other forms of communication

- 10 (1) The High Court, on the application of the Society, may from time to time make a communications redirection order.
- (2) A communications redirection order is an order that specified communications to the solicitor or his firm are to be directed, in accordance with the order, to the Society or any person appointed by the Society. 45

- (3) For the purposes of this paragraph—
- (a) “specified communications” means communications of such description as are specified in the order;
 - (b) the descriptions of communications which may be so specified include—
 - (i) communications in the form of a postal packet;
 - (ii) electronic communications;
 - (iii) communications by telephone.
- (4) A communications redirection order has effect for such time not exceeding 18 months as is specified in the order.
- (5) Where a communications redirection order has effect, the Society or the person appointed by the Society may take possession or receipt of the communications redirected in accordance with the order.
- (6) Where a communications redirection order is made, the Society must pay to—
- (a) in the case of an order relating to postal packets, the postal operator concerned, and
 - (b) in any other case, the person specified in the order, the like charges (if any) as would have been payable for the redirection of the communications to which the order relates if the addressee had permanently ceased to occupy or use the premises or other destination of the communications and had applied to the postal operator or the specified person (as the case may be) to redirect the communications to him as mentioned in the order.
- (7) The High Court may, on the application of the Society, authorise the Society, or a person appointed by it, to take such steps as may be specified in the order in relation to any website purporting to be or have been maintained by or on behalf of the solicitor or his firm if the High Court is satisfied that the taking of those steps is necessary to protect the public interest or the interests of clients (or potential or former clients) of the solicitor or his firm.
- (8) In this paragraph—
- “postal operator” has the meaning given by section 125(1) of the Postal Services Act 2000;
 - “postal packet” has the meaning given by section 125(1) of the Postal Services Act 2000.
- (9) This paragraph does not apply where the powers conferred by this Part of this Schedule are exercisable by virtue of paragraph 3.”
- (11) In paragraph 11(1) (trusts) for “controlled trust” substitute “trust”.
- (12) In paragraph 12 (liens) for “and documents” substitute “, documents and other property”.
- (13) After paragraph 13 (costs) insert—
- “13A(1) The High Court, on the application of the Society, may order a former partner of the solicitor to pay a specified proportion of the costs mentioned in paragraph 13.

- (2) The High Court may make an order under this paragraph only if it is satisfied that the conduct (or any part of the conduct) by reason of which the powers conferred by this Part were exercisable in relation to the solicitor was conduct carried on with the consent or connivance of, or was attributable to any neglect on the part of, the former partner. 5
- (3) In this paragraph “specified” means specified in the order made by the High Court.”
- 70 Omit Schedule 1A (inadequate professional services).
- 71 (1) Schedule 2 (the compensation fund) is amended as follows. 10
- (2) In paragraph 2—
- (a) in paragraph (a) for “Council” substitute “Society”,
- (b) in sub-paragraph (1)(b)—
- (i) for “clients’ money” substitute “money to which this paragraph applies”, and 15
- (ii) omit the words from “of such amount” to the end,
- (c) after sub-paragraph (1) insert—
- “(1A) The special levy is payable at a rate determined in accordance with rules made by the Society for the purposes of this sub-paragraph. 20
- (1B) Rules made for the purposes of sub-paragraph (1A) may in particular provide for the rate of the special levy to be determined by reference to—
- (a) the amount of money to which this paragraph applies which is held or received by the solicitor during the period specified in the application and the length of time it was so held, or 25
- (b) the category of solicitors to which the solicitor belongs.”,
- (d) in sub-paragraph (3B), for “clients’ money” substitute “money to which this paragraph applies”, 30
- (e) after that sub-paragraph insert—
- “(3C) The Society may require a solicitor to pay to the Society an additional contribution (in this Schedule referred to as an “extraordinary levy”) at such times, and at such rate, as the Society may determine in accordance with rules made by the Society for the purposes of this sub-paragraph. 35
- (3D) Rules made for the purposes of sub-paragraph (3C) may in particular provide for the rate of the extraordinary levy to be determined by reference to— 40
- (a) the amount of money to which this paragraph applies held or received by the solicitor during such period as may be determined in accordance with the rules and the length of time it was so held, or 45
- (b) the category of solicitors to which the solicitor belongs.

- (3E) Sub-paragraphs (2), (2A) and (3) apply in relation to an extraordinary levy as they apply to an annual contribution or special levy.
- (3F) Rules made for the purposes of sub-paragraph (1A) or (3C) may provide for the rate payable to be nil.” 5
- (f) in sub-paragraph (4), for “and special levies” substitute “, special levies and extraordinary levies”, and
- (g) after sub-paragraph (4) insert –
- “(5) The money to which this paragraph applies is money (including money held on trust) held or received for clients or other persons.” 10
- (3) In paragraph 4 –
- (a) the existing paragraph becomes sub-paragraph (1), and
- (b) after that sub-paragraph insert –
- “(2) The Secretary of State may by order amend sub-paragraph (1) in accordance with a recommendation made by the Legal Services Board under sub-paragraph (3). 15
- (3) The Legal Services Board may at any time recommend to the Secretary of State that sub-paragraph (1) should be amended so as to substitute the amount specified in the recommendation for the amount for the time being specified in that sub-paragraph. 20
- (4) The Legal Services Board must, if requested to do so by the Secretary of State, consider whether or not it is appropriate to make a recommendation under sub-paragraph (3). 25
- (5) The Legal Services Board must, before making a recommendation under sub-paragraph (3) –
- (a) publish a draft of the proposed recommendation,
- (b) invite representations regarding the proposed recommendation, and 30
- (c) consider any such representations which are made.
- (6) Where the Secretary of State receives a recommendation under sub-paragraph (3), the Secretary of State must consider whether to exercise the power conferred by sub-paragraph (2). 35
- (7) If the Secretary of State decides not to exercise that power, the Secretary of State must publish a notice to that effect which includes the Secretary of State’s reasons for the decision.
- (8) An order made by the Secretary of State under this paragraph – 40
- (a) must be made by statutory instrument, and
- (b) is subject to annulment in pursuance of a resolution of either House of Parliament.”
- (4) In paragraph 5 for “Council” substitute “Society”. 45

- (5) In paragraph 6(a), for “and special levies” substitute “, special levies and extraordinary levies”.
- (6) In paragraph 7 –
- (a) the existing paragraph becomes sub-paragraph (1),
 - (b) in sub-paragraph (1)(e), for “paragraph 1(1)(a)” substitute “the relevant provisions”, and 5
 - (c) after sub-paragraph (1) insert –
 - “(2) For the purposes of sub-paragraph (1)(e), the relevant provisions of Schedule 1 are –
 - (a) paragraph (a) of paragraph 1(1), and 10
 - (b) such other paragraphs of paragraph 1(1) as may be prescribed by rules made by the Society for the purposes of this paragraph.
 - (3) The Society may make such rules only with the concurrence of the Legal Services Board.” 15

PART 2

THE ADMINISTRATION OF JUSTICE ACT 1985 (C. 61)

- 72 The Administration of Justice Act 1985 is amended in accordance with this Part of this Schedule.
- 73 (1) Section 9 (incorporated practices) is amended as follows. 20
- (2) In subsection (1) –
- (a) for “Council” (in both places) substitute “Society”,
 - (b) in paragraph (a) for “by solicitors” to the end substitute “of legal services bodies;”,
 - (c) in paragraph (b) for “any such services” substitute “any solicitor services or other relevant legal services”, and 25
 - (d) in paragraph (c) omit “corporate”.
- (3) In subsection (2) –
- (a) for “Council” (in both places) substitute “Society”,
 - (b) in paragraph (a) for “are to be” to the end substitute “, or for the renewal of such recognition, are to be made, and requiring such applications to be accompanied by a fee of such amount as the Society may from time to time determine;”, 30
 - (c) after that paragraph insert –
 - “(aa) requiring other applications under the rules to be accompanied by a fee of such amount as the Society may from time to time determine;”, 35
 - (d) for paragraphs (c) to (e) substitute –
 - “(c) about the time when any recognition, or renewal of recognition, takes effect and the period for which it is (subject to the provisions made by or under this Part) to remain in force; 40
 - (d) for the suspension or revocation of any such recognition, on such grounds and in such circumstances as may be prescribed by the rules; 45

- (e) about the effect on the recognition of a partnership or other unincorporated body (“the existing body”) of any change in the membership of the existing body, including provision for the existing body’s recognition to be transferred where the existing body ceases to exist and another body succeeds to the whole or substantially the whole of its business; 5
- (ea) for the keeping by the Society of a register containing the names and places of business of all bodies which are for the time being recognised under this section, and such other information relating to those bodies as may be specified in the rules; 10
- (eb) for information (or information of a specified description) on such a register to be made available to the public, including provision about the manner in which, and times at which, information is to be made so available;”, and 15
- (e) after paragraph (f) insert –
- “(fa) about the education and training requirements to be met by managers and employees of recognised bodies; 20
- (fb) for rules made under any provision of the 1974 Act to have effect in relation to managers and employees of recognised bodies with such additions, omissions or other modifications as appear to the Society to be necessary or expedient;”. 25
- (4) After subsection (2) insert –
- “(2A) Rules under this section may contain such incidental, supplemental, transitional or transitory provisions or savings as the Society considers necessary or expedient.” 30
- (5) For subsection (3) substitute –
- “(3) Despite section 24(2) of the 1974 Act, section 20 of that Act (prohibition on unqualified person acting as solicitor) does not apply to a recognised body; and nothing in section 24(1) of that Act applies in relation to such a body.” 35
- (6) Omit subsection (4).
- (7) In subsection (5) omit “corporate”.
- (8) In subsection (8) –
- (a) for ““the Council” and “the Society” have” substitute ““the Society” has”, 40
- (b) after the definition of “the Society” insert –
- ““legal services body” has the meaning given by section 9A; “manager”, in relation to a body, means a person who –
- (a) if the body is a body corporate whose affairs are managed by its members, is a member of the body, 45
- (b) if the body is a body corporate and paragraph (a) does not apply, is a director of the body,
- (c) if the body is a partnership, is a partner, and

- (d) if the body is an unincorporated body (other than a partnership), is a member of its governing body;”,
- (c) omit the definition of “officer”,
- (d) in the definition of “recognised body” omit “corporate”, and
- (e) for the definition of “registered foreign lawyer” substitute— 5
 ““relevant legal services” has the meaning given by section 9A;
 “solicitor services” means professional services such as are provided by individuals practising as solicitors or by multi-national partnerships.” 10
- (9) Omit subsection (9).
- 74 After that section insert—
- “9A Legal services bodies**
- (1) For the purposes of section 9, a “legal services body” means a body (corporate or unincorporate) in respect of which— 15
 (a) the management and control condition, and
 (b) the services condition,
 are satisfied.
- (2) The management and control condition is satisfied in the case of a partnership if— 20
 (a) each of the partners is an authorised person or a registered foreign lawyer, and
 (b) at least one of the partners is a solicitor or a registered European lawyer.
- (3) The management and control condition is satisfied in the case of an unincorporated body (other than a partnership) or a body corporate which is managed by its members if— 25
 (a) each of the members of the body is an authorised person or a registered foreign lawyer, and
 (b) at least one of those members is a solicitor or a registered European lawyer. 30
- (4) The management and control condition is satisfied in the case of any other body corporate if—
 (a) each person within subsection (5) is an authorised person or a registered foreign lawyer, and 35
 (b) at least one of those persons is a solicitor or a registered European lawyer.
- (5) Those persons are—
 (a) the directors of the body, and
 (b) the persons who have an interest in the body. 40
- (6) The services condition is satisfied in relation to a body if the body is carrying on a business consisting of—
 (a) solicitor services, or
 (b) solicitor services and other relevant legal services.
- (7) For the purposes of this section— 45

- “authorised person” means an authorised person in relation to an activity which is a reserved legal activity (within the meaning of the Legal Services Act 2007), other than a body which holds a licence under Part 5 of that Act (or which, but for the operation of Part 2 of Schedule 5 to that Act (rights during transitional period), would be required to be licensed under that Part 5 of that Act); 5
- “manager”, in relation to a body, has the meaning given by section 9;
- “registered European lawyer” means a registered European lawyer within the meaning of the European Communities (Lawyer’s Practice) Regulations 2000 (S.I. 2000/1119) who is registered with the Law Society; 10
- “registered foreign lawyer” means a person who is registered under section 89 of the Courts and Legal Services Act 1990 (c. 41); 15
- “relevant legal services”, in relation to a legal services body, means—
- (a) solicitor services, and
 - (b) where authorised persons, other than solicitors, registered European lawyers or registered foreign lawyers, are managers of, or have an interest in the body, services such as are provided by individuals practising as such authorised persons (whether or not those services involve the carrying on of reserved legal activities within the meaning of the Legal Services Act 2007); 20
- “solicitor services” has the same meaning as in section 9; and a person has an interest in a body if the person has an interest in shares in the body within the meaning of section 71 of the Legal Services Act 2007.” 25 30
- 75 (1) Section 10 (penalty for pretending to be a body recognised under section 9) is amended as follows.
- (2) In subsection (1) omit “corporate” (in both places).
 - (3) In subsection (2) omit “corporate”. 35
 - (4) For subsection (3) substitute—
 - “(3) Where an offence under this section committed by a body corporate is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of an officer of the body corporate, that officer (as well as the body corporate) is guilty of the offence and is liable to be proceeded against and punished accordingly. 40
 - (4) Where the affairs of a body corporate are managed by its members, subsection (3) applies in relation to the acts and defaults of a member in connection with the member’s functions of management as it applies to an officer of the body corporate. 45
 - (5) Proceedings for an offence under this section alleged to have been committed by an unincorporated body are to be brought in the name of that body (and not in that of any of its members) and, for the

- purposes of any such proceedings, any rules of court relating to the service of documents have effect as if that body were a corporation.
- (6) A fine imposed on an unincorporated body on its conviction of an offence under this section is to be paid out of the funds of that body.
- (7) If an unincorporated body is charged with an offence under this section, section 33 of the Criminal Justice Act 1925 (c. 86) and Schedule 3 to the Magistrates' Courts Act 1980 (c. 43) (procedure on charge of an offence against a corporation) have effect in like manner as in the case of a corporation so charged. 5
- (8) Where an offence under this section committed by an unincorporated body (other than a partnership) is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any officer of the body or any member of its governing body, that officer or member as well as the unincorporated body is guilty of the offence and liable to be proceeded against and punished accordingly. 10
15
- (9) Where an offence under this section committed by a partnership is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner, that partner as well as the partnership is guilty of the offence and liable to be proceeded against and punished accordingly. 20
- (10) In this section “officer”, in relation to a body corporate, means –
 (a) any director, secretary or other similar officer of the body corporate, or
 (b) any person who was purporting to act in any such capacity.” 25
- 76 In the title of Schedule 2, for “Incorporated practices” substitute “Legal services practices”.
- 77 In paragraph 1 (interpretation) –
 (a) in sub-paragraph (1) omit “corporate”,
 (b) in sub-paragraph (2) omit “corporate”, 30
 (c) omit sub-paragraph (3),
 (d) in sub-paragraph (4) omit from “; and for those purposes” to the end, and
 (e) for sub-paragraph (6) substitute –
 “(6) In this Schedule – 35
 “manager”, in relation to a body, means a person who –
 (a) if the body is a body corporate whose affairs are managed by its members, is a member of the body, 40
 (b) if the body is a body corporate and paragraph (a) does not apply, is a director of the body,
 (c) if the body is a partnership, is a partner, and
 (d) if the body is an unincorporated body (other than a partnership), is a member of its governing body; 45

- “registered European lawyer” has the same meaning
as in section 9;
“the 1974 Act” means the Solicitors Act 1974.”
- 78 In paragraph 2 of that Schedule (appeal against refusal of Council to grant recognition) – 5
- (a) in the heading for “Council” substitute “Society”,
 - (b) in sub-paragraph (1) –
 - (i) for “Council refuse” substitute “Society refuses”,
 - (ii) omit “corporate”, and
 - (iii) for “Master of the Rolls” to the end substitute “the High Court.”, 10
 - (c) in sub-paragraph (2) –
 - (i) for “Master of the Rolls” substitute “High Court”,
 - (ii) for “Council” (in each place) substitute “Society”, and
 - (iii) for “he” (in both places) substitute “it”, 15
 - (d) in sub-paragraph (3) –
 - (i) for “Council with the concurrence of the Master of the Rolls” substitute “Society”, and
 - (ii) for “Council” (in second and third place) substitute “Society”,
 - (e) after sub-paragraph (3) insert – 20
 - “(3A) The decision of the High Court on an appeal under this paragraph is final.”, and
 - (f) omit sub-paragraph (4).
- 79 In paragraph 3 of that Schedule (accounts rules) – 25
- (a) omit “or (2)”, and
 - (b) for “Council” substitute “Society”.
- 80 After that paragraph insert –
- “3A Where rules made under section 32(1) of the 1974 Act are applied to managers or employees of recognised bodies in accordance with section 9(2)(fb) of this Act, the Society may disclose a report on or information about the accounts of a manager or employee obtained in pursuance of any such rules for use in investigating the possible commission of an offence by that manager or employee and for use in connection with any prosecution of that manager or employee consequent on the investigation.” 30
- 81 In paragraph 4 of that Schedule (interest on clients’ money) – 35
- (a) in sub-paragraph (1) –
 - (i) for “section 33(1)(a)” substitute “section 33(1)”, and
 - (ii) for the words from “and subject to” to the end substitute “, a recognised body is not liable to account to any client, other person or trust for interest received by the recognised body on money held at a bank or building society in an account which is for money received or held for, or on account of, clients of the recognised body, other persons or trusts, generally.”, and 40
 - (b) omit sub-paragraph (2). 45

- 82 After that paragraph insert –
- “4ZA Where rules made under section 32 of the 1974 Act and containing any such provision as is referred to in section 33(1) of that Act are applied to managers or employees of recognised bodies in accordance with section 9(2)(fb), then, except as provided by the rules, a manager or employee to whom the rules are applied is not liable to account to any client, other person or trust for interest received by the manager or employee on money held at a bank or building society in an account which is for money received or held for, or on account of, clients of the recognised body, other persons or trusts, generally.”
- 83 In paragraph 4A (inspection of bank accounts) for “Council” substitute “Society”.
- 84 After that paragraph insert –
- “4B Where rules made under section 33A(1) of the 1974 Act are applied to managers or employees of recognised bodies in accordance with section 9(2)(fb) of this Act, the Society shall be at liberty to disclose information about the accounts of a manager or employee obtained in pursuance of the rules for use in investigating the possible commission of an offence by the manager or employee and for use in connection with any prosecution of the manager or employee consequent on the investigation.”
- 85 For paragraph 5 of that Schedule (accountants’ reports) substitute –
- “5 Where rules made under section 34 of the 1974 Act are applied to recognised bodies in accordance with section 9(2)(f), section 34(9) and (10) of that Act apply in relation to a recognised body as they apply in relation to a solicitor.”
- 86 After that paragraph insert –
- “5A Where rules made under section 34 of the 1974 Act are applied to managers or employees of recognised bodies in accordance with section 9(2)(fb), section 34(9) and (10) of that Act apply in relation to a manager or employee to which the rules are applied as they apply in relation to a solicitor.”
- 87 In paragraph 6 of that Schedule (compensation fund) –
- (a) in sub-paragraph (1) –
- (i) omit “corporate”,
- (ii) after “contribution” insert “(a “regular contribution”)", and
- (iii) for “Council” substitute “Society”,
- (b) in sub-paragraph (1A) –
- (i) after “contribution” insert “(a “special levy”)", and
- (ii) omit the words from “of such amount” to the end,
- (c) after sub-paragraph (1A) insert –
- “(1AA) The special levy is payable at a rate determined in accordance with rules made by the Society for the purposes of this sub-paragraph.

