Draft Order laid before Parliament under section 206(5) of the Legal Services Act 2007 for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2008 No.

LEGAL SERVICES, ENGLAND AND WALES

The Legal Services Act 2007 (Functions of a Designated Regulator) Order 2008

Made - - - - ***

Coming into force in accordance with article 1

This Order is made under paragraph 2 of Schedule 22 to the Legal Services Act 2007(**1**) ("Schedule 22").

The Law Society has made a recommendation under paragraph 2(4)(a) of Schedule 22 to which was annexed a draft order and has given its consent to this Order under paragraph 2(4)(b).

The Lord Chancellor has published a document seeking representations about the Law Society's recommendation and draft order in accordance with paragraph 3(2) and (3) of Schedule 22 and has invited the advice of the Office of Fair Trading and the Lord Chief Justice in accordance with paragraph 3(4) of Schedule 22. The Lord Chancellor has, in accordance with paragraph 3(6) of Schedule 22, had regard to the advice and representations given.

A draft of this instrument has been approved by a resolution of each House of Parliament pursuant to section 206(5) of the Legal Services Act 2007.

Accordingly the Lord Chancellor makes the following Order.

Citation and commencement

1. This Order may be cited as the Legal Services Act 2007 (Functions of a Designated Regulator) Order 2008 and shall come into force on the day after the day on which it is made.

Amendment of section 9A of the Administration of Justice Act 1985

2.—(1) In paragraph 82 of Schedule 16 to the Legal Services Act 2007, the new section 9A to be inserted into the Administration of Justice Act 1985(**2**) (legal services bodies) is amended as follows.

(2) In subsection (5)(a)—

(a) for "would be" substitute "is", and

(**1**) 2007 c. 29.
(**2**) 1985 c. 61.

(b) omit from "if the references" to the end.

(3) At the end of subsection (6)(e) insert—

a legal partnership which—

(i) was in existence immediately before the commencement of this paragraph,

(ii) since that time has continued to be a partnership of the kind mentioned in rule 12.01(1)(b), 12.02(1)(b) or 12.04(1)(c)(i) of the pre-commencement conduct rules (framework of practice), and

(iii) has not, since that time, had a body corporate (other than a body within paragraph (g)) as a member;

(g) a body corporate which—

(i) was recognised under section 9 immediately before the commencement of this paragraph, and

(ii) has since that time continued to satisfy the requirements of rule 14.03(1) and 14.04(1) to (3) or the requirements of rule 14.05(1) to (3) of the pre-commencement conduct rules (restrictions on directors, owners etc. of incorporated practices);

(h) a body which—

(i) is an authorised person and satisfies the services condition, or

(ii) provides professional services such as are provided by individuals who are authorised persons or lawyers of other jurisdictions,

and which satisfies the requirements of rules under subsection (6C).

(6A) For the purposes of subsection (6)(f), a partnership is to be treated as the same partnership despite a change in membership, if any person who was a member before the change remains a member.

(6B) For the purposes of subsection (6)(f) and (g), the references in the pre-commencement conduct rules to a recognised body are to be construed as references to a body which was recognised under section 9 immediately before the commencement of subsection (6)(f) and (g).

(6C) The Society must make rules for the purposes of paragraph (h) of subsection (6) prescribing the requirements relating to management and control which must be satisfied by or in relation to a body for it to fall within that paragraph.".

(4) In subsection (8)—

(a) after the definition of "the Directive" insert—

""legal partnership" means a partnership in which a solicitor, a registered European lawyer or a recognised body is permitted to practise by virtue of rules made under section 31 of the Solicitors Act 1974 (c. 47)(**3**), as those rules had effect immediately before the commencement of subsection (6)(f);",

(b) after the definition of "manager" insert—

""pre-commencement conduct rules" means rules under Part 2 of the Solicitors Act 1974 or section 9 of this Act(**4**), known as the Solicitors' Code of Conduct

(**3**) Section 31 was amended by paragraphs 1 and 3 of Schedule 6 and paragraph1 of Schedule 7 to the Access to Justice Act 1999 (c. 22); paragraph 10 of Schedule 17 to the Courts and Legal Services Act 1990 (c. 41) and S.I. 2003/1887. There are other amendments but none is relevant.

(**4**) Section 9 of the Administration of Justice Act 1985 (c. 61) was amended by paragraph 15(1), (2)(a) and (3)(b) of Schedule 4 to S.I. 2000/1119. There are other amendments but none is relevant.