

2010 No. 2089 (C. 107)

LEGAL SERVICES, ENGLAND AND WALES

The Legal Services Act 2007 (Commencement No. 8, Transitory and Transitional Provisions) Order 2010

Made - - - - - *17th August 2010*

Laid before Parliament *20th August 2010*

Coming into force in accordance with article 1

The Lord Chancellor makes the following Order in exercise of the powers conferred by sections 157(3), 208(2) and (4) and 211(2) of the Legal Services Act 2007(a).

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Legal Services Act 2007 (Commencement No. 8, Transitory and Transitional Provisions) Order 2010.

(2) This Order comes into force as follows—

- (a) articles 1, 2, 5 and 6 come into force on 6th October 2010;
- (b) article 3 comes into force on 1st January 2011;
- (c) article 7 comes into force on 1st April 2011; and
- (d) articles 4 and 8 come into force on 31st December 2011.

(3) In this Order—

- (a) “the 1974 Act” means the Solicitors Act 1974(b);
- (b) “the 1990 Act” means the Courts and Legal Services Act 1990(c);
- (c) “the 2007 Act” means the Legal Services Act 2007;
- (d) reference to proceedings not having been determined includes proceedings which have not been withdrawn, discontinued or closed in accordance with the rules of the approved regulator or the Legal Services Ombudsman, as the case may be; and
- (e) a reference to a Part, section, Schedule or paragraph of a Schedule by number alone is a reference to that Part, section, Schedule or paragraph in the 2007 Act.

Commencement of provisions on 6th October 2010

2. The following provisions, to the extent that they are not already in force, come into force on 6th October 2010—

(a) 2007 c. 29.
(b) 1974 c. 47.
(c) 1990 c. 41.

- (a) in Part 6 (legal complaints), section 112(1) and (3), 113 subject to article 5, 125, 126 subject to article 5, 128, 129, 131, 134, 135, 137 to 143, 144 subject to article 5, 145 subject to article 5, 146 to 154, 157 subject to article 5 and article 6, 158 subject to article 5, 159(1) in so far as it relates to the Legal Services Complaints Commissioner, 159(2)(a), 159(2)(b) in so far as it relates to section 22(8)(a) of the 1990 Act, 164 to 166 and 175(1)(g), (h) and (i);
- (b) in Schedule 16 (the Law Society, solicitors, recognised bodies and foreign lawyers), paragraphs 39, 78, 100, 105(b)(ii) and 106(c) all subject to article 6;
- (c) in Schedule 17 (licensed conveyancing), paragraph 32;
- (d) in Schedule 21 (minor and consequential amendments), paragraph 100(e), subject to article 6; and
- (e) in Schedule 23 (repeals), the entries relating to—
 - (i) the reference to “The Legal Services Complaints Commissioner” in Schedule 2 to the Parliamentary Commissioner Act 1967(a);
 - (ii) section 37A of, and Schedule 1A to, the 1974 Act subject to article 6;
 - (iii) the reference to “The Legal Services Complaints Commissioner” in Part 3 of Schedule 1 to the House of Commons Disqualification Act 1975(b);
 - (iv) the reference to “The Legal Services Complaints Commissioner” in Part 3 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975(c);
 - (v) paragraphs 13, 17(a), and 18(1)(d) with the “or” immediately preceding it, of Schedule 2, and paragraphs 4(3) and (3A) and 9(2) of Schedule 6, to the Administration of Justice Act 1985(d), all subject to article 6;
 - (vi) section 22(8)(a) of, paragraphs 14 to 20 and 21(1)(b) of Schedule 8 subject to article 6, and Schedule 15 to the 1990 Act;
 - (vii) sections 49 to 52 of, and Schedule 8 to, the Access to Justice Act 1999(e);
 - (viii) the reference to “The Legal Services Complaints Commissioner” and “The Legal Services Consultative Panel” in Part 6 of Schedule 1 to the Freedom of Information Act 2000(f).

Commencement of provisions on 1st January 2011

3. The following provisions come into force on 1st January 2011—

- (a) section 159(2)(b) in so far as it relates to section 23(2)(a) of the 1990 Act; and
- (b) in Schedule 23, the entry relating to section 23(2)(a) of the 1990 Act.

Commencement of provisions on 31st December 2011

4. The following provisions, to the extent that they are not already in force, come into force on 31st December 2011—

- (a) sections 159(1) and 159(2)(b) save in relation to (and so far as is required to give effect to)—
 - (i) the Legal Services Ombudsman’s duty (paragraphs 5 and 6 of Schedule 3 to the 1990 Act) to produce an annual report and accounts for the period 1st April 2011 to 31st March 2012; and

(a) 1967 c. 13.
 (b) 1975 c. 24.
 (c) 1975 c. 25.
 (d) 1985 c. 61.
 (e) 1999 c. 22.
 (f) 2000 c. 36.

