STATUTORY INSTRUMENTS

2015 No. 938

LEGAL SERVICES, ENGLAND AND WALES

The Legal Services Act 2007 (Warrant) (Licensing Authority) Regulations 2015

Made - - - - 24th March 2015

Coming into force in accordance with regulation 1(1)

The Lord Chancellor makes the following Regulations in exercise of the powers conferred by sections 79(6) and (7) and 204(3) of the Legal Services Act 2007(**1**).

The Lord Chancellor has consulted the Legal Services Board about the making of these Regulations in accordance with section 79(8)(b) of that Act.

A draft of these Regulations has been approved by a resolution of each House of Parliament in accordance with section 206(5) of that Act.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Legal Services Act 2007 (Warrant) (Licensing Authority) Regulations 2015 and come into force 21 days after the day on which they are made.

(2) In these Regulations—

"the 2007 Act" means the Legal Services Act 2007;

"appointed person" means a person appointed by the Board(**2**) to act on its behalf;

"former authority" means an approved regulator which has had its designation as a licensing authority in relation to one or more reserved legal activities cancelled by virtue of section 75 of the 2007 Act or an order under section 76;

"judicial officer" means—

(a) a judge of the High Court;

(b) a Circuit judge; or

(c) a justice of the peace.

(3) A reference in these regulations to a warrant is a reference to a warrant which has been or may be issued under section 79(3) of the 2007 Act.

(**1**) 2007 c. 29.
(**2**) "The Board" is defined in section 2 of the Legal Services Act 2007 ("the 2007 Act") to mean the Legal Services Board.

Conditions for issuing a warrant

2. A judicial officer may issue a warrant only if satisfied that—

(a) the Board has made reasonable attempts to obtain the written or electronic records sought by other means, or that such attempts would be likely to result in the records being removed, hidden, tampered with or destroyed; and

(b) no judicial officer has refused to issue a warrant based on another application that is in substance the same.

Execution of a warrant

3.—(1) Entry and search under a warrant must be—

(a) within a period of one month beginning on the date of its issue; and

(b) at a reasonable hour unless it appears to the appointed person exercising the power conferred by the warrant that the purpose of entry may be frustrated by entry at a reasonable hour.

(2) If there is a person ("P") present at the premises of the former authority when the appointed person seeks to exercise the power conferred by the warrant, and P is the occupier or appears to be in charge of the premises, the appointed person must—

(a) show P documentary evidence of identity;

(b) show the warrant to P; and

(c) give P a certified copy of the warrant.

(3) If there is no occupier or person present at the premises who appears to be in charge of them, the appointed person must leave a certified copy of the warrant in a prominent place on the premises.

(4) The appointed person who exercises the power conferred by the warrant must make an endorsement on it stating—

(a) the date on which the power conferred by the warrant was exercised;

(b) whether any of the records sought were found;

(c) whether any written or electronic records have been copied; and

(d) whether possession has been taken of any written or electronic records.

(5) In the case of a warrant that authorises entry to and search of two or more premises of a former authority, the appointed person exercising the power conferred by the warrant—

(a) must make a separate endorsement in accordance with paragraph (4) for each premises entered and searched; and

(b) must specify in each endorsement the premises to which the endorsement relates.

Legal privilege

4.—(1) The powers conferred by a warrant must not be exercised to take possession of or copy any written or electronic record subject to legal privilege (within the meaning of section 10 of the Police and Criminal Evidence Act 1984(**3**)).

(2) If possession is taken in error of any record of the kind referred to in paragraph (1), the record must be returned, and any copies taken must be destroyed, as soon as it is identified that the record is subject to legal privilege.

(**3**) 1984 c. 60.