- (1AB) The rules may in particular provide for the rate of the special levy to be determined by reference to –
- (a) the amount of money to which sub-paragraph (1CD) applies held or received by the recognised body during the twelve-month period and the length of time it was so held, or 5
 - (b) the category of recognised bodies to which the recognised body belongs.”,
- (d) in sub-paragraph (1B), for “clients’ money” substitute “money to which sub-paragraph (1CD) applies”, 10
- (e) in sub-paragraph (1C), for “sub-paragraph (1B)” substitute “sub-paragraphs (1AB) and (1B)”,
- (f) after sub-paragraph (1C) insert –
- “(1CA) Every recognised body shall pay to the Society an additional contribution (an “extraordinary levy”) at such times, and at such rate, as the Society may determine in accordance with rules made by the Society for the purposes of this sub-paragraph. 15
- (1CB) Rules made for the purposes of sub-paragraph (1CA) may in particular provide for the extraordinary levy to be determined by reference to – 20
- (a) the amount of money to which sub-paragraph (1CD) applies held or received by the recognised body during such period as may be determined in accordance with the rules and the length of time it was so held, or 25
 - (b) the category of recognised bodies to which the recognised body belongs.
- (1CC) Rules made for the purposes of sub-paragraph (1AA) or (1CA) may provide for the rate payable to be nil. 30
- (1CD) The money to which this sub-paragraph applies is money (including money held on trust) held or received for clients or other persons.”
- (g) in sub-paragraph (1D) –
- (i) for “amounts” substitute “regular contributions, special levies and extraordinary levies”, 35
 - (ii) omit “sub-paragraph (1) or (1A) of”,
 - (iii) for “or special levies” substitute “, special levies or extraordinary levies”, and
 - (iv) for “paragraph (a) or (b) of paragraph 2(1)” substitute “paragraph 2”, 40
- (h) in sub-paragraph (2) for “Council are” substitute “Society is”,
- (i) in paragraph (a) of that sub-paragraph after “loss” insert “or hardship”,
- (j) in that paragraph for “that body’s” to the end substitute – 45
- “(i) that body’s business (or purported business) as a recognised body,
 - (ii) a trust of which that body is or was a trustee, or

-
- (iii) a trust of which a person who is or was a manager or employee of the body is or was, in that capacity, a trustee; or”
- (k) in sub-paragraph (2), in paragraph (b) after “suffer” insert “loss or”,
- (l) in that paragraph after “body” in first place insert “or a manager or employee of such a body”, 5
- (m) in that paragraph after “possession” insert “or the possession of the manager or employee”,
- (n) in that paragraph for “that body’s” to the end substitute –
- “(i) that body’s business (or purported business) as a recognised body, 10
- (ii) a trust of which that body is or was a trustee, or
- (iii) a trust of which a person who is or was a manager or employee of the body is or was, in that capacity, a trustee; or”, 15
- (o) in sub-paragraph (2), in paragraph (c) after “body” in first place insert “(or, if the recognised body is a partnership, a partner)”,
- (p) in that paragraph for “officer” substitute “manager”,
- (q) in that paragraph after “that member” insert “or partner”, 20
- (r) after that paragraph, insert “or
- (d) that a person has suffered or is likely to suffer loss or hardship in consequence of an act or omission on the part of a recognised body, or of an employee or manager of a recognised body, in such other circumstances as may be prescribed by rules made by the Society for the purposes of this paragraph,”,
- (s) in sub-paragraph (2) for “Council may” substitute “Society may”, and
- (t) in sub-paragraph (3), for “(7)” substitute “(8)”. 25 30
- 88 In paragraph 7 (solicitor who is justice of the peace not to act in certain proceedings) for “an officer” (in both places) substitute “a manager”.
- 89 In paragraph 9 (restriction on employment of person struck off roll or suspended) –
- (a) the existing provision becomes sub-paragraph (1) and in that sub-paragraph after “recognised body” insert “(and any manager or employee of it)”, and 35
- (b) after that sub-paragraph insert –
- “(2) Where the employment or remuneration of a person by a solicitor is prohibited under section 41 of the 1974 Act (except in accordance with written permission granted by the Society under that section), a recognised body must not permit that person to be a manager of the recognised body, except in accordance with written permission granted by the Society. 40
- (3) Permission granted for the purposes of sub-paragraph (2) may be granted for such period and subject to such conditions as the Society thinks fit. 45

- (4) A person aggrieved by the refusal of the Society to grant permission under sub-paragraph (3), or by any conditions attached by the Society to the grant of any such permission may appeal to the High Court which may –
- (a) confirm the refusal or the conditions, as the case may be, or
 - (b) grant a permission under this paragraph for such period and subject to such conditions as it thinks fit.
- (5) The decision of the High Court on an appeal under sub-paragraph (4) is final.
- (6) If any recognised body acts in contravention of this paragraph or of any conditions subject to which a permission has been granted under it, the Society may revoke or suspend its recognition under section 9.”
- 90 In paragraph 10 (failure to disclose striking off or suspension) after “employment by” in the first place insert “or a position as manager of”.
- 91 Omit paragraph 11 (control of employment of persons convicted of offences of dishonesty and certain other persons).
- 92 Omit paragraph 12 (offences in connection with orders under section 43(2) of the 1974 Act).
- 93 Omit paragraph 13 (redress for inadequate professional services).
- 94 In paragraph 14 (examination of files) –
- (a) in sub-paragraph (1) –
 - (i) for “Council are” substitute “Society is”,
 - (ii) in paragraph (a) for “Council” substitute “Society,
 - (iii) omit sub-paragraph (1)(b), and
 - (iv) in paragraph (c) after “section 43(2)” insert “of the 1974 Act”.
 - (b) after sub-paragraph (2) insert –
 - “(3) Sub-paragraphs (1) and (2) apply in relation to a person who is a manager or employee of a recognised body as they apply in relation to a recognised body, except that as so applied the reference in sub-paragraph (1)(c) to “its business” is to be read as a reference to the business of the recognised body of which the person is a manager or employee.”
- 95 For paragraph 14A (payment of costs of investigations) substitute –
- “Power to charge for costs of investigation*
- 14A (1) The Society may make regulations prescribing charges to be paid to the Society by recognised bodies who are the subject of a discipline investigation.
- (2) A discipline investigation is an investigation carried out by the Society into a failure or apprehended failure by a recognised body to comply with any requirement imposed by or by virtue of this Act or any rules applicable to it by virtue of section 9.

- (3) Regulations under this paragraph may –
- (a) make different provision for different cases or purposes;
 - (b) provide for the whole or part of a fee payable under the regulations to be repaid in such circumstances as may be prescribed by the regulations. 5
- (4) Any fee which a person is required to pay under regulations under this paragraph is recoverable by the Society as a debt due to the Society from the recognised body.
- (5) This paragraph applies in relation to a manager or employee of a recognised body as it applies in relation to a recognised body.” 10
- 96 In paragraph 16 (complaints to Tribunal with respect to recognised bodies) –
- (a) in sub-paragraph (1), in paragraph (a) omit “in the United Kingdom”,
 - (b) in paragraph (b) of that sub-paragraph omit “section 34 of the 1974 Act or with”, 15
 - (c) in paragraph (c) omit “39 or”, and
 - (d) after that sub-paragraph insert –
 - “(1A) The Tribunal shall have jurisdiction to hear and determine any of the following complaints made to it under this paragraph with respect to a manager or employee of a recognised body (“the relevant person”) – 20
 - (a) a complaint that the relevant person has been convicted by any court of a criminal offence which renders that person unsuitable to be a manager or employee (or both) of a recognised body; 25
 - (b) a complaint that the relevant person has failed to comply with any requirement imposed by or by virtue of this Act or any rules applicable to the relevant person by virtue of section 9 of this Act; 30
 - (c) a complaint that the relevant person has acted in contravention of section 41 of the 1974 Act or of any conditions subject to which a permission has been granted under that section;
 - (d) a complaint that the relevant person has knowingly acted in contravention of an order under section 43(2) of the 1974 Act or of any conditions subject to which a permission has been granted under such an order.” 35
- 97 In paragraph 17 of that Schedule (procedure on applications and complaints), in subsection (1) – 40
- (a) for “(7)” substitute “(9)”,
 - (b) in paragraph (a) –
 - (i) omit “11(1), 15(2) or”,
 - (ii) omit “13(3) or”, and 45
 - (iii) after “16(1)” insert “or (1A)”, and
 - (c) in paragraph (c) after “body” insert “or, in the case of a complaint as is mentioned in paragraph 16(1A), to a manager or employee of such a body”.

- 98 In paragraph 18 (powers of Tribunal with respect to recognised bodies) –
- (a) in sub-paragraph (1) after “this Schedule” insert “(other than paragraph 16(1A))”,
 - (b) in paragraph (b) of that sub-paragraph omit “section 34 of the 1974 Act or with”,
 - (c) omit paragraph (d) of that sub-paragraph and the “or” immediately preceding it,
 - (d) in sub-paragraph (2) omit “not exceeding £3,000”, and
 - (e) omit sub-paragraphs (3) and (4).
- 99 After that paragraph insert –
- “18A(1) Where, on the hearing of any complaint made to it under paragraph 16(1A) of this Schedule, the Tribunal is satisfied that a manager or employee of a recognised body –
- (a) has been convicted as mentioned in paragraph (a) of paragraph 16(1A),
 - (b) has failed to comply with any requirement imposed by or by virtue of this Act or any rules applicable to the relevant person by virtue of section 9 of this Act, or
 - (c) has acted as mentioned in paragraph (c) of paragraph 16A(1A),
- the Tribunal may, if it thinks fit, make one or more of the orders referred to in sub-paragraph (2).
- (2) Those orders are –
- (a) an order directing the payment by the relevant person of a penalty to be forfeited to Her Majesty;
 - (b) an order requiring the Society to consider taking such steps as the Tribunal may specify in relation to the relevant person;
 - (c) if the person is not a solicitor or a registered European lawyer, an order which states one or more of the matters mentioned in sub-paragraph (3);
 - (d) an order requiring the Society to refer to an appropriate regulator any matter relating to the conduct of the relevant person.
- (3) The matters referred to in sub-paragraph (2)(c) are –
- (a) that as from the specified date –
 - (i) no solicitor or registered European lawyer shall employ or remunerate, in connection with his practice as a solicitor or registered European lawyer, the person with the respect to whom the order is made, and
 - (ii) no recognised body, or manager or employee of such a body, shall employ or remunerate that person, in connection with the business of the recognised body,
 - (b) that as from the specified date no recognised body shall, except in accordance with a Society permission;
 - (b) that as from the specified date no recognised body shall, except in accordance with a Society permission, permit the

- person with respect to whom the order is made to be a manager of the body;
- (c) that as from the specified date no recognised body or manager or employee of such a body shall, except in accordance with a Society permission, permit the person with respect to whom the order is made to have an interest in the body. 5
- (4) Section 44(2) of the Act of 1974, paragraph 16(1)(d) and (1A)(d) of this Schedule and paragraph 14(3A) of Schedule 14 to the Courts and Legal Services Act 1990 apply in relation to an order under sub-paragraph (2)(c) as they apply in relation to an order under section 43(2) of that Act. 10
- (5) For the purposes of sub-paragraph (2)(d) an “appropriate regulator” in relation to the relevant person means –
- (a) if the person is an authorised person in relation to a reserved legal activity for the purposes of the Legal Services Act 2007, any relevant approved regulator (within the meaning of that Act) in relation to that person, and 15
- (b) if the person carries on activities which are not reserved legal activities, any body which regulates the carrying on of such activities by the person.” 20
- 100 In paragraph 20 (powers of Tribunal in respect of legal aid complaints), in sub-paragraph (1) –
- (a) after “solicitor” in both places insert “or registered European lawyer”, 25
- (b) for “an officer” substitute “a manager”, and
- (c) for “director” substitute “manager”.
- 101 In paragraph 21 (revocation of recognition by reason of default by director) –
- (a) in sub-paragraph (1), in paragraph (a) for “director” substitute “manager”, 30
- (b) in paragraph (b) of that sub-paragraph for “director” (in both places) substitute “manager”,
- (c) in paragraph (c) of that sub-paragraph for “director” (in both places) substitute “manager”, 35
- (d) in sub-paragraph (3) for “director” (in both places) substitute “manager”, and
- (e) after that sub-paragraph insert –
- “(4) The reference in paragraph (c) of sub-paragraph (1) to a person employed by a recognised body includes a reference to a person who was so employed at the time of the conduct leading to the making of the order referred to in that paragraph.” 40
- 102 After paragraph 22 insert –
- “22A(1) In section 56(5) of the 1974 Act (general principles for determination of remuneration), the references to a solicitor are to be construed as including, in relation to general principles relating to the remuneration of recognised bodies, any authorised person who is a manager or employee of a recognised body. 45

- (2) For this purpose “authorised person” means a person, other than a solicitor, who is an authorised person, in relation to an activity which is a reserved legal activity (within the meaning of the Legal Services Act 2007).”
- 103 In paragraph 23 (orders as to remuneration for non-contentious business) in paragraph (b) for “an officer” substitute “a manager (within the meaning of Schedule 2 to the Administration of Justice Act 1985)”. 5
- 104 In paragraph 24 (effect of contentious business agreements) for “officers” substitute “managers”. 5
- 105 In paragraph 25 (effect of supervening incapacity on contentious business agreements) – 10
- (a) in sub-paragraph (1)(b) after “corporate” insert “or the body has entered administration within the meaning of paragraph 1(2)(b) of Schedule B1 to the Insolvency Act 1986”,
- (b) in sub-paragraphs (2) and (3) – 15
- (i) for “taxation” (in each place) substitute “assessment”, and
- (ii) for “taxing officer” (in each place) substitute “costs officer”, and
- (c) in sub-paragraph (3) for “any officer” substitute “any manager”.
- 106 In paragraph 26 (taxations with respect to contentious business) – 20
- (a) in the paragraph heading for “Taxations” substitute “Assessments”,
- (b) the existing paragraph becomes sub-paragraph (1) and in that sub-paragraph – 25
- (i) for “taxation” substitute “assessment”,
- (ii) for “taxing officer” substitute “costs officer”, and
- (iii) for “any solicitor, being an officer” substitute “any authorised person, being a manager”, and
- (c) after that sub-paragraph insert –
- “(2) In this paragraph “authorised person” means an authorised person, in relation to an activity which is a reserved legal activity, within the meaning of the Legal Services Act 2007.” 30
- 107 In paragraph 29 (actions to recover costs), in paragraph (a) for “any officer” substitute “a manager”. 30
- 108 In paragraph 31 (bank accounts) omit “or (2)”. 35
- 109 After that paragraph insert –
- “31A Where rules made under section 32(1) of the 1974 Act are applied to managers or employees in accordance with section 9(2)(fb) of this Act, section 85 of the 1974 Act shall apply in relation to a manager or employee to which the rules are applied who keeps an account with a bank in pursuance of any such rules as it applies in relation to a solicitor who keeps such an account in pursuance of rules under section 32.” 40
- 110 (1) Paragraph 32 (intervention by Society) is amended as follows. 45
- (2) In sub-paragraph (1)(a) –
- (a) for “Council are” substitute “Society is”, and

- (b) after “recognised body” insert “or a manager of such a body”.
- (3) For sub-paragraph (1)(c) substitute –
 “(c) a relevant insolvency event occurs in relation to a recognised body; or”.
- (4) In sub-paragraph (1)(d) – 5
 (a) for “Council have” substitute “Society has”,
 (b) for “officer” substitute “manager”, and
 (c) for “that body’s” to the end substitute –
 “(i) that body’s business,
 (ii) any trust of which that body is or was a trustee, 10
 (iii) any trust of which the manager or employee is or was a trustee in his capacity as such a manager or employee, or
 (iv) the business of another body in which the manager or employee is or was a manager or employee or the practice (or former practice) of the manager or employee; or” 15
- (5) After sub-paragraph (1)(d) insert – 20
 “(e) the Society is satisfied that it is necessary to exercise the powers conferred by Part 2 of Schedule 1 to the 1974 Act (or any of them) in relation to a recognised body to protect –
 (i) the interests of clients (or former or potential clients) of the recognised body, 25
 (ii) the interests of the beneficiaries of any trust of which the recognised body is or was a trustee, or
 (iii) the interests of the beneficiaries of any trust of which a person who is or was a manager or employee of the recognised body is or was a trustee in that person’s capacity as such a manager or employee;” 30
- (6) After sub-paragraph (1) insert –
 “(1A) For the purposes of this paragraph a relevant insolvency event occurs in relation to a recognised body if – 35
 (a) a resolution for a voluntary winding-up of the body is passed without a declaration of solvency under section 89 of the Insolvency Act 1986;
 (b) the body enters administration within the meaning of paragraph 1(2)(b) of Schedule B1 to that Act; 40
 (c) an administrative receiver within the meaning of section 251 of that Act is appointed;
 (d) a meeting of creditors is held in relation to the body under section 95 of that Act (creditors’ meeting which has the effect of converting a members’ voluntary winding up into a creditors’ voluntary winding up); 45
 (e) an order for the winding up of the body is made.”
- (7) Omit sub-paragraph (2).

