STATUTORY INSTRUMENTS

2015 No. 401

LEGAL SERVICES, ENGLAND AND WALES

The Legal Services Act 2007 (The Law Society) (Modification of Functions) Order 2015

Made - - - - 24th February 2015

Coming into force in accordance with article 1

The Lord Chancellor makes the following Order in exercise of the powers conferred by sections 69 and 204(3) and (4) of the Legal Services Act 2007(**1**).

In accordance with section 69(2) of that Act, the Order is made following a recommendation made by the Legal Services Board to which was annexed a draft Order in a form not materially different from this Order.

The Legal Services Board has made the recommendation with the consent required by section 70(1) of that Act and after complying with the requirements in section 70(2) to (4) of that Act.

In accordance with section 206(4) and (5) of that Act, a draft of this Order has been approved by a resolution of each House of Parliament.

Citation and commencement

1.—(1) This Order may be cited as the Legal Services Act 2007 (The Law Society) (Modification of Functions) Order 2015.

(2) Save as provided by paragraph (3), this Order comes into force on 6th April 2015.

(3) Other than for the purpose of making rules, article 3 comes into force on 1st November 2015.

Interpretation

2. In this Order—

"the 1974 Act" means the Solicitors Act 1974(**2**);

"the 1985 Act" means the Administration of Justice Act 1985(**3**);

"the 2000 Regulations" means the European Communities (Lawyer's Practice) Regulations 2000(**4**);

(**1**) 2007 c. 29.
(**2**) 1974 c. 47.
(**3**) 1985 c. 61.
(**4**) S.I. 2000/1119.

"sole solicitor" means a solicitor who is the sole principal in a practice; and

"sole solicitor endorsement" means an endorsement of the practising certificate of a solicitor by the Law Society authorising the solicitor to practise as a sole solicitor, made under section 1B(**5**) of the 1974 Act.

Amendments

3.—(1) The amendments to the 1974 Act and the 1985 Act set out in Schedule 1 shall have effect.

(2) The amendments to the 2000 Regulations set out in Schedule 2 shall have effect.

(3) In consequence of the amendments set out in Schedule 1, paragraphs 3, 15, 17(a), (b) and (d)(ii), 22, 30(2)(d), 49(a), (c) and (e), 75(b) and 81(2)(c) of Schedule 16 to the Legal Services Act 2007 are repealed.

Transitional provisions: solicitors

4.—(1) In any case where immediately before 1st November 2015 there is in force in relation to a sole solicitor a sole solicitor endorsement, then on and after that date the sole solicitor's practice shall be treated as recognised by the Law Society under section 9 of the 1985 Act(**6**) as being suitable to undertake the provision of solicitor services and other relevant legal services (within the meaning of that section).

(2) The Law Society may direct in any case that recognition by virtue of paragraph (1) is to have effect subject to one or more conditions if—

(a) the case is of a kind prescribed for the purposes of section 9(2F) of the 1985 Act (as amended by this Order) by rules made by the Law Society; and

(b) the Law Society considers that it is in the public interest to do so.

(3) A direction by the Law Society in accordance with paragraph (2) only has effect if written notice of it is sent, with reasons, to the sole solicitor concerned—

(a) at least 28 days before 1st November 2015; or

(b) if the Law Society is satisfied on reasonable grounds that it is in the public interest to do so, such shorter period before that date as it may determine.

(4) A condition under paragraph (2) shall be treated as having been imposed under section 9(2F) of the 1985 Act (as amended by this Order).

(5) In any case where—

(a) before 1st November 2015, the Law Society had received an application for a sole solicitor endorsement, and

(b) immediately before that date, the Law Society had not yet granted (or refused) that application,

then, with effect from that date, that application shall be treated by the Law Society as an application for recognition of the sole solicitor's practice under section 9 of the 1985 Act (as amended by this Order).

(**5**) Section 1B was inserted by paragraphs 1 and 3 of Schedule 16 to the Legal Services Act 2007.
(**6**) Section 9 was amended by paragraph 54 of Schedule 18, and Schedule 20, to the Courts and Legal Services Act 1990, Part 2 of Schedule 15 to the Access to Justice Act 1999, paragraphs 80 and 81 of Schedule 16 to the Legal Services Act 2007 and S.I. 2000/1119, 2001/1090 and 2011/1716.

Transitional provisions: registered European lawyers

5.—(1) Article 4 applies in relation to registered European lawyers as it applies in relation to a solicitor, subject to the following modifications—

(a) a reference to a sole solicitor is to be read as a reference to a sole practitioner; and

(b) a reference to a sole solicitor endorsement is to be read as a reference to a sole practitioner endorsement.

(2) In this article "registered European lawyer" has the meaning given by regulation 2 of the 2000 Regulations.

Signed by authority of the Lord Chancellor

Shailesh Vara
Parliamentary Under Secretary of State
Ministry of Justice

24th February 2015

SCHEDULE 1 Article 3(1)

AMENDMENTS TO PRIMARY LEGISLATION

PART 1

1. The 1974 Act is amended in accordance with this Part.

2. Omit section 1B (restriction on practice as sole solicitor).

3. In section 9 (applications for practising certificates)(**7**), omit subsection (2).

4. In section 10 (the issue of practising certificates)(**8**), in subsection (4)(a) omit the words from "(including" to the end.

5. In section 10A (register of holders of practising certificates)(**9**), omit subsection (2)(b) (but not the "and" after it).