- 111 For paragraph 33 (further grounds for intervention) –
- (a) for paragraph (a) substitute –
- “(a) the Society is satisfied that there has been undue delay –
- (i) on the part of a recognised body in connection with any matter in which it is or was acting on behalf of a client or with any trust of which it is or was a trustee, or 5
- (ii) on the part of a person who is or was a manager or employee of a recognised body in connection with any trust of which the manager or employee is or was a trustee in his capacity as such an employee or trustee;”, and 10
- (b) in paragraph (c) for “Council regard” substitute “Society regards”. 15
- 112 In paragraph 34 (powers of intervention on revocation of recognition etc), in subsection (1) omit “corporate” (in both places).
- 113 In paragraph 35 (provision relating to the application of Part 2 of Schedule 1 to the Solicitors Act 1974) –
- (a) in paragraph (a) omit “corporate”, and 20
- (b) omit “and” at the end of paragraph (b) and after paragraph (c) insert –
- “(d) paragraph 6(2)(a) of that Schedule is to be construed as including a reference to sums of money held by or on behalf of the recognised body in connection with any trust of which a person who is or was a manager or employee of the recognised body is or was a trustee in his capacity as such a manager or employee; 25
- (e) paragraph 9 of that Schedule is to be construed – 30
- (i) as if sub-paragraph (1) included a reference to documents in the possession or under the control of the recognised body in connection with any trust of which a person who is or was a manager or employee of the recognised body is or was a trustee in his capacity as such a manager or employee, and 35
- (ii) as applying to such a manager or employee and documents and property in his possession or under his control in connection with such a trust as it applies to a solicitor and documents and property in the possession or under the control of the solicitor; 40
- (f) paragraph 11(1) of that Schedule is to be construed as including a power for the Society to apply to the High Court for an order for the appointment of a new trustee to a trust in substitution for a person who is a trustee, in his capacity as a manager or employee of the recognised body; and 45
- 50

- (g) paragraph 13A of that Schedule is to be read as if the references to a former partner were references –
- (i) in the case of a recognised body which is a partnership, to a former partner in the partnership, and 5
 - (ii) in any other case to a manager or former manager of the recognised body.”
- 114 In paragraph 36 (privilege from disclosure etc) in sub-paragraph (3) for “an officer” substitute “a manager”. 10
- PART 3
- THE COURTS AND LEGAL SERVICES ACT 1990 (C. 41)
- 115 Schedule 14 to the Courts and Legal Services Act 1990 (foreign lawyers: partnerships and recognised bodies) is amended in accordance with this Part of this Schedule. 15
- 116 In paragraph 1 (interpretation) omit the definitions of “the Council” and “controlled trust”.
- 117 In paragraph 2 (application for registration) –
- (a) for “Council” in each place substitute “Society”,
 - (b) in sub-paragraph (1)(b) for “the Master of the Rolls” substitute “the Legal Services Board”, 20
 - (c) in sub-paragraph (2) for “Law Society” substitute “Society”,
 - (d) in sub-paragraph (4) –
 - (i) for “Master of the Rolls” substitute “Legal Services Board”, and 25
 - (ii) in paragraph (a) after “including” insert “the form of the register and”, and
 - (e) omit sub-paragraph (5).
- 118 In paragraph 3 (duration of registration) in sub-paragraphs (2) and (3)(c) for “Council” substitute “Society”. 30
- 119 In paragraph 5 (intervention in practices) –
- (a) in sub-paragraph (3)(a) and (b) for “Council have” substitute “Society has”,
 - (b) in sub-paragraph (3)(c) and (i) for “Council are” substitute “Society is”, 35
 - (c) in sub-paragraph (4)(a) for “Council are” substitute “Society is”,
 - (d) in sub-paragraph (5)(a)(ii) for “controlled trust” substitute “trust”, and
 - (e) in sub-paragraph (5)(c) for “Council regard” substitute “Society regards”. 40
- 120 In paragraph 6(1) (compensation fund) –
- (a) for “Council are” substitute “Society is”,
 - (b) in paragraph (a), after “loss” insert “or hardship”,
 - (c) in paragraph (b), after “suffer” insert “loss or”, and

- (d) after paragraph (c) insert “or
- (d) that a person has suffered or is likely to suffer loss or hardship in consequence of an act or omission on the part of a registered foreign lawyer, or of an employee of a registered foreign lawyer, in such other circumstances as may be prescribed by rules made by the Society for the purposes of this paragraph,”. 5
- 121 In paragraph 7 (contributions to the fund) –
- (a) in sub-paragraph (1) for “Council” substitute “Society”, 10
- (b) in sub-paragraph (2)(b) –
- (i) for “clients’ money” (in both places) substitute “money to which this paragraph applies”, and
- (ii) omit the words from “of such amount” to the end,
- (c) after sub-paragraph (2) insert – 15
- “(2A) The special levy is payable at a rate determined in accordance with rules made by the Society for the purposes of this sub-paragraph.
- (2B) Rules made for the purposes of sub-paragraph (2A) may in particular provide for the rate of the special levy to be determined by reference to – 20
- (a) the amount of money to which this paragraph applies held or received by the registered foreign lawyer during the period specified in the application and the length of time it was so held, or 25
- (b) the category of registered foreign lawyers to which the registered foreign lawyer belongs.
- (2C) The Society may require a registered foreign lawyer to pay to the Society an additional contribution (the “extraordinary levy”) at such times, and at such rate, as the Society may determine in accordance with rules made by the Society for the purposes of this sub-paragraph. 30
- (2D) Rules made for the purposes of sub-paragraph (2C) may in particular provide for the rate of the extraordinary levy to be determined by reference to – 35
- (a) the amount of money to which this paragraph applies held or received by the registered foreign lawyer during such period as may be determined in accordance with the rules and the length of time for which it was so held, or 40
- (b) the category of registered foreign lawyers to which the registered foreign lawyer belongs.
- (2E) Rules made for the purposes of sub-paragraph (2A) or (2C) may provide for the rate payable to be nil.”,
- (d) in sub-paragraph (3) – 45
- (i) for “Council” substitute “Society”, and
- (ii) after “special” insert “or extraordinary”,
- (e) in sub-paragraph (4) for “Master of the Rolls” substitute “Legal Services Board”, and

- (f) after sub-paragraph (4) insert –
- “(5) The money to which this paragraph applies is money (including money held on trust) held or received for clients or other persons.”
- 122 For paragraph 8 (accountants’ reports) substitute – 5
- “8 Section 34 of the Act of 1974 applies in relation to registered foreign lawyers as it applies in relation to solicitors.”
- 123 In paragraph 14 (appeal against conditions or refusals) –
- (a) in sub-paragraph (1) for “Master of the Rolls” substitute “High Court”, 10
- (b) omit sub-paragraph (2),
- (c) in sub-paragraph (3) –
- (i) omit “to him”,
- (ii) for “Master of the Rolls” substitute “High Court”, and
- (iii) for “he” substitute “it”, and 15
- (d) after that sub-paragraph insert –
- “(4) The decision of the High Court on an appeal under this paragraph shall be final.”
- 124 In paragraph 15 (jurisdiction and powers of disciplinary tribunal) –
- (a) after sub-paragraph (3) insert – 20
- “(3A) Any person who alleges that a registered foreign lawyer has knowingly acted in contravention of any order under section 43(2) of the Act of 1974 or of any conditions subject to which a permission has been granted under such an order may make a complaint to the Tribunal.”, 25
- (b) in sub-paragraph (4)(c), omit “not exceeding £5,000”, and
- (c) omit sub-paragraph (5).
- 125 In paragraph 16(2) (foreign lawyers assisting Tribunal) for “Master of the Rolls” substitute “Legal Services Board”.
- 126 In paragraph 17 (appeals from Tribunal) – 30
- (a) in sub-paragraph (1) for “lie –” to the end substitute “lie to the High Court”,
- (b) in sub-paragraph (2) –
- (i) omit “and the Master of the Rolls”, and
- (ii) for “they” substitute “it”, 35
- (c) in sub-paragraph (3) for “of the Master of the Rolls on an appeal under this paragraph” substitute “of the High Court on an appeal in the case of an order on an application under paragraph 15(2)(d) or (e), or the refusal of any such application,”, and
- (d) omit sub-paragraph (4). 40

SCHEDULE 17

Section 174

LICENSED CONVEYANCING

Administration of Justice Act 1985 (c. 61)

- 1 Part 2 of the Administration of Justice Act 1985 (licensed conveyancing) is amended as follows. 5
- 2 In section 11 (provision of conveyancing services by licensed conveyancers) –
 - (a) in subsection (1) for “by persons” to the end substitute “and other services by persons who hold licences in force under this Part or who are recognised bodies.”. 10
 - (b) for subsection (3) substitute –
 - “(3) References in this Part to conveyancing services are references to –
 - (a) the preparation of transfers, conveyances, contracts and other documents in connection with, and other services ancillary to, the disposition or acquisition of estates or interests in land, and 15
 - (b) any other activities which are reserved instrument activities for the purposes of the Legal Services Act 2007 (see section 12 of and Schedule 2 to that Act). 20
 - (3A) For the purposes of subsection (3) –
 - (a) “disposition”
 - (i) does not include a testamentary disposition or any disposition in the case of such a lease as is referred to in section 54(2) of the Law of Property Act 1925 (short leases), but 25
 - (ii) subject to that, includes in the case of leases both their grant and their assignment, and
 - (b) “acquisition” has a corresponding meaning.”. 30
 - (c) omit subsection (4). 30
- 3 In section 12 (establishment of the Council), omit subsection (2).
- 4 (1) Section 15 (issue of licences by Council) is amended as follows.
 - (2) In subsection (3)(b), for “21” substitute “42”.
 - (3) In subsection (4), for “the period of” to the end substitute “such period, beginning with the date of issue of the licence, as may be specified in the licence.” 35
 - (4) Omit subsections (7) and (8).
- 5 (1) Section 16 (conditional licences) is amended as follows.
 - (2) In subsection (1) –
 - (a) after paragraph (c) insert – 40
 - “(ca) after the Investigating Committee established under section 24 has made any order in his case under section 24A;”, and

- (b) after paragraph (e) insert –
 “(ea) when, having been required by rules made under section 22 to deliver to the Council a report by a qualified accountant, he has not delivered such a report within the period required by the rules;”.
- (3) In subsection (4) –
 (a) after “paragraph” insert “(ca),”, and
 (b) after “(e),” insert “(ea),”.
- 6 After section 16 insert –
“16A Additional fee payable by certain persons when applying for licences
- (1) This section applies where a person applies for a licence at a time when section 16 has effect in relation to him by reason of the circumstances mentioned in section 16(1)(ea). 10
- (2) The application must be accompanied by an additional fee of an amount prescribed by rules made by the Council for the purposes of this section.” 15
- 7 In section 17(2)(a) (imposition of conditions during currency of licence) –
 (a) after “paragraph” insert “(ca),”, and
 (b) after “(e),” insert “(ea),”.
- 8 In section 18 (suspension or termination of licences), after subsection (2) insert –
 “(2A) Where the power conferred by paragraph 6(1) or 9(1) of Schedule 5 has been exercised in relation to a licensed conveyancer by virtue of paragraph 1(1)(a)(i), (c) or (e) of that Schedule, the exercise of that power shall operate immediately to suspend any licence held by that person under this Part. 25
- (2B) Subsection (2A) does not apply if, at the time when the power referred to there is exercised, the Council directs that subsection (2A) is not to apply in relation to the licensed conveyancer concerned.
- (2C) If, at the time when the power referred to in subsection (2A) is exercised, the Council gives a direction to that effect, the licensed conveyancer concerned may continue to act in relation to any matter specified in the direction as if the licence had not been suspended by virtue of subsection (2A), but subject to such conditions (if any) as the Council sees fit to impose. 30
- (2D) Subject to subsection (2E), where a licence is suspended by virtue of subsection (2A) the suspension of the licence shall continue until the licence expires. 35
- (2E) The licensed conveyancer may, at any time before the licence expires, apply to the Council to terminate the suspension. 40
- (2F) On an application under subsection (2E), the Council may in its discretion –
 (a) by order terminate the suspension either unconditionally or subject to such conditions as the Council may think fit, or
 (b) refuse the application. 45

- (2G) If on an application by a licensed conveyancer under subsection (2E) the Council refuses the application or terminates the suspension subject to conditions, the licensed conveyancer may appeal against the decision of the Council to the High Court which may –
- (a) affirm the decision, or
 - (b) terminate the suspension either conditionally or subject to such conditions as it may think fit.
- (2H) In relation to an appeal under subsection (2G) the High Court may make such order as it thinks fit as to payment of costs.”
- 9 In section 20 (rules as to professional practice, conduct and discipline), in subsection (1) omit “, in pursuance of its general duty referred to in section 12(2),”.
- 10 (1) Section 24 (preliminary investigation of disciplinary cases) is amended as follows.
- (2) In subsection (1) –
- (a) for “preliminary investigation” substitute “consideration”, and
 - (b) omit from “with a view” to the end.
- (3) After subsection (1) insert –
- “(1A) The Investigating Committee shall make a preliminary investigation of such an allegation and –
- (a) hear and determine the allegation, or
 - (b) refer the allegation to the Discipline and Appeals Committee established under section 25 for hearing and determination by that Committee under section 26.”
- (4) After subsection (4) insert –
- “(4A) The Council shall make rules as to the cases in which the Investigating Committee may hear and determine an allegation, and the cases in which they must refer an allegation to the Discipline and Appeals Committee.”
- (5) After subsection (5) insert –
- “(6) Before making a direction under subsection (5), the Investigating Committee must give the licensed conveyancer an opportunity to make representations against the making of the proposed direction.
- (7) In relation to proceedings under subsection (6), the Investigating Committee may make such order as they think fit as to the payment of costs by –
- (a) the Council, or
 - (b) the licensed conveyancer.
- (8) Where a direction under subsection (5) has been made, the licensed conveyancer may appeal to the Discipline and Appeals Committee, and on any such appeal the Committee may make such order as they think fit.
- (9) Where an order has been made under subsection (7) the Council or the licensed conveyancer may appeal to the Discipline and Appeals

- Committee, and on any such appeal the Committee may make such order as they think fit.
- (10) Where an order is made by the Discipline and Appeals Committee under subsections (8) or (9) –
- (a) the person against whom the order is made, and 5
 - (b) if not within paragraph (a), the Council, may appeal against the order to the High Court.
- (11) On an appeal under subsection (10) the High Court may make such order as it thinks fit.
- (12) The decision of the High Court on an appeal under subsection (10) shall be final.” 10
- 11 After section 24 insert –
- “24A Determination of allegations by Investigating Committee**
- (1) Where, on hearing an allegation by virtue of section 24(1A)(a), the Investigating Committee are satisfied that a licensed conveyancer – 15
- (a) has, while holding a licence in force under this Part, failed to comply with any condition to which that licence was subject, or
 - (b) has failed to comply with any rules made by the Council under this Part, 20
- the Committee may, if they think fit, make an order directing the payment by the licensed conveyancer of a penalty to be forfeited to Her Majesty.
- (2) In relation to proceedings before the Investigating Committee by virtue of section 24(1A)(a), the Committee may make such order as they consider fit as to the payment of costs by – 25
- (a) the Council,
 - (b) the licensed conveyancer against whom the proceedings were brought, or
 - (c) if the person on whose allegation the proceedings were brought was heard (in person, or through a representative) by the Committee in the course of the proceedings, that person. 30
- (3) The amount of any penalty required to be paid under subsection (1) may not exceed such amount as may be prescribed by rules made by the Council for the purposes of this subsection. 35
- (4) Paragraphs 1, 2(1) and (3) and 4 of Schedule 4 have effect in relation to –
- (a) proceedings for the hearing and determination of an allegation by the Investigating Committee, as they have effect in relation to proceedings before the Discipline and Appeals Committee under section 26, and 40
 - (b) orders of the Investigating Committee, as they have effect in relation to orders of the Discipline and Appeals Committee.
- (5) A person against whom an order is made by the Investigating Committee by virtue of subsection (1) may appeal to the Discipline 45

- and Appeals Committee, and on any such appeal the Discipline and Appeals Committee may make such order as they think fit.
- (6) Where an order is made by the Investigating Committee by virtue of subsection (2), a person listed in paragraphs (a) to (c) of that subsection may appeal to the Discipline and Appeals Committee, and on any such appeal the Discipline and Appeals Committee may make such order as they think fit. 5
- (7) Where an order is made by the Discipline and Appeals Committee under subsection (5) or (6) – 10
- (a) a party to the appeal, or
- (b) if not within paragraph (a), the Council, may appeal against the order to the High Court.
- (8) On an appeal under subsection (7) the High Court may make such order as it thinks fit.
- (9) The decision of the High Court on an appeal under subsection (7) shall be final.” 15
- 12 (1) Section 26 (proceedings in disciplinary cases) is amended as follows.
- (2) In subsection (1) after “allegation” insert “referred to them under section 24(1A)(b)”.
- (3) In subsection (2) – 20
- (a) in paragraph (e), for “£3,000” substitute “such amount as may be prescribed by rules made by the Council for the purposes of this paragraph”,
- (b) for paragraph (f) substitute – 25
- “(f) an order reprimanding the licensed conveyancer.”,
and
- (c) omit paragraph (g).
- (4) After subsection (2) insert –
- “(2A) In relation to proceedings before the Discipline and Appeals Committee under this section, the Committee may make such order as they consider fit as to the payment of costs by – 30
- (a) the Council;
- (b) the licensed conveyancer against whom the proceedings were brought;
- (c) if the person on whose allegation the proceedings were brought was heard (in person, or through a representative) by the Committee in the course of the proceedings, that person.” 35
- (5) Omit subsections (5) and (6).
- (6) After subsection (7) insert – 40
- “(7A) Where the Discipline and Appeals Committee make an order under subsection (2A), a person listed in paragraphs (a) to (c) of that subsection may appeal to the High Court, and on any such appeal the High Court may make such order as it thinks fit.”
- (7) In subsection (8), after “(7)” insert “or (7A)”. 45