6. In section 13 (appeals etc in connection with the issue of practising certificates)(**10**)—

(a) omit subsection (1)(b) (but not the "or" after it); and

(b) in subsection (4)—

(i) omit paragraph (b); and

(ii) omit paragraph (f) (but not the "or" after it).

7. Omit sections 13ZA (application to practise as sole practitioner while practising certificate in force) and 13ZB (fee payable on making of sole solicitor endorsement)(**11**).

8. In section 13A (imposition of conditions while practising certificates are in force)(**12**), omit subsection (2)(a) (and the "or" after it).

9. In section 13B (suspension of practising certificates where solicitors convicted of fraud or serious crime)(**13**)—

(a) in subsection (1) omit "or sole solicitor endorsement";

(b) in subsection (6) omit "or from practice as a sole solicitor"; and

(c) in subsection (8)(b) for "or sole solicitor endorsement shall not be suspended, but that the appellant's certificate" substitute "shall not be suspended but".

10. Omit sections 17A (suspension of sole solicitor endorsement) and 17B (duration and publicity of suspension of sole solicitor endorsement)(**14**).

11. In section 28 (regulations)(**15**)—

(a) omit subsection (1)(ca); and

(b) in subsection (3B)—

(**7**) Section 9 was substituted by paragraphs 1 and 9 of Schedule 16 to the Legal Services Act 2007.
(**8**) Section 10 was substituted by paragraphs 1 and 9 of Schedule 16 to the Legal Services Act 2007.
(**9**) Section 10A was substituted by paragraphs 1 and 10 of Schedule 16 to the Legal Services Act 2007.
(**10**) Section 13 was substituted by paragraphs 1 and 14 of Schedule 16 to the Legal Services Act 2007.
(**11**) Sections 13ZA and 13ZB were substituted by paragraphs 1 and 15 of Schedule 16 to the Legal Services Act 2007.
(**12**) Section 13A was inserted by section 5 of the Administration of Justice Act 1985 and amended by paragraphs 1 and 16 of Schedule 16 to the Legal Services Act 2007.
(**13**) Section 13B was inserted by section 94(3) of the Courts and Legal Services Act 1990 (c. 41) and amended by paragraph 42(1) and (3) of Schedule 7 to the Serious Organised Crime and Police Act 2005 (c. 15) and paragraphs 1 and 17 of Schedule 16 to the Legal Services Act 2007.
(**14**) Sections 17A and 17B were inserted by paragraphs 1 and 22 of Schedule 16 to the Legal Services Act 2007.
(**15**) Section 28 was amended, in so far as relevant, by paragraphs 1 and 30 of Schedule 16 to the Legal Services Act 2007.

(i) omit "or sole solicitor endorsements" (in each place); and

(ii) omit paragraph (f).

12. In section 31 (rules as to professional practice), after subsection (1A)(**16**) insert—

"(1B) Rules under this section must provide that a solicitor may not practise as a sole solicitor unless there is in force in relation to that solicitor's practice a recognition under section 9 of the Administration of Justice Act 1985.

(1C) Rules under this section may provide that, for the purposes of the rules, this Act and the Administration of Justice Act 1985, a solicitor is not to be regarded as practising as a sole solicitor in such circumstances as may be prescribed by the rules.".

13. In section 47 (jurisdiction and powers of tribunal)(**17**) omit—

(a) subsection (1)(ea); and

(b) subsection (2)(ba), (bb) and (ea).

14. In section 87 (interpretation)(**18**)—

(a) at the end of the definition of "sole solicitor" insert "(other than an incorporated practice)"; and

(b) omit the definition of "sole solicitor endorsement".

15. In Schedule 1 (intervention in solicitor's practice) omit paragraph 1(1)(i)(**19**).

PART 2

16. The 1985 Act is amended in accordance with this Part.

17. For the cross-heading before section 9 ("Incorporated practices") substitute "Legal services bodies and sole solicitors' practices".

18.—(1) Section 9 (incorporated practices) is amended as follows.

(2) For the heading ("Incorporated practices") substitute "Recognition of legal services bodies and of sole solicitors' practices".

(3) In subsection (1)—

(a) for paragraph (b) substitute —

"(b) prescribing the circumstances in which—

(i) legal services bodies may be recognised by the Society as being suitable bodies to undertake the provision of any solicitor services or other relevant legal services; and

(ii) sole solicitors' practices may be recognised by the Society as being suitable to undertake the provision of any such services;";

(b) in paragraph (c), after "bodies" insert "and sole solicitors' practices"; and

(c) in paragraph (d), after "bodies" insert "and sole solicitors' practices".

(**16**) Section 31(1A) was inserted by paragraphs 1 and 31(1) and (3) of Schedule 16 to the Legal Services Act 2007.
(**17**) Subsections (1) and (2) of section 47 were substituted by section 92(2) of the Courts and Legal Services Act 1990 and amended, in so far as relevant, by paragraphs 1 and 49(a) to (c) and (e) of Schedule 16 to the Legal Services Act 2007.
(**18**) Section 87 was amended, in so far as relevant, by paragraphs 1 and 75(b) of Schedule 16 to the Legal Services Act 2007.
(**19**) Paragraph 1(1)(i) of Schedule 1 was inserted by section 91(1) of the Courts and Legal Services Act 1990 and amended by paragraphs 1 and 77(1) and (2)(f)(i) of Schedule 16 to the Legal Services Act 2007.