- 13 In section 27 (removal of disqualification from holding a licence), after subsection (2) insert –
- “(3) In relation to proceedings on an application under subsection (1), the Discipline and Appeals Committee may make such order as they consider fit as to the payment of costs by –
- (a) the Council;
- (b) the applicant.” 5
- 14 In section 28 (revocation of licence on grounds of fraud or error), after subsection (4) insert –
- “(5) In relation to proceedings for the revocation of a licence under subsection (1), the Discipline and Appeals Committee may make such order as they consider fit as to the payment of costs by –
- (a) the Council;
- (b) the licensed conveyancer to whose licence the proceedings relate. 10
- (6) In relation to proceedings on an application under subsection (2), the Discipline and Appeals Committee may make such order as they consider fit as to the payment of costs by –
- (a) the Council;
- (b) the applicant.” 15
- 15 In section 31(3) (application of Schedule 5) for “and 12” substitute “to 12A”.
- 16 (1) Section 32 (provision of conveyancing services by recognised bodies) is amended as follows.
- (2) In subsection (1)(a) for “by licensed” (in the first place) to the end substitute “of conveyancing services bodies;”. 25
- (3) In subsection (1)(b) for “such services” substitute “conveyancing services or other relevant legal services”.
- (4) After subsection (1)(b) insert –
- “(ba) prescribing the Council’s arrangements for authorising recognised bodies, for the purposes of the Legal Services Act 2007, to carry on reserved instrument activities, or the administration of oaths, within the meaning of that Act;”. 30
- (5) In subsection (2) omit “corporate”.
- (6) In subsection (3) –
- (a) in paragraph (a) after “section” insert “, or for the renewal of such recognition,” 35
- (b) after that paragraph insert –
- “(aa) for the payment of fees in connection with other applications under the rules;”,
- (c) for paragraph (c) substitute – 40
- “(c) about the time when any recognition granted under this section, or renewal of such recognition, takes effect and the period for which it is (subject to the provisions of this Part) to remain in force;

- (ca) for the suspension or revocation of any such recognition, on such grounds and in such circumstances as may be prescribed in the rules;
- (cb) about the effect on the recognition of a partnership or other unincorporated body (“the existing body”) of any change in its membership, including provision for the existing body’s recognition to be transferred where the existing body ceases to exist and another body succeeds to the whole or substantially the whole of its business;” 5 10
- (d) in paragraph (d) omit “corporate”,
- (e) in paragraph (e) –
- (i) for “a list” substitute “a register”,
- (ii) omit “corporate”, and
- (iii) for “, and for the” to the end substitute “and such other information relating to those bodies as may be specified in the rules;” 15
- (f) after that paragraph insert –
- “(ea) for information (or information of a specified description) on such a register to be made available to the public, and about the manner in which and times at which, information is to be made so available;” 20
- (g) after paragraph (f) insert –
- “(fa) about the education and training requirements to be met by managers and employees of recognised bodies; 25
- (fb) for rules made under any other provision of this Part to have effect in relation to managers and employees of recognised bodies with such additions, omissions or other modifications as appear to the Council to be necessary or expedient;”, and 30
- (h) in paragraph (g) after “recognised bodies” insert “or managers or employees of such bodies”.
- (7) After subsection (3) insert –
- “(3A) Rules under this section may contain such incidental, supplemental, transitional or transitory provisions or savings as the Council considers necessary or expedient.” 35
- (8) Omit subsections (4) and (5).
- (9) In subsection (6) –
- (a) in paragraph (a) omit “corporate”, and 40
- (b) in paragraph (b) for “body corporate’s” substitute “body’s”.
- (10) After subsection (7) insert –
- “(8) In this section “conveyancing services body” and “relevant legal services” have the meaning given by section 32A.
- (9) The Council is capable of being designated as a licensing authority for the purposes of, and subject to, Part 5 of the Legal Services Act 2007 (alternative business structures).” 45

- 17 After section 32 (provision of conveyancing by recognised bodies) insert –
- “32A Conveyancing services bodies**
- (1) For the purposes of section 32 a “conveyancing services body” means a body (corporate or unincorporate) in respect of which –
- (a) the management and control condition, and 5
- (b) the services condition,
- are satisfied.
- (2) The management and control condition is satisfied in the case of a partnership if at least one of the partners is a licensed conveyancer.
- (3) The management and control condition is satisfied in the case of an unincorporated body (other than a partnership), or a body corporate which is managed by its members, if at least one of those members is a licensed conveyancer. 10
- (4) The management and control condition is satisfied in the case of any other body corporate if at least one of the persons within subsection (5) is a licensed conveyancer. 15
- (5) Those persons are –
- (a) the directors of the body, and
- (b) the persons who have an interest in the body.
- (6) The services condition is satisfied in respect of a body if the body is carrying on a business consisting of the provision of – 20
- (a) conveyancing services, or
- (b) conveyancing services and other relevant legal services.
- (7) For the purposes of this section –
- “authorised person” means an authorised person in relation to an activity which is a reserved legal activity (within the meaning of the Legal Services Act 2007); 25
- “relevant legal services”, in relation to a body, means –
- (a) conveyancing services, and
- (b) where authorised persons are managers of, or have an interest in the body, services such as are provided by individuals practising as such authorised persons (whether or not those services involve the carrying on of reserved legal activities within the meaning of the Legal Services Act 2007); 30
- and a person has an interest in a body if the person has an interest in shares in the body within the meaning of section 71 of the Legal Services Act 2007.” 35
- 18 In section 33 (legal professional privilege), that section becomes subsection (1) and after that subsection insert – 40
- “(2) Subsection (1)(b) does not apply to a recognised body which holds a licence under Part 5 of the Legal Services Act 2007 (alternative business structures).”

19 After that section insert –

“33A Administration of oaths by licensed conveyancers

The Council may make rules prescribing its arrangements for authorising licensed conveyancers, for the purposes of the Legal Services Act 2007, to carry on activities which consist of the administration of oaths.” 5

20 In section 35 (penalty for pretending to be a licensed conveyancer or recognised body), in subsection (2) omit “corporate”.

21 Section 36 (offences by bodies corporate) –

(a) the existing section becomes subsection (1) of that section and in that subsection for “director” to “capacity” substitute “officer of the body corporate”, and 10

(b) and after that subsection insert –

“(2) Where the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in connection with the member’s functions of management as it applies to an officer of the body corporate. 15

(3) Proceedings for an offence under this section alleged to have been committed by an unincorporated body are to be brought in the name of that body (and not in that of any of its members) and, for the purposes of any such proceedings, any rules of court relating to the service of documents have effect as if that body were a corporation. 20

(4) A fine imposed on an unincorporated body on its conviction of an offence under this section is to be paid out of the funds of that body. 25

(5) If an unincorporated body is charged with an offence under this section, section 33 of the Criminal Justice Act 1925 and Schedule 3 to the Magistrates’ Courts Act 1980 (procedure on charge of an offence against a corporation) have effect in like manner as in the case of a corporation so charged. 30

(6) Where an offence under this section committed by an unincorporated body (other than a partnership) is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any officer of the body or any member of its governing body, that officer or member as well as the unincorporated body is guilty of the offence and liable to be proceeded against and punished accordingly. 35 40

(7) Where an offence under this section committed by a partnership is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner, that partner as well as the partnership is guilty of the offence and liable to be proceeded against and punished accordingly. 45

- (8) In this section “officer”, in relation to a body corporate, means—
- (a) any director, secretary or other similar officer of the body corporate, or
 - (b) any person who was purporting to act in any such capacity.” 5
- 22 In section 38 (rules) —
- (a) omit subsection (1), and
 - (b) in subsection (2) for “such rules” substitute “rules made by the Council under this Part”. 10
- 23 In section 39 (interpretation of Part 2) —
- (a) in subsection (1), omit the definitions of “director” and “officer”,
 - (b) in that subsection, at the appropriate place insert —
- ““manager”, in relation to a body, means a person who —
- (a) if the body is a body corporate whose affairs are managed by its members, is a member of the body,
 - (b) if the body is a body corporate and paragraph (a) does not apply, is a director of the body, 20
 - (c) if the body is a partnership, is a partner, and
 - (d) if the body is an unincorporated body (other than a partnership), is a member of its governing body;”, and
- (c) in the definition of “recognised body” omit “corporate”. 25
- 24 (1) Schedule 3 (Council for Licensed Conveyancers: supplementary provisions) is amended as follows.
- (2) In paragraph 2(1), for “elected or nominated” substitute “appointed”.
 - (3) In paragraph 2(2), for “elect” substitute “appoint”.
 - (4) Omit paragraph 2(3). 30
 - (5) Omit paragraph 3.
 - (6) In paragraph 4(1) —
- (a) for “election or nomination” (in both places) substitute “appointment”,
 - (b) for “election of” substitute “appointment of”, and 35
 - (c) for “elected or nominated” substitute “appointed”.
- (7) In paragraph 4(2), for “elected or nominated” (in each place) substitute “appointed”.
- (8) In paragraph 4(3), for the words from “Secretary of State” (in the first place) to the end substitute “Legal Services Board.” 40
- (9) In paragraph 4(4) —
- (a) for “Secretary of State” (in both places) substitute “Legal Services Board”,
 - (b) for “him” substitute “it”, and
 - (c) for “he” (in both places) substitute “it”. 45

- (10) In paragraph 9, for “election or nomination” substitute “appointment”.
- 25 (1) Schedule 4 (the Discipline and Appeals Committee: supplementary provisions) is amended as follows.
- (2) In paragraph 1 (rules of procedure)–
- (a) omit sub-paragraphs (3) and (4), and 5
 - (b) in sub-paragraph (5), for “paragraphs 2 and 3” substitute “paragraph 2”.
- (3) Omit paragraph 3.
- 26 (1) Schedule 5 (intervention in licensed conveyancer’s practice) is amended as follows. 10
- (2) In paragraph 1 (grounds for intervention)–
- (a) in sub-paragraph (1)(a) after “practice” insert “or former practice or in connection with any trust of which that licensed conveyancer is or was a trustee”,
 - (b) in sub-paragraph (1)(b) after “practice” insert “or in connection with any trust”, 15
 - (c) in sub-paragraph (1)(c), after “section” insert “20, 21(3)(c),”,
 - (d) in sub-paragraph (1)(f) insert after “illness” insert “, injury”,
 - (e) for sub-paragraph (1)(g) substitute–
 - “(g) a licensed conveyancer lacks capacity (within the meaning of the Mental Capacity Act 2005) to act as a licensed conveyancer and powers under section 15 to 20 or section 48 of that Act are exercisable in relation to the licensed conveyancer;”, 20
 - (f) after sub-paragraph (1)(h) insert–
 - “(i) the Council is satisfied that it is necessary to exercise the powers conferred by Part 2 of this Schedule (or any of them) in relation to a licensed conveyancer to protect–
 - (i) the interests of clients (or former or potential clients) of the licensed conveyancer or his firm, or 30
 - (ii) the interests of the beneficiaries of any trust of which the licensed conveyancer is or was a trustee.”, and 35
 - (g) omit sub-paragraph (2).
- (3) In paragraph 3 (intervention following an undue delay)–
- (a) for “10(3)” substitute “10(9)”,
 - (b) in paragraph (a) for “a complaint is made to the Council” substitute “the Council is satisfied”, 40
 - (c) in that paragraph for “was instructed” substitute “is or was acting”, and
 - (d) in that paragraph after “client” insert “or in connection with any trust”.
- (4) In paragraph 4(2) (continuation of powers after death etc of licensed conveyancer)– 45
- (a) after “and (3)” insert “, 6A”,

- (b) for “and (5)” substitute “, (5) and (6)”, and
(c) for “10(1)” substitute “10(2) and (7)”.
- (5) In paragraph 6 (vesting of sums in Council) –
- (a) in sub-paragraph (1) after “thereto” insert “and to rules under paragraph 6B”, and 5
(b) in sub-paragraph (2)(a) after “practice” insert “or former practice or with any trust of which he is or was a trustee”.
- (6) After paragraph 6 insert –
- “6A (1) Without prejudice to paragraph 5, if the Council passes a resolution to the effect that any rights to which this paragraph applies shall vest in the Council, those rights shall vest accordingly. 10
- (2) This paragraph applies to any right to recover or receive debts due to the licensed conveyancer or his firm in connection with his practice or former practice. 15
- (3) Any sums recovered by the Council by virtue of the exercise of rights vested under sub-paragraph (1) shall vest in the Council and shall be held by it on trust to exercise in relation to them the powers conferred by this Part of this Schedule and, subject to those powers and to rules under paragraph 6B, upon trust for the persons beneficially entitled to them. 20
- (4) The Council shall serve on the licensed conveyancer or his firm, and any person who owes a debt to which the order applies a certified copy of the Council’s resolution.
- 6B (1) The Council may make rules governing its treatment of sums vested in it under paragraph 6 or 6A(3). 25
- (2) The rules may, in particular, make provision in respect of cases where the Council is unable to trace the person or persons beneficially entitled to any sum vested in the Council under paragraph 6 or 6A(3) (including provision which requires amounts to be paid into or out of a fund maintained under section 21).” 30
- (7) In paragraph 7(1) (holding of sums vested in Council) after “thereto” insert “and to rules under paragraph 6B”.
- (8) In paragraph 8 for “holds money” to the end substitute – 35
- “(a) holds money on behalf of the licensed conveyancer or his firm, or
(b) has information which is relevant to identifying any money held by or on behalf of the licensed conveyancer or his firm, 40
- the court may require that person to give the Council information as to any such money and the accounts in which it is held.”
- (9) In paragraph 9 (documents) –
- (a) in sub-paragraph (1)(a) –
- (i) after “possession” insert “or under the control”, and 45

- (ii) after “practice” insert “or former practice or with any trust of which the licensed conveyancer is or was a trustee”,
 - (b) in sub-paragraph (1)(b) –
 - (i) after “possession” insert “or under the control”, and
 - (ii) for “to which the complaint relates” substitute “of which the Council is satisfied”,5
 - (c) in sub-paragraph (3) after “possession” insert “or control”,
 - (d) in sub-paragraph (5) after “possession” insert “or are under the control”,
 - (e) after that sub-paragraph insert – 10
 - “(5A) In the case of a document which consists of information which is stored in electronic form, the requirement imposed by a notice under sub-paragraph (1) or an order under sub-paragraph (4) or (5), is a requirement to produce or deliver the information in a form in which it is legible or from which it can readily be produced in a legible form.”,15
 - (f) in sub-paragraph (6) after “possession of” insert “(a)”,
 - (g) at the end of that sub-paragraph insert –
 - “(b) any property –
 - (i) in the possession or under the control of the licensed conveyancer or his firm, or
 - (ii) in the case of an order under sub-paragraph (5), which was in the possession or under the control of such a person and has come into the possession or under the control of the person in respect of whom the order is made,which the Council reasonably requires for the purpose of accessing information contained in such documents,20
 - and to use property obtained under paragraph (b) for that purpose.”,
- 30
- (h) in sub-paragraph (7) after “documents” insert “or other property”,
- (i) in sub-paragraph (8) after “documents” insert “or other property”, and
- (j) in sub-paragraph (10) after “documents” insert “or other property”.

(10) For paragraph 10 (mail) substitute –

“Redirection of communications

- 10 (1) The High Court, on the application of the Council, may from time to time make a communications redirection order. 40
- (2) A communications redirection order is an order that specified communications to the licensed conveyancer or his firm are to be directed, in accordance with the order, to the Council, or any person appointed by the Council.
- (3) For the purposes of this paragraph – 45
 - (a) “specified communications” means communications of such description as are specified in the order;

- (b) the descriptions of communications which may be so specified include –
- (i) communications in the form of a postal packet;
 - (ii) electronic communications;
 - (iii) communications by telephone. 5
- (4) A communications redirection order has effect for such time not exceeding 18 months as is specified in the order.
- (5) Where a communications redirection order has effect, the Council or the person appointed by the Council may take possession or receipt of the communications redirected in accordance with the order. 10
- (6) Where a communications redirection order is made the Council must pay to –
- (a) in the case of an order relating to postal packets, the postal operator concerned, and 15
 - (b) in any other case, the person specified in the order, the like charges (if any) as would have been payable for the redirection of the communications to which the order relates if the addressee had permanently ceased to occupy or use the premises or other destination of the communications and had applied to the postal operator or the specified person (as the case may be) to redirect the communications to him as mentioned in the order. 20
- (7) The High Court may, on the application of the Council, authorise the Council, or a person appointed by it, to take such steps as may be specified in the order in relation to any website purporting to be or have been maintained by or on behalf of the licensed conveyancer or his firm if the High Court is satisfied that the taking of those steps is necessary to protect the public interest or the interests of clients (or potential or former clients) of the licensed conveyancer or his firm. 25
30
- (8) In this paragraph –
- “postal operator” has the meaning given by section 125(1) of the Postal Services Act 2000;
 - “postal packet” has the meaning given by section 125(1) of the Postal Services Act 2000. 35
- (9) This paragraph does not apply where the powers conferred by this Part of this Schedule are exercisable by virtue of paragraph 3.”
- (11) After paragraph 10 insert –
- “Trusts
- 10A (1) If the licensed conveyancer or his personal representative is a trustee of a trust, the Council may apply to the High Court for an order for the appointment of a new trustee in substitution for him. 40
- (2) The Trustee Act 1925 has effect in relation to an appointment of a new trustee under this paragraph as it has effect in relation to an appointment under section 41 of that Act.” 45

- (12) In paragraph 11 (liens) for “and documents” substitute “, documents and other property”.
- (13) After paragraph 12 (costs) insert –
- “12A(1) The High Court, on the application of the Council, may order a former partner of the licensed conveyancer to pay a specified proportion of the costs mentioned in paragraph 12. 5
- (2) The High Court may make an order under this paragraph only if it is satisfied that the conduct (or any part of the conduct) by reason of which the powers conferred by this Part were exercisable in relation to the licensed conveyancer was conduct carried on with the consent or connivance of, or was attributable to any neglect on the part of, the former partner. 10
- (3) In this paragraph “specified” means specified in the order made by the High Court.”
- 27 (1) Schedule 6 (bodies recognised under section 32: supplementary provisions) is amended as follows. 15
- (2) In paragraph 1 omit “corporate” (in both places).
- (3) In paragraph 2 (disciplinary control of recognised bodies) after “24” insert “, 24A”.
- (4) In paragraph 3 – 20
- (a) in sub-paragraph (1), in paragraph (a)(i) omit “by any court in the United Kingdom”,
- (b) after paragraph (a) of that paragraph insert –
- “aa) it is alleged that a manager or employee of a recognised body who is not a licensed conveyancer has failed to comply with any rules applicable to him by virtue of section 32; or” 25
- (c) in that sub-paragraph omit from “with a view” to the end, and
- (d) after sub-paragraph (1) insert –
- “(1A) After making such an investigation, the Investigating Committee may – 30
- (a) hear and determine the allegation, or
- (b) refer the allegation to the Discipline and Appeals Committee for hearing and determination by that Committee under paragraph 4. 35
- (1B) The Council shall make rules as to the cases in which the Investigating Committee may hear and determine an allegation, and the cases in which they must refer an allegation to the Discipline and Appeals Committee.”
- (5) After paragraph 3 insert – 40
- “3A (1) Where, on hearing an allegation by virtue of paragraph 3(1A)(a), the Investigating Committee are satisfied that –
- (a) in a case within paragraph 3(1)(a), a recognised body, or
- (b) in a case within paragraph 3(1)(aa), a manager or employee of such a body, 45

- has failed to comply with any such rules as are mentioned in paragraph 3(1)(a)(ii) or (aa)(ii), the Committee may make an order directing the payment by the recognised body, manager or employee of a penalty to be forfeited to Her Majesty.
- (2) In relation to proceedings before the Investigating Committee by virtue of paragraph 3(1A)(a), the Committee may make such order as they consider fit as to the payment of costs by –
- (a) the Council;
 - (b) the recognised body, manager or employee against whom the proceedings were brought;
 - (c) if the person on whose allegation the proceedings were brought was heard (in person, or through a representative) by the Committee in the course of the proceedings, that person.
- (3) The amount of any penalty required to be paid under sub-paragraph (1) may not exceed such amount as is prescribed by rules made by the Council for the purposes of this sub-paragraph.
- (4) Paragraphs 1, 2(1) and (3) and 4 of Schedule 4 have effect in relation to –
- (a) proceedings for the hearing and determination of an allegation by the Investigating Committee, as they have effect in relation to proceedings before the Discipline and Appeals Committee under section 26, and
 - (b) orders of the Investigating Committee, as they have effect in relation to orders of the Discipline and Appeals Committee.
- (5) A person against whom an order is made by the Investigating Committee by virtue of sub-paragraph (1) may appeal to the Discipline and Appeals Committee, and on any such appeal the Discipline and Appeals Committee may make such order as they think fit.
- (6) If an order is made by the Investigating Committee by virtue of sub-paragraph (2), a person listed in paragraphs (a) to (c) of that sub-paragraph may appeal to the Discipline and Appeals Committee, and on any such appeal the Discipline and Appeals Committee may make such order as they think fit.
- (7) Where an order is made by the Discipline and Appeals Committee under sub-paragraph (5) or (6) –
- (a) a party to the appeal, or
 - (b) if not within paragraph (a), the Council,
- may appeal against the order to the High Court.
- (8) On an appeal under sub-paragraph (7) the High Court may make such order as it thinks fit.
- (9) The decision of the High Court on an appeal under sub-paragraph (7) shall be final.”
- (6) In paragraph 4 –
- (a) in sub-paragraph (1) after “allegation” insert “within paragraph 3(1)(a)”,

- (b) in sub-paragraph (2), in paragraph (b), for “£3,000” substitute “such amount as may be prescribed by rules made by the Council for the purposes of this sub-paragraph”,
- (c) omit paragraph (c) of that sub-paragraph,
- (d) after that sub-paragraph insert – 5
 - “(2A) Where on the hearing of any allegation within paragraph 3(1)(aa) the Discipline and Appeals Committee are satisfied that a manager or employee has failed to comply with any such rules as are mentioned in sub-paragraph (ii) of that paragraph, the Committee may, if they think fit, make one or more of the orders referred to in sub-paragraph (2B). 10
 - (2B) Those orders are –
 - (a) an order directing the payment by the manager or employee of a penalty not exceeding such amount as may be prescribed by rules made by the Council for the purposes of this sub-paragraph; 15
 - (b) an order requiring the Council to consider taking such steps as the Committee may specify in relation to the manager or employee; 20
 - (c) an order requiring the Society to refer to an appropriate regulator any matter relating to the conduct of the manager or employee.
 - (2C) For the purposes of sub-paragraph (2B)(c) an “appropriate regulator” in relation to a manager or employee means – 25
 - (a) if the person is an authorised person in relation to a reserved legal activity for the purposes of the Legal Services Act 2007, any relevant approved regulator (within the meaning of that Act) in relation to that person, and 30
 - (b) if the person carries on activities which are not reserved legal activities, any person who exercises regulatory functions in relation to the carrying on of such activities by the person.
 - (2D) In relation to proceedings under this paragraph, the Committee may make such order as they consider fit as to the payment of costs by – 35
 - (a) the Council;
 - (b) the recognised body or manager or employee against whom the proceedings were brought; 40
 - (c) if the person on whose allegation the proceedings were brought was heard (in person, or through a representative) by the Committee in the course of the proceedings, that person.”, and
 - (e) omit sub-paragraphs (3), (3A) and (4). 45
- (7) In paragraph 5 –
 - (a) in sub-paragraph (1) –
 - (i) after “26” insert “or paragraph 4”, and
 - (ii) for “director” (in each place) substitute “manager”,

- (b) in sub-paragraph (3) for “director” (in both places) substitute “manager”,
- (c) after sub-paragraph (3) insert –
- “(4) In relation to proceedings for the revocation of a recognition under sub-paragraph (1), the Discipline and Appeals Committee may make such order as they consider fit as to the payment of costs by –
- (a) the Council;
- (b) the body to whose recognition the proceedings relate.”.
- (8) In paragraph 6 (appeals against orders of the Committee) –
- (a) in sub-paragraph (1) –
- (i) for “body corporate” substitute “person”,
- (ii) after “4(1)” insert “or (2A)”, and
- (iii) for “5” substitute “5(1)”,
- (b) after that sub-paragraph insert –
- “(1A) Where an order is made by the Committee under paragraph 4(2D) or 5(4) a person listed in that paragraph may appeal to the High Court, and on any such appeal the High Court may make such order as it thinks fit.”
- (9) After paragraph 7 (revocation of recognition on grounds of fraud or error) –
- (a) in sub-paragraph (1) and (2) omit “corporate”, and
- (b) after sub-paragraph (2) insert –
- “(3) In relation to proceedings for the revocation of a recognition under sub-paragraph (1), the Discipline and Appeals Committee may make such order as they consider fit as to the payment of costs by –
- (a) the Council;
- (b) the body to whose recognition the proceedings relate.
- (4) In relation to proceedings on an application under sub-paragraph (2), the Discipline and Appeals Committee may make such order as they consider fit as to the payment of costs by –
- (a) the Council;
- (b) the applicant.”
- (10) In paragraph 8 (appeal against decision of Council in relation to grant of recognition), in sub-paragraph (1) omit “corporate”.
- (11) In paragraph 9 (rules of procedure etc) in sub-paragraph (1) –
- (a) for “, 2 and 3” substitute “and 2”, and
- (b) for “paragraph 4 or 5” substitute “paragraph 3A, 4 or 5”.
- (12) In paragraph 10 –
- (a) in sub-paragraph (1), in paragraph (a) after “recognised body” insert “or a manager of such a body”,

- (b) for paragraph (c) of that sub-paragraph substitute –
 “(c) a relevant insolvency event occurs in relation to a recognised body; or”,
- (c) in paragraph (d) of that sub-paragraph for “officer” substitute “manager”, 5
- (d) in that paragraph for “that body’s” to the end of the paragraph substitute –
 “(i) that body’s business,
 (ii) any trust of which that body is or was a trustee, 10
 (iii) any trust of which the manager or employee is or was a trustee in his capacity as such a manager or employee, or
 (iv) the business of another body in which the manager or employee is or was a manager or employee or the practice (or former practice) of the manager or employee;”, 15
- (e) after that paragraph insert “or
 (e) the Council is satisfied that it is necessary to exercise the powers conferred by Part 2 of Schedule 5 (or any of them) in relation to a recognised body to protect – 20
 (i) the interests of clients (or former or potential clients) of the recognised body,
 (ii) the interests of the beneficiaries of any trust of which the recognised body is or was a trustee, or 25
 (iii) the interests of the beneficiaries of any trust of which a person who is or was a manager or employee of the recognised body is or was a trustee in that person’s capacity as such a manager or employee,” 30
- (f) after sub-paragraph (1) insert –
 “(1A) For the purposes of this paragraph a relevant insolvency event occurs in relation to a recognised body if – 35
 (a) a resolution for a voluntary winding-up of the body is passed without a declaration of solvency under section 89 of the Insolvency Act 1986;
 (b) the body enters administration within the meaning of paragraph 1(2)(b) of Schedule B1 to that Act; 40
 (c) an administrative receiver within the meaning of section 251 of that Act is appointed;
 (d) a meeting of creditors is held in relation to the body under section 95 of that Act (creditors’ meeting which has the effect of converting a members’ voluntary winding up into a creditors’ voluntary winding up); 45
 (e) an order for the winding up of the body is made.”, and
- (g) omit sub-paragraph (2). 50

- (13) For paragraph 11(a) substitute—
- “(a) the Council is satisfied that there has been undue delay on the part of—
- (i) a recognised body in connection with any matter in which it is or was acting on behalf of a client or with any trust of which it is or was a trustee, or 5
- (ii) a person who is or was a manager or employee of a recognised body in connection with any trust of which he is or was a trustee in his capacity as such a manager or employee; and” 10
- (14) In paragraph 12(1) omit “corporate”.
- (15) In paragraph 13—
- (a) in paragraph (a) omit “corporate”, and
- (b) omit “and” at the end of paragraph (b) and after paragraph (c) insert— 15
- “(d) paragraph 6(2)(a) of that Schedule is to be construed as including a reference to sums of money held by or on behalf of the recognised body in connection with any trust of which a person who is or was manager or employee of that body is or was a trustee in his capacity as such a manager or employee; 20
- (e) paragraph 9 of that Schedule is to be construed—
- (i) as if sub-paragraph (1) included a reference to documents in the possession or under the control of the recognised body in connection with any trust of which a person who is or was a manager or employee of that body is or was a trustee in his capacity as such a manager or employee, and 25 30
- (ii) as applying to a person who is or was a manager or employee of the recognised body and documents and property in his possession or under his control in connection with such a trust as it applies to a recognised body and documents and property in the possession or under the control of that body; 35
- (f) paragraph 10A(1) of that Schedule is to be construed as including power for the Council to apply to the High Court for an order for the appointment of a new trustee to a trust in substitution for a person who is a trustee in his capacity as a manager or employee of the recognised body; and 40 45
- (g) paragraph 12A of that Schedule is to be read as if the references to a former partner were references—
- (i) in the case of a recognised body which is a partnership, to a former partner in the partnership, and 50

- (ii) in any other case to a manager or former manager of the recognised body.”
- (16) In paragraph 14 (examination of files) –
 - (a) in sub-paragraph (1) –
 - (i) omit “or complaint” (in each place), 5
 - (ii) omit “or (b)”,
 - (iii) after “(a)(ii)” insert “or (aa)(ii)”,
 - (iv) after “recognised body” insert “or manager or employee”, and
 - (v) for “body’s possession” substitute “in the possession, or under the control, of the body (or, as the case may be, manager or employee), and 10
 - (b) in sub-paragraph (2)(b) –
 - (i) for “and 12” substitute “to 12A”, and
 - (ii) after “body” insert “manager or employee”. 15
- (17) In paragraph 16 (interest on client’s money) –
 - (a) in sub-paragraph (1) –
 - (i) after “recognised bodies” insert “or managers or employees of such bodies,”,
 - (ii) after “recognised body” insert “, manager or employee”, 20
 - (iii) for “it keeps” substitute “it or he keeps”,
 - (iv) for “its clients” substitute “clients of the recognised body”, and
 - (v) after “received by it” insert “or him”, and
 - (b) in sub-paragraph (2), for “and any of its clients” substitute “, or any manager or employee of such a body, and any of the clients of the recognised body”. 25

Courts and Legal Services Act 1990 (c. 41)

- 28 (1) Schedule 8 to the Courts and Legal Services Act 1990 (licensed conveyancers) is amended as follows. 30
- (2) In paragraph 17 (inadequate professional services: failure to comply with direction), after sub-paragraph (2) insert –
 - “(3) In relation to proceedings before the Discipline and Appeals Committee in respect of such a complaint, the Committee may make such order as they consider fit as to the payment of costs by – 35
 - (a) the Council;
 - (b) the licensed conveyancer against whom the complaint was made;
 - (c) if the person on whose complaint the proceedings were brought was heard (in person, or through a representative) by the Committee in the course of the proceedings, that person.” 40
- (3) Omit paragraph 19(b) (inadequate professional services: costs).

SCHEDULE 18

Section 178

IMMIGRATION ADVICE AND IMMIGRATION SERVICES

PART 1

QUALIFYING REGULATORS

<i>Designation orders</i>	5
<p>1 In this Part of this Schedule “designation order” means an order made under section 86A(6) of the Immigration and Asylum Act 1999 (c. 33) (designated qualifying regulators entitled to authorise persons to provide immigration advice and immigration services).</p>	
<i>Application to become a qualifying regulator</i>	10
<p>2 (1) This paragraph applies where a body wishes to become a qualifying regulator for the purposes of Part 5 of the Immigration and Asylum Act 1999.</p> <p>(2) A body may apply to the Board for the Board –</p> <p style="padding-left: 20px;">(a) to designate the body as a qualifying regulator for those purposes, and</p> <p style="padding-left: 20px;">(b) to approve what the applicant proposes as its regulatory arrangements if a designation order is made (“the proposed regulatory arrangements”).</p> <p>(3) But a body may make an application under this paragraph only if –</p> <p style="padding-left: 20px;">(a) it is an approved regulator (other than the Board), or</p> <p style="padding-left: 20px;">(b) it has made an application under Part 2 of Schedule 4 (designation of approved regulators).</p> <p>(4) An application under this paragraph must be made in such form and manner as the Board may specify in rules and must be accompanied by –</p> <p style="padding-left: 20px;">(a) details of the applicant’s proposed regulatory arrangements,</p> <p style="padding-left: 20px;">(b) such explanatory material as the applicant considers is likely to be needed for the purposes of this Part of this Schedule, and</p> <p style="padding-left: 20px;">(c) the prescribed fee.</p> <p>(5) The prescribed fee is the fee prescribed in, or determined in accordance with, rules made by the Board with the consent of the Secretary of State.</p> <p>(6) An applicant may, at any time, withdraw the application by giving notice to that effect to the Board.</p>	<p>15</p> <p>20</p> <p>25</p> <p>30</p>
<i>Consultation and representations</i>	
<p>3 Paragraphs 4 to 12 of Schedule 4 (consultation requirements etc in relation to applications for designation as approved regulator) apply in relation to an application under paragraph 2 as they apply in relation to an application under paragraph 3 of that Schedule, but as if –</p> <p style="padding-left: 20px;">(a) in paragraphs 6(2), 7(2) and 9(3) of that Schedule the references to making an order under paragraph 17 in accordance with the</p>	<p>35</p> <p>40</p>

- recommendation were references to making a designation order in respect of the applicant, and
- (b) in paragraph 6(2) of that Schedule the reference to the market for reserved legal services were a reference to the market for immigration advice and immigration services. 5

Determination of application

- 4 (1) The Board must make rules specifying how it will determine applications under paragraph 2.
- (2) Rules under sub-paragraph (1) must, in particular, provide that the Board may grant an application only if it is satisfied – 10
- (a) that, if a designation order were to be made in relation to the applicant, the applicant would have appropriate internal governance arrangements in place at the time the order takes effect,
- (b) that, if such an order were made, the applicant would be competent to perform the role of designated qualifying regulator (within the meaning of section 86A of the Immigration and Asylum Act 1999 (c. 33)) at that time, 15
- (c) that the arrangements made by the applicant for authorising persons to provide immigration advice or immigration services provide that persons may not be so authorised unless they are individuals who are also authorised by the applicant to carry on activities which are reserved legal activities, 20
- (d) that the applicant’s proposed regulatory arrangements make appropriate provision, and
- (e) that the applicant’s proposed regulatory arrangements comply with the requirements imposed by sections 109 and 142 (requirements imposed in relation to the handling of complaints). 25
- (3) The rules made for the purposes of sub-paragraph (2)(a) must in particular require the Board to be satisfied – 30
- (a) that the exercise of the applicant’s regulatory functions would not be prejudiced by any of its representative functions, and
- (b) that decisions relating to the exercise of its regulatory functions would so far as reasonably practicable be taken independently from decisions relating to the exercise of its representative functions.
- 5 (1) After considering – 35
- (a) the application and accompanying material,
- (b) any other information provided by the applicant,
- (c) any advice duly given and representations duly made by virtue of paragraph 3, and
- (d) any other information which the Board considers relevant to the application, 40
- the Board must decide whether to grant the application.
- (2) The Board must give notice of its decision to the applicant (“the decision notice”).
- (3) Where the Board decides to refuse the application, the decision notice must specify the reasons for that decision. 45
- (4) The Board must publish the decision notice.

- (5) Paragraph 15 of Schedule 4 (period within which decision must be made) applies in relation to a decision notice under this paragraph as it applies in relation to a decision notice under paragraph 14 of that Schedule.

Effect of application

- 6 (1) Where an application is granted under paragraph 5, the decision notice must specify that the applicant is a qualifying regulator for the purposes of Part 5 of the Immigration and Asylum Act 1999 (c. 33). 5
- (2) Where an application is granted under paragraph 5, the proposed regulatory arrangements are at the same time treated as having been approved by the Board. 10
- (3) But if the application was made in reliance upon paragraph 2(3)(b), the applicant’s status as such a qualifying regulator and the approval of its proposed regulatory arrangements under sub-paragraph (2) are conditional upon the Secretary of State making an order under Part 2 of Schedule 4 designating the body as an approved regulator in relation to one or more reserved legal activities. 15

Loss of qualifying regulator status

- 7 (1) Where a qualifying regulator –
- (a) ceases to be an approved regulator, or
- (b) ceases to be a designated qualifying regulator within the meaning of section 86A of the Immigration and Asylum Act 1999 by virtue of an order under subsection (3) or (4) of that section, 20
- it also ceases to be a qualifying regulator.
- (2) But sub-paragraph (1) is without prejudice to a body’s ability to make a further application under paragraph 2. 25

PART 2

AMENDMENTS OF THE IMMIGRATION AND ASYLUM ACT 1999 (c. 33)

- 8 The Immigration and Asylum Act 1999 is amended in accordance with this Part of this Schedule.
- 9 In section 82(1) (interpretation of Part 5), after the definition of “designated professional body” insert – 30
- ““designated qualifying regulator” has the meaning given by section 86A;”.
- 10 In section 83 (the Immigration Services Commissioner), after subsection (6) insert – 35
- “(6A) The duties imposed on the Commissioner by subsections (3) and (5) apply in relation to persons within section 84(2)(ba) only to the extent that those duties have effect in relation to the Commissioner’s functions under section 92 or 92A.”
- 11 (1) Section 84 (provision of immigration services) is amended as follows. 40
- (2) In subsection (2) –

- (a) after paragraph (b) insert –
 “(ba) a person authorised to provide immigration advice or immigration services by a designated qualifying regulator,” and
- (b) in paragraph (c)(ii) after “(b)” insert “or (ba)”. 5
- (3) After subsection (3) insert –
 “(3A) A person’s entitlement to provide immigration advice or immigration services by virtue of subsection (2)(ba) –
 (a) is subject to any limitation on that person’s authorisation imposed by the regulatory arrangements of the designated qualifying regulator in question, and 10
 (b) does not extend to the provision of such advice or services by the person other than in England and Wales (regardless of whether the persons to whom they are provided are in England and Wales or elsewhere). 15
- (3B) In subsection (3A) “regulatory arrangements” has the same meaning as in the Legal Services Act 2007 (see section 20 of that Act).”
- 12 (1) Section 86 (designated professional bodies) is amended as follows.
(2) Omit subsections (1)(a), (d) and (e) and (4)(b).
(3) In subsection (5)(a) omit “England and Wales or”. 20
(4) In subsection (6) –
 (a) omit paragraph (a), and
 (b) in paragraph (b) for “it” substitute “the order”.
(5) In subsection (8) after “that a body” insert “(other than a body in England and Wales)”. 25
- 13 After section 86 insert –
“86A Designated qualifying regulators
(1) “Designated qualifying regulator” means a body which is a qualifying regulator and is listed in subsection (2).
(2) The listed bodies are – 30
 (a) the Law Society;
 (b) the Institute of Legal Executives;
 (c) the General Council of the Bar.
(3) The Secretary of State may by order remove a body from the list in subsection (2) if the Secretary of State considers that the body has failed to provide effective regulation of relevant authorised persons in their provision of immigration advice or immigration services. 35
(4) If a designated qualifying regulator asks the Secretary of State to amend subsection (2) so as to remove its name, the Secretary of State may by order do so. 40
(5) Where, at a time when a body is listed in subsection (2), the body ceases to be a qualifying regulator by virtue of paragraph 7(1)(a) of Schedule 18 to the Legal Services Act 2007 (loss of approved

- regulator status), the Secretary of State must, by order, remove it from the list.
- (6) If the Secretary of State considers that a body which –
- (a) is a qualifying regulator,
 - (b) is not a designated qualifying regulator, and 5
 - (c) is capable of providing effective regulation of relevant authorised persons in their provision of immigration advice or immigration services,
- ought to be designated, the Secretary of State may, by order, amend the list in subsection (2) to include the name of that body. 10
- (7) If the Secretary of State is proposing to act under subsection (3) or (6), the Secretary of State must, before doing so, consult the Commissioner.
- (8) If the Secretary of State is proposing to act under subsection (3), the Secretary of State must, before doing so, also – 15
- (a) notify the body concerned of the proposal and give it a reasonable period within which to make representations, and
 - (b) consider any representations duly made.
- (9) An order under subsection (3) or (6) requires the approval of the Lord Chancellor. 20
- (10) If the Legal Services Board considers that a designated qualifying regulator is failing to provide effective regulation of relevant authorised persons in their provision of immigration advice or immigration services, the Legal Services Board must make a report to this effect to – 25
- (a) the Secretary of State, and
 - (b) the Lord Chancellor.
- (11) In this section –
- “qualifying regulator” means a body which is a qualifying regulator for the purposes of this Part of this Act by virtue of Part 1 of Schedule 18 to the Legal Services Act 2007 (approved regulators approved by the Legal Services Board in relation to immigration matters); 30
 - “relevant authorised persons”, in relation to a designated qualifying regulator, means persons who are authorised by the designated qualifying regulator to provide immigration advice or immigration services.” 35
- 14 (1) Section 90 (orders by disciplinary bodies) is amended as follows.
- (2) In subsection (2), for paragraph (a) substitute – 40
- “(a) appearing to the Secretary of State to be established for the purpose of hearing disciplinary charges against –
 - (i) members of a designated professional body, or
 - (ii) persons regulated by designated qualifying regulators; and”.
- (3) In subsection (3) after “body” insert “or designated qualifying regulator”. 45
- (4) In subsection (5) –

- (a) after “means” insert “–
“ (a) ”, and
- (b) after “that body” insert “, or
(b) a person who is authorised by the designated
qualifying regulator concerned to provide
immigration advice or immigration services.” 5
- 15 In section 166(4) (orders requiring approval by Parliament), after paragraph
(d) insert –
“(da) section 86A(3),”.
- 16 (1) Schedule 5 (the Immigration Services Commissioner) is amended as follows. 10
- (2) In paragraph 3 (code of standards) –
- (a) after sub-paragraph (3)(a) insert –
“ (aa) a person who is authorised by a
designated qualifying regulator to
provide immigration advice or
immigration services;”, 15
- (b) in sub-paragraph (3)(b) after “paragraph (a)” insert “or (aa)”,
- (c) after sub-paragraph (6)(a) insert –
“ (aa) each of the designated qualifying
regulators;”, and 20
- (d) omit sub-paragraph (6)(b).
- (3) In paragraph 4 (extension of scope of the code) –
- (a) omit sub-paragraph (2)(b),
- (b) in sub-paragraph (3)(a) omit “England and Wales or”, and
- (c) omit sub-paragraph (4)(a). 25
- (4) In paragraph 5 (investigation of complaints) –
- (a) in sub-paragraph (3), for the words from “but” to the end
substitute –
“but not if the complaint is excluded by sub-paragraph
(3A).”, 30
- (b) after that sub-paragraph insert –
“(3A) A complaint is excluded if –
- (a) it relates to a person who is excluded from the
application of subsection (1) of section 84 by
subsection (6) of that section, or 35
- (b) it relates to a person within section 84(2)(ba).”

PART 3

TRANSITIONAL PROVISION

The transitional period

- 17 (1) In this Part of this Schedule references to “the transitional period” are to the 40
period which –
- (a) begins with the day appointed for the coming into force of section 13
(entitlement to carry on reserved legal activities), and

- (b) ends with the day appointed by the Secretary of State by order for the purposes of this paragraph.
- (2) Different days may be appointed under sub-paragraph (1)(b) for different purposes.
- (3) An order may be made under sub-paragraph (1)(b) only on the recommendation of the Board. 5
- Barristers*
- 18 (1) During the transitional period, every barrister is deemed to be authorised by the General Council of the Bar to provide immigration advice and immigration services. 10
- (2) That authority is exercisable in accordance with, and subject to, the regulatory arrangements of the General Council of the Bar.
- (3) A person is not authorised under sub-paragraph (1) unless the person has in force a certificate issued by the General Council of the Bar authorising the person to practise as a barrister. 15
- 19 (1) During the transitional period, every registered European lawyer registered with the Inns of Court and the General Council of the Bar is deemed to be authorised by the General Council of the Bar to provide immigration advice and immigration services if the registered European lawyer is entitled to provide immigration advice and immigration services under his home professional title by virtue of the European regulations. 20
- (2) That authority is exercisable in accordance with, and subject to, the regulatory arrangements of the General Council of the Bar (as they apply to the registered European lawyer by virtue of the European regulations).
- (3) In this paragraph – 25
 “European regulations” means the European Communities (Lawyer’s Practice) Regulations 2000 (S.I. 2000/1119);
 “home professional title” and “registered European lawyer” have the same meaning as in the European regulations.
- Solicitors* 30
- 20 (1) During the transitional period, every qualified solicitor is deemed to be authorised by the Law Society to provide immigration advice and immigration services.
- (2) That authority is exercisable in accordance with, and subject to, the regulatory arrangements of the Law Society. 35
- (3) “Qualified solicitor” means a person who is qualified under section 1 of the Solicitors Act 1974 (c. 47) to act as a solicitor.
- 21 (1) During the transitional period, every registered European lawyer registered with the Law Society is deemed to be authorised by the Law Society to provide immigration advice and immigration services if the registered European lawyer is entitled to provide immigration advice and immigration services under his home professional title by virtue of the European regulations. 40

(2) That authority is exercisable in accordance with, and subject to, the regulatory arrangements of the Law Society (as they apply to the registered European lawyer by virtue of the European regulations).

(3) In this paragraph –

“European regulations” means the European Communities (Lawyer’s Practice) Regulations 2000 (S.I. 2000/1119); 5

“home professional title” and “registered European lawyer” have the same meaning as in the European regulations.

Legal Executives

22 (1) During the transitional period, a person who is authorised by the Institute of Legal Executives to practise as a member of the profession of legal executives is deemed to be authorised by that Institute to provide immigration advice and immigration services. 10

(2) That authority is exercisable in accordance with and subject to the regulatory arrangements of the Institute of Legal Executives. 15

(3) A person is not authorised under sub-paragraph (1) unless the person has in force a certificate issued by the Institute of Legal Executives authorising the person to practise as a legal executive.

SCHEDULE 19

Section 179

CLAIMS MANAGEMENT SERVICES 20

1 The Compensation Act 2006 (c. 29) is amended in accordance with this Schedule.

2 (1) Section 4 (provision of regulated claims management services) is amended as follows.

(2) After subsection (2) insert – 25

“(2A) The Secretary of State may not make an order under subsection (2)(e) unless –

(a) it is made in accordance with a recommendation made by the Legal Services Board, or

(b) the Secretary of State has consulted the Legal Services Board about the making of the order.” 30

3 (1) Section 5 (the Regulator) is amended as follows.

(2) After subsection (1) insert –

“(1A) The Secretary of State may designate a person only on the recommendation of the Legal Services Board.” 35

(3) In subsection (2) for “The Secretary of State may designate a person” substitute “The Legal Services Board may recommend a person for designation”.

(4) Omit subsection (3).

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- (5) In subsection (4) –
- (a) in paragraphs (a), (b), (d) and (e) for “Secretary of State” substitute “Legal Services Board”, and
 - (b) omit paragraph (c).
- (6) In subsection (8) after “may” insert “, on the recommendation of the Legal Services Board,”. 5
- (7) In subsection (9) for “Secretary of State” substitute “Legal Services Board”.
- (8) In subsection (10) –
- (a) after “may” insert “, on the recommendation of the Legal Services Board,”, and 10
 - (b) for “Secretary of State” (in the second place) substitute “Legal Services Board”.
- (9) After that subsection insert –
- “(11) In discharging any function by virtue of subsection (9) or (10), the Legal Services Board must take such steps as are necessary to ensure an appropriate financial and organisational separation between the activities of the Board that relate to the carrying out of those functions and the other activities of the Board.” 15
- 4 In section 6 (exemptions) after subsection (3) insert –
- “(3A) The Secretary of State may not make an order under subsection (1) or (2) unless – 20
- (a) it is made in accordance with a recommendation made by the Legal Services Board, or
 - (b) the Secretary of State has consulted the Legal Services Board about the making of the order.” 25
- 5 (1) Section 7 (enforcement: offence) is amended as follows.
- (2) In subsection (2)(b) –
- (a) in sub-paragraph (i) for “51 weeks” substitute “12 months”, and
 - (b) in sub-paragraph (ii) for “level 5 on the standard scale” substitute “the statutory maximum”. 30
- (3) For subsection (3) substitute –
- “(3) In relation to an offence committed before the commencement of section 154(1) of the Criminal Justice Act 2003 the reference in subsection (2)(b)(i) to 12 months is to be read as a reference to 6 months.” 35
- 6 (1) Section 8 (enforcement: the Regulator) is amended as follows.
- (2) In subsection (5) –
- (a) after “the Regulator” (in the second place) insert “ –
(a) ”, and
 - (b) after “Part” insert “, and 40
(b) to take possession of any written or electronic records found on the search for the purposes of subsection

- (6).”
- (3) After subsection (8) insert –
- “(9) The Secretary of State may not make regulations under subsection (8) unless –
- (a) they are made in accordance with a recommendation made by the Legal Services Board, or
- (b) the Secretary of State has consulted the Legal Services Board about the making of the regulations.”
- 7 In section 9 (regulations), after subsection (2) insert –
- “(2A) The Secretary of State may not make regulations under this section unless –
- (a) they are made in accordance with a recommendation made by the Legal Services Board, or
- (b) the Secretary of State has consulted the Legal Services Board about the making of the regulations.”
- 8 (1) Section 11 (pretending to be authorised etc) is amended as follows.
- (2) In subsection (4)(b) –
- (a) in sub-paragraph (i) for “51 weeks” substitute “12 months”, and
- (b) in sub-paragraph (ii) for “level 5 on the standard scale” substitute “the statutory maximum”.
- (3) For subsection (6) substitute –
- “(6) In relation to an offence committed before the commencement of section 154(1) of the Criminal Justice Act 2003 the reference in subsection (4)(b)(i) to 12 months is to be read as a reference to 6 months.”
- 9 In section 13 (appeals and references to Claims Management Services Tribunal), in subsection (4) for “against” substitute “on a point of law arising from”.
- 10 In section 14 (interpretation), in the definition of “the Regulator” for “Secretary of State” substitute “Legal Services Board”.
- 11 (1) The Schedule (claims management regulations) is amended as follows.
- (2) In paragraph 5(3)(a) for “, guidance or a code given or issued” substitute “or guidance given”.
- (3) In paragraph 7 –
- (a) in paragraph (e) for “Secretary of State” substitute “Legal Services Board”,
- (b) in paragraph (g) –
- (i) for “Secretary of State” substitute “Legal Services Board”, and
- (ii) after “Fund” insert “after consultation with the Secretary of State”.
- (4) In paragraph 8(2)(a)(ii) for “Secretary of State” substitute “Legal Services Board”.

- (5) In paragraph 9(2)(a)(ii) for “Secretary of State” substitute “Legal Services Board”.
- (6) In paragraph 14, in sub-paragraph (2) for “to enter” to the end substitute –
- “(a) to enter and search premises on which a person conducts or is alleged to conduct regulated claims management business, for the purposes of –
 - (i) investigating a complaint about the activities of an authorised person, or
 - (ii) assessing compliance with terms and conditions of an authorisation, and
 - (b) to take possession of written or electronic records found on the search for the purposes of taking copies in accordance with regulations under sub-paragraph (3).”

SCHEDULE 20

Section 186

AMENDMENTS IN RELATION TO THE LEGAL PROFESSION AND LEGAL AID (SCOTLAND) ACT 2006 15

Solicitors (Scotland) Act 1980 (c. 46)

- 1 (1) The Solicitors (Scotland) Act 1980 is amended as follows.
- (2) In section 3A(5), omit paragraphs (a) and (ad).
- (3) In section 15(2) – 20
- (a) in paragraph (e), for “38” substitute “62A”, and
 - (b) omit paragraph (j).
- (4) In section 20(2), omit “, 53A(2)(ba)”.
- (5) In section 24C(2) – 25
- (a) in paragraph (d), for “38” substitute “62A”, and
 - (b) omit paragraph (i).
- (6) In section 34, omit subsections (4), (4C) and (4D).
- (7) Omit sections 38, 39, 42A and 42B.
- (8) In section 42C – 30
- (a) in subsection (1) –
 - (i) omit paragraphs (a) and (c),
 - (ii) omit “to the solicitor or his firm or”, and
 - (iii) omit “or, where” to the end,
 - (b) in subsection (2), in paragraphs (a) and (b) omit (in each place) “solicitor, firm or”, 35
 - (c) in subsection (3) –
 - (i) in paragraph (a), omit “the solicitor or his firm or, as the case may be,”,
 - (ii) in paragraph (b), omit “of which the solicitor” to “be,”,
 - (d) in subsection (4), omit (in each place) “38,”, and 40
 - (e) omit subsection (5).

- (9) In section 51 –
- (a) in subsection (2) –
 - (i) omit “a solicitor may have been guilty” to “Fund) or”, and
 - (ii) omit “or a solicitor” to “services”, and
 - (b) omit subsection (2A). 5
- (10) In section 52, in subsection (2)(aa) omit “42A(7) or”.
- (11) In section 53, omit subsections (3), (8A) and (8B).
- (12) Omit sections 53A, 53B and 53C.
- (13) In section 54, omit subsections (1), (2B) and (2C).
- (14) In section 55, omit subsection (8). 10
- (15) Omit section 56A.
- (16) In section 62A, in subsections (1) and (2) omit (in each place) “38,”.
- (17) In section 65 –
- (a) in subsection (1), omit the definition of “inadequate professional services”, and
 - (b) omit subsection (5). 15
- (18) In Part 2 of Schedule 3, in paragraph 5(1), (2) and (3) omit (in each place) “38,”.
- (19) In Part 2 of Schedule 4 –
- (a) in paragraph 9(a) and (b), omit (in each place) “or, as the case may be, of provision of inadequate professional services”,
 - (b) in paragraph 16, omit sub-paragraphs (f) and (g), and
 - (c) in paragraph 23, omit “, 42A(7)”.
- (20) In the side-note to section 62A, omit “38,”.
- Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40)* 25
- 2 In the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990, omit section 33.

SCHEDULE 21

Section 198

MINOR AND CONSEQUENTIAL AMENDMENTS

- Commissioners for Oaths Act 1889 (c. 10)* 30
- 1 In section 1 of the Commissioners for Oaths Act 1889, in subsection (3) omit from “in which” (in the first place) to “solicitor, or”.
- Race Relations Act 1976 (c. 74)*
- 2 In Schedule 1A to the Race Relations Act 1976 (bodies and other persons subject to general statutory duty), in Part 2, in the entry for the Chartered Institute of Patent Agents, for “Agents” substitute “Attorneys”. 35

Patents Act 1977 (c. 37)

- 3 In section 102 of the Patents Act 1977 (rights of audience etc in proceedings before the comptroller) –
- (a) after subsection (2) insert –
- “(2A) For the purposes of subsection (2), as it has effect in relation to England and Wales, “the enactment relating to the preparation of documents by persons not qualified” means section 14 of the Legal Services Act 2007 (offence to carry on a reserved legal activity if not entitled) as it applies in relation to an activity which amounts to the carrying on of reserved instrument activities within the meaning of that Act.”
- (b) for subsection (5) substitute –
- “(5) Nothing in this section is to be taken to limit any entitlement to prepare deeds conferred on a registered patent attorney by virtue of the Legal Services Act 2007.”

Copyright, Designs and Patents Act 1988 (c. 48)

- 4 The Copyright, Designs and Patents Act 1988 is amended in accordance with paragraphs 5 to 9.
- 5 In section 276 (persons entitled to describe themselves as patent agents) –
- (a) in subsection (1) for “registered patent agent” substitute “registered patent attorney”,
- (b) in subsection (4) for “agent” (in the second place) substitute “attorney”.
- 6 In section 280 (privilege for communications with patent agents) –
- (a) in subsection (2) for “agent” (in both places) substitute “attorney”, and
- (b) in subsection (3) –
- (i) for “agent” (in each place) substitute “attorney”, and
- (ii) for “agents” substitute “attorneys”.
- 7 In section 281 (power of comptroller to refuse to deal with certain agents) in subsection (2) for “agents” (in both places) substitute “attorneys”.
- 8 In section 286 (interpretation) –
- (a) for “agent” substitute “attorney”, and
- (b) for “(1)” substitute “(2)”.
- 9 Omit section 292.

Trade Marks Act 1994 (c. 26)

- 10 The Trade Marks Act 1994 is amended in accordance with paragraphs 11 to 16.
- 11 In section 52 (power to make provision in connection with Community trade mark regulation), in subsection (3)(b) for “trade mark agents and registered trade mark agents” substitute “trade mark attorneys and registered trade mark attorneys”.

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- | | | |
|----|--|----|
| 12 | In section 84 (unregistered persons not to be described as registered trade mark agents) – | |
| | (a) in subsection (1) – | |
| | (i) for “agent” (in the first place) substitute “attorney”, | |
| | (ii) in paragraph (a) after “agent” insert “or registered trade mark attorney”, and | 5 |
| | (iii) in paragraph (b) after “agent” insert “or a registered trade mark attorney”, | |
| | (b) in subsection (2) – | |
| | (i) in paragraph (a) after “agent” insert “or registered trade mark attorney”, and | 10 |
| | (ii) in paragraph (b) after “agents” insert “or registered trade mark attorneys”, | |
| | (c) in subsection (3) – | |
| | (i) in paragraph (a) after “agent” insert “or registered trade mark attorney”, and | 15 |
| | (ii) in paragraph (b) after “agent” insert “or a registered trade mark attorney”. | |
| 13 | In section 86 (use of the term “trade mark attorney”) in subsection (1) for “agent” substitute “attorney”. | 20 |
| 14 | In section 87 (privilege for communications with registered trade mark agents) – | |
| | (a) in subsection (2) for “agent” (in both places) substitute “attorney”, and | |
| | (b) in subsection (3) – | 25 |
| | (i) for “agent” (in each place) substitute “attorney”, and | |
| | (ii) for “agents” substitute “attorneys”. | |
| 15 | In section 88 (power of registrar to refuse to deal with certain agents) – | |
| | (a) in paragraph (b) for “agents” substitute “attorneys”, and | |
| | (b) in paragraph (c) for “agents” substitute “attorneys”. | 30 |
| 16 | In section 104 (index of defined expressions, in the entry for “registered trade mark agent” – | |
| | (a) for “agent” substitute “attorney”, and | |
| | (b) for “(1)” substitute “(2)”. | |
| | <i>Access to Justice Act 1999 (c. 22)</i> | 35 |
| 17 | In section 46 of the Access to Justice Act 1999 (Bar practising certificates) – | |
| | (a) omit subsection (2)(b) and the “but” immediately preceding it, and | |
| | (b) omit subsections (3) to (6). | |
| | <i>Income Tax (Earnings and Pensions) Act 2003 (c. 1)</i> | |
| 18 | In section 343 of the Income Tax (Earnings and Pensions) Act 2003 (deduction for professional membership fees), in the table in subsection (2) – | 40 |
| | (a) for “patent agent” and “patent agents” (in each place) substitute “patent attorney” and “patent attorneys” respectively, and | |

- (b) for “trade mark agent” and “trade mark agents” (in each place) substitute “trade mark attorney” and “trade mark attorneys” respectively.

SCHEDULE 22

Section 199

TRANSITIONAL PROVISION

5

Approved regulators

- 1 (1) Sub-paragraph (2) applies where during the pre-commencement period –
- (a) an Order in Council is made designating a body as an authorised body for the purposes of section 27 of the Courts and Legal Services Act 1990 (c. 41) (rights of audience) and that body’s qualification regulations and rules of conduct (within the meaning of that section) have been approved for the purposes of that section, 10
 - (b) an Order in Council is made designating a body as an authorised body for the purposes of section 28 of that Act (right to conduct litigation) and that body’s qualification regulations and rules of conduct (within the meaning of that section) have been approved for the purposes of that section, 15
 - (c) an order is made under paragraph 4 of Schedule 9 to that Act (approval of body to grant exemption from prohibition on preparation of probate papers etc), or 20
 - (d) regulations are made prescribing a body for the purposes of section 113 of that Act (administration of oaths and taking of affidavits).
- (2) The Secretary of State may by order modify the Table in paragraph 1 of Schedule 4 (existing regulators) so as –
- (a) to insert, in the first column, a reference to the body and, in the second column, a reference to the relevant activities, or 25
 - (b) if the body is already listed in the first column, to add a reference to the relevant activities to the corresponding entry in the second column.
- (3) Sub-paragraph (4) applies where during the pre-commencement period –
- (a) an Order in Council is made revoking the designation of a body as an authorised body for the purposes of section 27 of the Courts and Legal Services Act 1990, 30
 - (b) an Order in Council is made revoking the designation of a body as an authorised body for the purposes of section 28 of that Act, 35
 - (c) an order is made under paragraph 6 of Schedule 9 to that Act revoking a body’s approval, or
 - (d) regulations prescribing a body for the purposes of section 113 of that Act are revoked.
- (4) The Secretary of State may by order modify the Table in paragraph 1 of Schedule 4 so as to –
- (a) remove any reference to the relevant activities from the entry in the second column of that Table corresponding to the entry for the body in the first column, and

- (b) if there are no other activities in that entry in the second column, remove the reference to the body from the first column of that Table.
- (5) An order under sub-paragraph (2) in relation to a body may –
- (a) in a case within sub-paragraph (1)(a) or (b), modify Part 1 of Schedule 5 (authorised persons: continuity of rights) so as to ensure the continuity of any authority given by the body to a person to exercise rights of audience or, as the case may be, to conduct litigation; 5
 - (b) in a case within sub-paragraph (1)(c), modify Part 1 of that Schedule (authorised persons: continuity of rights) to provide for exemptions granted by a body by virtue of section 55 of the Courts and Legal Services Act 1990 (c. 41) (persons exempt from prohibition on preparation of probate papers etc) which have effect immediately before paragraph 1 of Schedule 4 comes into force to be deemed to be authorisations to carry on probate activities granted by that body at the time that paragraph comes into force; 10 15
 - (c) in a case within sub-paragraph (1)(d), modify that Part, to provide during the transitional period for members of the body to be deemed to be authorised by the body to carry on the administration of oaths.
- (6) An order under sub-paragraph (4) in relation to a body may – 20
- (a) in a case within sub-paragraph (3)(a) or (b), modify Part 1 of Schedule 5 (authorised persons: continuity of rights) so as to remove provision made to ensure the continuity of any authority given by the body to a person to exercise rights of audience or, as the case may be, to conduct litigation; 25
 - (b) in a case within sub-paragraph (3)(c), modify Part 2 of that Schedule so as to remove any provision deeming persons to have been authorised by the body to carry on probate activities;
 - (c) in a case within sub-paragraph (3)(d), modify that Part so as to remove any provision deeming persons to have been authorised by the body to carry on the administration of oaths. 30
- (7) No order under this paragraph may be made after the end of the pre-commencement period.
- (8) In this paragraph –
- “pre-commencement period” means the period before the coming into force of paragraph 1 of Schedule 4 (including any period before the passing of this Act); 35
 - “relevant activities” means –
 - (a) in a case within sub-paragraph (1)(a) or (3)(a), the exercise of a right of audience; 40
 - (b) in a case within sub-paragraph (1)(b) or (3)(b), the conduct of litigation;
 - (c) in a case within sub-paragraph (1)(c) or (3)(c), probate activities;
 - (d) in a case within sub-paragraph (1)(d) or (3)(d), the administration of oaths; 45
 - “the transitional period” has the meaning given by paragraph 3 of Schedule 5.

Licensed Conveyancers

- 2 (1) In this paragraph the transitional period means the period which—
- (a) begins with the day on which paragraph 24 of Schedule 17 (which amends Schedule 3 to the Administration of Justice Act 1985 (c. 61)) comes into force, and 5
 - (b) ends with the day on which members of the new Council are first appointed in accordance with a scheme approved by the Legal Services Board under Schedule 3 to that Act (as amended by that paragraph).
- (2) During the transitional period, the Council for Licensed Conveyancers is to be constituted in accordance with Schedule 3 to that Act as it had effect immediately before paragraph 24 of Schedule 17 came into force. 10
- (3) The term of office of persons who are members of the Council for Licensed Conveyancers by virtue of sub-paragraph (2) immediately before the end of the transitional period ends at the same time as the transitional period. 15
- 3 (1) This paragraph applies to any licence issued by the Council for Licensed Conveyancers under section 15 of the Administration of Justice Act 1985 which—
- (a) is endorsed under section 15(7) of that Act, and
 - (b) is in force when paragraph 4(4) of Schedule 17 (which repeals subsections (7) and (8) of section 15 of that Act (endorsement of licences)) comes into force. 20
- (2) Notwithstanding the repeal of those subsections, until the licence expires—
- (a) the licence continues to have effect in accordance with the endorsement, and 25
 - (b) rules made under section 15(8) continue to have effect in relation to the licence.

Interim Chief Executive of the OLC

- 4 (1) The Secretary of State may appoint a person as the Interim Chief Executive of the OLC. 30
- (2) The Interim Chief Executive is to be—
- (a) appointed on terms and conditions determined by the Secretary of State, and
 - (b) paid by the Secretary of State in accordance with provision made by or under the terms of appointment. 35
- (3) Appointment as the Interim Chief Executive does not confer the status of Crown servant.
- (4) In this paragraph—
- “the first interim period” means the period which—
 - (a) begins when sub-paragraph (5) comes into force, and 40
 - (b) ends when the membership of the Board is first constituted in accordance with paragraph 1 of Schedule 1; - “the second interim period” means the period which—
 - (a) begins when the membership of the Board is first constituted in accordance with paragraph 1 of Schedule 1, and 45

- (b) ends when the membership of the OLC is first constituted in accordance with paragraph 1 of Schedule 15.
- (5) The Interim Chief Executive may incur expenditure and do other things in the name of and on behalf of the OLC –
- (a) from the beginning of the first interim period, and 5
 - (b) after that time until the OLC determines otherwise.
- (6) The things which may be done under sub-paragraph (5) –
- (a) include the appointment of staff under paragraph 11 of Schedule 15 and making arrangements for assistance under paragraph 15 of that Schedule, but 10
 - (b) do not include the appointment of an ombudsman under section 119 or the making of scheme rules.
- (7) During the first interim period, the Interim Chief Executive must comply with any supervisory directions given by the Secretary of State.
- (8) During the second interim period, the Interim Chief Executive must comply with any supervisory directions given by the Board. 15
- (9) The supervisory directions are –
- (a) a direction requiring the Interim Chief Executive to provide the person giving the direction with a report on, or information relating to, such matters as are specified in the direction; 20
 - (b) a direction requiring the Interim Chief Executive to obtain the approval of the person giving the direction before incurring expenditure in such circumstances as are specified in the direction;
 - (c) any other direction relating to the exercise of the Interim Chief Executive’s functions which the person giving the direction considers appropriate. 25
- (10) Paragraph 31 of Schedule 15 (exemption from liability in damages) applies to the Interim Chief Executive as it applies to a member of the OLC.

Solicitors

- 5 (1) Until such time as section 59(1) of the Constitutional Reform Act 2005 (c. 4) comes into force, the reference in section 197(1), in the definition of “solicitor”, to the Senior Courts is to be read as a reference to the Supreme Court. 30
- (2) Until such time as section 59(2) of that Act (renaming of Supreme Court of Judicature of Northern Ireland as Court of Judicature of Northern Ireland) comes into force, the references in sections 8(5) and 182(5)(e), paragraph 2(4)(f) of Schedule 1, paragraphs 1(10) and 2(6) of Schedule 3 and paragraph 2(3)(e) of Schedule 15 to the Court of Judicature of Northern Ireland are to be read as references to the Supreme Court of Judicature of Northern Ireland. 40

Recognised bodies

- 6 (1) During the transitional period, any reference in sections 9, 9A, 32 or 32A of, and Schedule 2 or 6 to, the Administration of Justice Act 1985 (c. 61) (recognition of legal services bodies and conveyancing services bodies) to an authorised person is to be read as a reference to – 45

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- | | | |
|-----|--|----|
| (a) | a person who has in force a certificate issued by the General Council of the Bar authorising the person to practise as a barrister, | |
| (b) | a person who is qualified under section 1 of the Solicitors Act 1974 (c. 47) to act as a solicitor, | |
| (c) | a recognised body under section 9 of the Administration of Justice Act 1985 (c. 61), | 5 |
| (d) | a registered European lawyer (within the meaning of the European Communities (Lawyer's Practice) Regulations 2000 (S.I. 2000/1119), | |
| (e) | a person who has in force a certificate issued by the Institute of Legal Executives authorising the person to practise as a legal executive, | 10 |
| (f) | licensed conveyancers (within the meaning of section 11(2) of the Administration of Justice Act 1985), | |
| (g) | a recognised body under section 32 of that Act (other than a licensable body), | |
| (h) | a duly certificated notary (within the meaning of paragraph 12(4) of Schedule 5), | 15 |
| (i) | a registered patent attorney within the meaning given by section 275(1) of the Copyright, Designs and Patents Act 1988 (c. 48), | |
| (j) | a patent attorney body (within the meaning of paragraph 13(7) of Schedule 5), other than a licensable body, | 20 |
| (k) | a registered trade mark attorney within the meaning of the Trade Marks Act 1994 (c. 26), or | |
| (l) | a trade mark body (within the meaning of paragraph 15(7) of Schedule 5), other than a licensable body. | |
| (2) | For this purpose “the transitional period” means the period which— | 25 |
| (a) | begins with the day on which sections 9, 9A, 32 and 32A of the Administration of Justice Act 1985 (as amended and substituted by Schedule 16) come into force, and | |
| (b) | ends with the day appointed for the coming into force of section 13 (entitlement to carry on a reserved legal activity). | 30 |

SCHEDULE 23

Section 200

REPEALS

<i>Short title and chapter</i>	<i>Extent of repeal</i>	
Commissioners for Oaths Act 1889 (c. 10)	In section 1(3), from “in which” (in the first place) to “solicitor, or”.	5
Public Records Act 1958 (c. 51)	In Schedule 1, “The Legal Services Ombudsman.”	
Parliamentary Commissioner Act 1967 (c. 13)	In Schedule 2, “The Legal Services Complaints Commissioner.”	
Solicitors Act 1974 (c. 47)	In section 1A(c), “by the Council of the Law Society”.	10
	In section 2 –	
	(a) in subsection (1), “, with the concurrence of the Secretary of State, the Lord Chief Justice and the Master of the Rolls,”,	15
	(b) in subsection (3)(a)(i), “, whether by service under articles or otherwise,”,	
	(c) in subsection (3)(a)(v), “articles may be discharged or”, and	
	(d) subsections (4) and (5).	20
	Section 6(2) to (4).	
	Section 8(5).	
	Section 12.	
	Section 12A.	
	Section 14.	25
	In section 17(1) and (2), “in the London Gazette”.	
	Section 19.	
	Sections 22 to 23.	
	In section 26, “, 22 or 23”.	30
	Section 27.	
	In section 28 –	
	(a) in subsection (1), “, with the concurrence of the Secretary of State and the Lord Chief Justice,”,	35
	(b) in subsection (1)(c), “and applications for them”, and	
	(c) subsections (2) and (3),	
	(d) in subsection (3A), the “and” at the end of paragraph (b), and	40
	(e) subsections (4) and (5).	
	In section 31 –	
	(a) in subsection (1) “, with the concurrence of the Master of the Rolls,”, and	
	(b) subsections (3) and (4).	45
	In section 32(1) –	
	(a) “, with the concurrence of the Master of the Rolls,”, and	
	(b) from “and the rules” to the end.	
	Section 32(2).	50

<i>Short title and chapter</i>	<i>Extent of repeal</i>	
Solicitors Act 1974 (c. 47) – <i>cont.</i>	In section 32(4) “or (2)”.	
	Section 32(6).	
	In section 33A(1) “, with the concurrence of the Master of the Rolls,”.	5
	Section 34(7) and (8).	
	Section 37A.	
	Section 40.	
	Section 41(5).	
	In section 43(5) –	10
	(a) “by any solicitor”, and	
	(b) from “but” to the end.	
	Section 44B(1)(c).	
	Section 46(6) to (8).	
	In section 46(9) “, with the concurrence of the Master of the Rolls,”.	15
	In section 47 –	
	(a) in subsection (2)(c), “not exceeding £5,000”, and	
	(b) subsections (4) and (5).	20
	In section 49(4) “and the Master of the Rolls”.	
	Section 49(7).	
	Section 70(11).	
	Sections 76 to 78.	
	Section 80(2).	25
	Sections 81 and 81A.	
	In section 87(1) the definitions of –	
	(a) “articles”,	
	(b) “controlled trust”,	
	(c) “employee”,	30
	(d) “indemnity conditions”, and	
	(e) “training conditions”.	
	In Schedule 1, paragraph 1(2).	
	Schedule 1A.	
	In Schedule 2, in paragraph 2(1)(b), from “of such amount” to the end.	35
House of Commons Disqualification Act 1975 (c. 24)	In Part 3 of Schedule 1, “The Legal Services Complaints Commissioner.”, and “The Legal Services Ombudsman.”	
Northern Ireland Assembly Disqualification Act 1975 (c. 25)	In Part 3 of Schedule 1, “The Legal Services Complaints Commissioner.”, and “The Legal Services Ombudsman.”	40
Patents Act 1977 (c. 37)	Section 102A.	
Solicitors (Scotland) Act 1980 (c. 46)	Section 3A(5)(a) and (ad).	
	Section 15(2)(j).	45
	In section 20(2) “, 53A(2)(ba)”.	
	Section 24C(2)(i).	
	Section 34(4), (4C) and (4D).	
	Sections 38, 39, 42A and 42B.	
	In section 42C(1) –	50
	(a) paragraphs (a) and (c),	
	(b) “to the solicitor or his firm or”, and	
	(c) “or, where” to the end.	

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Solicitors (Scotland) Act 1980 (c. 46) – <i>cont.</i>	<p>In section 42C(2)(a) and (b) “solicitor, firm or” (in each place).</p> <p>In section 42C(3) –</p> <p style="padding-left: 2em;">(a) in paragraph (a) “the solicitor or his firm or, as the case may be,” and</p> <p style="padding-left: 2em;">(b) in paragraph (b) from “of which the solicitor” to “be.”</p> <p>In section 42C(4) “38,” (in each place).</p> <p>Section 42C(5).</p> <p>In section 51(2) –</p> <p style="padding-left: 2em;">(a) “a solicitor may have been guilty” to “Fund) or”, and</p> <p style="padding-left: 2em;">(b) “or a solicitor” to “services”.</p> <p>Section 51(2A).</p> <p>In section 52(2)(aa) “42A(7) or”.</p> <p>Section 53(3), (8A) and (8B).</p> <p>Sections 53A, 53B and 53C.</p> <p>Section 54(1), (2B) and (2C).</p> <p>Section 55(8).</p> <p>Section 56A.</p> <p>In section 62A(1) and (2) “38,” (in each place).</p> <p>In section 65 –</p> <p style="padding-left: 2em;">(a) in subsection (1), the definition of “inadequate professional services”, and</p> <p style="padding-left: 2em;">(b) subsection (5).</p> <p>In Schedule 3, in Part 2, in paragraph 5(1), (2) and (3) “38,” (in each place).</p> <p>In Schedule 4, in Part 2 –</p> <p style="padding-left: 2em;">(a) in paragraph 9(a) and (b) “or, as the case may be, of provision of inadequate professional services” (in each place),</p> <p style="padding-left: 2em;">(b) paragraph 16(f) and (g), and</p> <p style="padding-left: 2em;">(c) in paragraph 23 “, 42A(7)”.</p> <p>In the side-note to section 62A “38,”.</p>
Mental Health Act 1983 (c. 20)	In Schedule 4, paragraph 38(a).
County Courts Act 1984 (c. 28)	In Schedule 2, paragraph 49.
Administration of Justice Act 1985 (c. 61)	<p>Section 4.</p> <p>Sections 6 and 7.</p> <p>In section 9 –</p> <p style="padding-left: 2em;">(a) in subsection (1)(c) “corporate”,</p> <p style="padding-left: 2em;">(b) subsection (4),</p> <p style="padding-left: 2em;">(c) in subsection (5) “corporate”,</p> <p style="padding-left: 2em;">(d) in subsection (8) the definition of “officer”, and in the definition of “recognised body”, “corporate”, and</p> <p style="padding-left: 2em;">(e) subsection (9).</p> <p>In section 10 –</p> <p style="padding-left: 2em;">(a) in subsection (1) “corporate” (in both places), and</p> <p style="padding-left: 2em;">(b) in subsection (2) “corporate”.</p> <p>Section 11(4).</p>

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Administration of Justice Act 1985 (c. 61) – <i>cont.</i>	<p>Section 12(2). Section 15(7) and (8). In section 20(1) “, in pursuance of its general duty referred to in section 12(2),”.</p> <p style="text-align: right;">5</p> <p>In section 24 –</p> <p>(a) in subsection (1), paragraph (b) and the “or” immediately preceding it,</p> <p>(b) in that subsection the words from “with a view” to the end,</p> <p style="text-align: right;">10</p> <p>(c) subsection (2),</p> <p>(d) in subsection (3), “or (2)”, “or complaint” (in both places they appear) and “or paragraph (b)”, and</p> <p>(e) in subsection (5), “or complaint” (in both places they appear).</p> <p style="text-align: right;">15</p> <p>Section 26(2)(g), (5) and (6). In section 31(2), “or complaint” (in each place) and “or paragraph (b)”.</p> <p style="text-align: right;">20</p> <p>In section 32 –</p> <p>(a) in subsection (2) “corporate”,</p> <p>(b) in subsection (3)(d) “corporate”,</p> <p>(c) in subsection (3)(e) “corporate”,</p> <p>(d) subsections (4) and (5), and</p> <p>(e) in subsection (6)(a) “corporate”.</p> <p style="text-align: right;">25</p> <p>In section 35(2) –</p> <p>(a) in paragraph (a) “corporate”, and</p> <p>(b) the “and” at the end of paragraph (b).</p> <p>Section 38(1).</p> <p style="text-align: right;">30</p> <p>In section 39(1) –</p> <p>(a) the definitions of “director” and “officer”, and</p> <p>(b) in the definition of “recognised body”, “corporate”.</p> <p style="text-align: right;">35</p> <p>In Schedule 1 paragraphs 5, 8(3) and 9.</p>

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Administration of Justice Act 1985 (c. 61) – <i>cont.</i>	<p>In Schedule 2—</p> <p>(a) in paragraph 1(1) “corporate”,</p> <p>(b) in paragraph 1(2) “corporate”,</p> <p>(c) paragraph 1(3), 5</p> <p>(d) in paragraph 1(4) from “, and for those purposes” to the end,</p> <p>(e) in paragraph 2(1) “corporate”,</p> <p>(f) paragraph 2(4),</p> <p>(g) in paragraph 3 “or (2)”, 10</p> <p>(h) paragraph 4(2),</p> <p>(i) in paragraph 6(1) “corporate”,</p> <p>(j) in paragraph 6(1A), from “of such amount” to the end,</p> <p>(k) in paragraph 6(1D), “sub-paragraph (1) or (1A) of”, 15</p> <p>(l) paragraphs 11, 12 and 13,</p> <p>(m) paragraph 14(1)(b),</p> <p>(n) in paragraph 16(1), in paragraph (a) “in the United Kingdom”, in paragraph (b) “section 34 of the 1974 Act or with”, and in paragraph (c) “39 or”, 20</p> <p>(o) in paragraph 17(a) “11(1), 15(2) or” and “13(3) or”,</p> <p>(p) in paragraph 18(1)(b) “section 34 of the 1974 Act or with”, 25</p> <p>(q) paragraph 18(1)(d) and the “or” immediately preceding it,</p> <p>(r) in paragraph 18(2) “not exceeding £3,000”, 30</p> <p>(s) paragraph 18(3) and (4),</p> <p>(t) in paragraph 31 “or (2)”,</p> <p>(u) paragraph 32(2),</p> <p>(v) in paragraph 34(1), “corporate” (in both places), and 35</p> <p>(w) in paragraph 35, in sub-paragraph (a) “corporate” and the “and” at the end of sub-paragraph (b).</p> <p>In Schedule 3, paragraphs 2(3) and 3.</p> <p>In Schedule 4, paragraphs 1(3) and (4) and 3. 40</p> <p>In Schedule 5, paragraph 1(2).</p>

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Administration of Justice Act 1985 (c. 61) — <i>cont.</i>	<p>In Schedule 6—</p> <p>(a) in paragraph 1 “corporate” (in both places), and in sub-paragraph (2) “or complaint” (in both places) and “or (b)” 5</p> <p>(b) in paragraph 3(1), in paragraph (a)(i) “by any court in the United Kingdom”, sub-paragraph (b), and from “with a view” to the end,</p> <p>(c) paragraph 3(2), 10</p> <p>(d) paragraph 4(2)(c),</p> <p>(e) paragraph 4(3), (3A) and (4),</p> <p>(f) in paragraph 7(1) and (2) “corporate”,</p> <p>(g) in paragraph 8(1), “corporate”,</p> <p>(h) paragraph 9(2), 15</p> <p>(i) paragraph 10(2),</p> <p>(j) in paragraph 12(1) “corporate”,</p> <p>(k) in paragraph 13, in paragraph (a) “corporate”, and the “and” at the end of paragraph (b), 20</p> <p>(l) in paragraph 14(1), “or complaint” (in each place) and “or (b)”.</p> <p>In Schedule 9, paragraphs 4 and 6.</p>
Insolvency Act 1985 (c. 65)	In Schedule 8, paragraph 25.
Building Societies Act 1986 (c. 53)	In Schedule 18, paragraph 11(2) and (3). 25
Copyright, Designs and Patents Act 1988 (c. 48)	<p>Section 279.</p> <p>In section 280(3) “or” at the end of paragraph (b).</p> <p>Section 292. 30</p>
Law of Property (Miscellaneous Provisions) Act 1989 (c. 34)	In Schedule 1, paragraph 8.
Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40)	Section 33. 35
Courts and Legal Services Act 1990 (c. 41)	<p>Sections 21 to 26.</p> <p>Sections 34 to 52.</p> <p>Section 54(1).</p> <p>Section 55.</p> <p>Section 63. 40</p> <p>Section 68.</p> <p>Section 86 to 88.</p> <p>Section 93(2) and (3).</p> <p>Section 94(1) and (2).</p> <p>Section 96. 45</p> <p>Section 113.</p> <p>Schedule 3.</p> <p>Schedule 5.</p>

<i>Short title and chapter</i>	<i>Extent of repeal</i>	
Courts and Legal Services Act 1990 (c. 41) – <i>cont.</i>	In Schedule 8 –	
	(a) paragraph 19(b) and the “and” immediately preceding it, and	
	(b) paragraph 23.	5
	In Schedule 10, paragraph 64.	
	In Schedule 14 –	
	(a) in paragraph 1, the definitions of “controlled trust” and “the Council”,	
	(b) paragraph 2(5),	10
	(c) in paragraph 7(2)(b), from “of such amount” to the end,	
	(d) paragraph 14(2),	
	(e) in paragraph 14(3) “to him”,	
(f) in paragraph 15, in sub-paragraph (4)(c) “not exceeding £5,000”, and sub-paragraph (5),	15	
(g) in paragraph 17(2), “and the Master of the Rolls”, and		
(h) paragraph 17(4).	20	
	Schedule 15.	
	In Schedule 17, paragraphs 8 and 10.	
	In Schedule 18, paragraphs 9 to 12, 20 and 56.	
Friendly Societies Act 1992 (c. 40)	In Schedule 21, paragraph 5.	25
Trade Marks Act 1994 (c. 26)	Section 85. In Schedule 4, paragraph 5.	
Bank of England Act 1998 (c. 11)	Section 41(4).	
Agricultural Tenancies Act 1995 (c. 8)	Section 35.	30
Access to Justice Act 1999 (c. 22)	In section 46 –	
	(a) subsection (2)(b) and the word “but” immediately preceding it, and	
	(b) subsections (3) to (6).	
	Sections 49 to 52.	35
	In Schedule 6, paragraphs 1 to 3. In Schedule 7, paragraphs 7(2)(a) and 10. Schedule 8.	
Immigration and Asylum Act 1999 (c. 33)	In section 86 –	
	(a) subsections (1)(a), (d) and (e),	40
	(b) subsection (4)(b),	
	(c) in subsection 5(a), “England and Wales or”, and	
	(d) subsection (6)(a).	

<i>Short title and chapter</i>	<i>Extent of repeal</i>	
Immigration and Asylum Act 1999 (c. 33) – <i>cont.</i>	In Schedule 5 – (a) paragraph 3(6)(b), (b) paragraph 4(2)(b), (c) in paragraph 4(3)(a) “England and Wales or”, and (d) paragraph 4(4)(a).	5
Freedom of Information Act 2000 (c. 36)	In Part 6 of Schedule 1, – (a) “The Legal Services Complaints Commissioner.”, and (b) “The Legal Services Ombudsman.”	10
Enterprise Act 2002 (c. 40)	In Schedule 25, paragraph 23(1) and (2), (3)(a) and (b), (4) and (5).	
Pensions Act 2004 (c. 35)	In Schedule 4, paragraph 21.	
Constitutional Reform Act 2005 (c. 4)	In Schedule 4, paragraphs 92 and 202. In Schedule 11, paragraphs 1(2), 21(3) and 23(2) and (3).	15
Mental Capacity Act 2005 (c. 9)	In Schedule 6, paragraph 22(2).	
Serious Organised Crime and Police Act 2005 (c. 15)	In Part 3 of Schedule 7, paragraph 42(2).	20
Compensation Act 2006 (c. 29)	Section 5(3), (4)(c) and (5). Section 15(6).	
Legal Profession and Legal Aid (Scotland) Act 2006	Section 47.	

SCHEDULE 24

Section 203

25

INDEX OF DEFINED EXPRESSIONS

<i>Expression</i>	<i>Interpretation provisions</i>	
administration of oaths	Schedule 2	
approved regulator	section 19	
authorised person, in relation to an activity	section 17	30
the Board	section 2	
compensation arrangements	section 20	
complainant (in Part 6)	section 156	
conduct of litigation	Schedule 2	35
conduct rules	section 20	

<i>Expression</i>	<i>Interpretation provisions</i>	
consumers	section 197	
conveyancing services	section 197	
court	section 197	
discipline rules	section 20	5
document	section 191	
exempt person	section 18 and Schedule 3	
functions	section 197	
“immigration advice” and “immigration services”	section 197	10
indemnification arrangements	section 20	
interest, in shares in a body	section 71	
intervention direction	section 40	
legal activity	section 12	
licensable body	section 71	15
licensed activity (in Part 5)	section 108	
licensed body	section 70	
licensing authority	section 72	
licensing rules	section 81	
manager, in relation to a body	section 197	20
material interest, in a body (in Part 5)	Schedule 13	
modify	section 197	
non-authorised person (in Part 5)	section 108	
non-commercial legal services	section 197	25
non-reserved activity (in Part 5)	section 108	
not for profit body	section 197	
notarial activities	Schedule 2	
the OFT	section 197	
the OLC	section 111	30
ombudsman	section 119	
the ombudsman scheme	section 112	

<i>Expression</i>	<i>Interpretation provisions</i>	
person	section 197	
practice rules	section 20	
probate activities	Schedule 2	
qualification regulations	section 20	5
regulatory arrangements	section 20	
regulatory functions	section 26	
regulatory objectives	section 1	
relevant appellate body (in Part 5)	section 108	
relevant approved regulator, in relation to an activity	section 19	10
relevant approved regulator, in relation to a person	section 19	
relevant authorising body (in Part 6)	section 156	15
relevant licensing authority, in relation to a licensed body (in Part 5)	section 72	
relevant licensing authority, in relation to an applicant for a licence (in Part 5)	section 72	20
representative functions	section 26	
reserved instrument activities	Schedule 2	
reserved legal activity	section 12 and Schedule 2	
reserved legal services	section 197	25
respondent (in Part 6)	section 156	
right of audience	Schedule 2	
scheme rules (in Part 6)	section 112	
shares	section 71	
solicitor	section 197	30
terms of a licence (in Part 5)	section 83	
trade union	section 197	

Legal Services Bill [HL]

A

B I L L

To make provision for the establishment of the Legal Services Board and in respect of its functions; to make provision for, and in connection with, the regulation of persons who carry on certain legal activities; to make provision for the establishment of the Office for Legal Complaints and for a scheme to consider and determine legal complaints; to make provision about claims management services and about immigration advice and immigration services; to make provision in respect of legal representation provided free of charge; to make provision about the application of the Legal Profession and Legal Aid (Scotland) Act 2006; to make provision about the Scottish legal services ombudsman; and for connected purposes.

The Lord Falconer of Thoroton

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