- (ii) until 30th April 2012, the power of the Secretary of State set out in paragraph 7 of Schedule 3 to the 1990 Act, and
- (b) in Schedule 23 (repeals) the entries relating to—
 - (i) Schedule 1 to the Public Records Act 1958(a);
 - (ii) Schedule 1 to the Superannuation Act 1972(b);
 - (iii) the reference to “The Legal Services Ombudsman” in Part 3 of Schedule 1 to the House of Commons Disqualification Act 1975;
 - (iv) the reference to “The Legal Services Ombudsman” in Part 3 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975;
 - (v) sections 21 to 26 of, and Schedule 3 to, the 1990 Act, subject to the provisions of sub-paragraph (a) above;
 - (vi) section 86(4)(b) of the Immigration and Asylum Act 1999(c); and
 - (vii) the reference to “The Legal Services Ombudsman” in Part 6 of Schedule 1 to the Freedom of Information Act 2000.

Transitory provisions

5. Until section 73 (licensing authorities and relevant licensing authorities) comes into force—
- (a) section 113(3) is to be read as if the words “, or licensing rules made by the Board in its capacity as a licensing authority” were omitted;
 - (b) section 113(4) is to be read as if the words “, or the Board in its capacity as a licensing authority,” were omitted;
 - (c) section 126(2) is to be read as if the words “(or licensing rules of the Board)” were omitted;
 - (d) section 144 is to be read as if subsection (9) were omitted;
 - (e) section 145 is to be read as if—
 - (i) in subsection (1) the words “, and licensing rules made by the Board in its capacity as a licensing authority,” were omitted, and
 - (ii) subsection (4)(b) and “, and” immediately preceding it were omitted;
 - (f) section 157 is to be read as if subsection (7) were omitted; and
 - (g) section 158 is to be read as if subsection (4) were omitted.

Transitional provisions

6. Section 157(1) and (2) does not apply in relation to proceedings which immediately before 6th October 2010 have not been determined under any provision relating to redress made by an approved regulator, and such proceedings will continue to be determined under the regulatory arrangements, including any provision relating to redress, in force immediately before 6th October 2010.

7. Proceedings described in article 6 which have not been determined by an approved regulator under any provision relating to redress by 1st April 2011 are to be—

- (a) treated as allegations properly made under section 22(1) of the 1990 Act notwithstanding the fact that they do not relate to the manner in which a complaint made to an approved regulator has been dealt with by that regulator, and
- (b) investigated by the Legal Services Ombudsman under section 22(2) of the 1990 Act.

(a) 1958 c. 51.
 (b) 1972 c. 11.
 (c) 1999 c. 33.

- 8.—(1) From 31st December 2011 proceedings described in paragraph (2) will be—
- (a) treated as a complaint which falls within the jurisdiction of the ombudsman scheme as established by section 125; and
 - (b) considered in accordance with the ombudsman scheme rules and with Part 6 of the 2007 Act.
- (2) Proceedings for the purpose of paragraph (1) are—
- (a) proceedings described in article 7 which at 31st December 2011 have not been determined by the Legal Services Ombudsman in accordance with the provisions of that article; and
 - (b) any other allegations otherwise being investigated by the Legal Services Ombudsman which at 31st December 2011 have not been determined.

Signed by authority of the Lord Chancellor

17th August 2010

McNally
Minister of State
Ministry of Justice

EXPLANATORY NOTE

(This note is not part of the Order)

This Order is the eighth commencement order made under the Legal Services Act 2007 (c. 29) (“the 2007 Act”). This Order comes into force in accordance with article 1.

Article 2 commences the provisions necessary for the Office for Legal Complaints to carry out its functions and operate the ombudsman scheme in accordance with Part 6 (legal complaints) of the 2007 Act. It commences provisions which abolish the office of the Legal Services Complaints Commissioner. It also makes provision to bring to a conclusion the handling by approved regulators of complaints relating to redress, subject to transitional provision made by articles 6 to 8.

Article 3 repeals, from 1st January 2011, the power of the Legal Services Ombudsman to recommend that a complaint be reconsidered by the professional body concerned.

Article 4 commences repeals of provisions in other legislation to give effect to the closure of the Legal Services Ombudsman on 31st December 2011.

Article 5 makes transitory provision removing references to the Legal Services Board as a licensing authority until the Board becomes a licensing authority under Part 5 (alternative business structures) of the 2007 Act.

Article 6 makes transitional provision in respect of the handling of complaints received but not determined by an approved regulator by 6th October 2010, and article 7 makes provision for any of those complaints which are not determined by 1st April 2011 to be investigated by the Legal Services Ombudsman.

Article 8 makes transitional provision in respect of the handling of any complaints being investigated by the Legal Services Ombudsman which have not been determined by 31st December 2011.

An impact assessment has not been prepared for this Order but a full Regulatory Impact Assessment was prepared for the Legal Services Bill in November 2006, supplemented in June 2007. Copies of those documents are annexed to the Explanatory Memorandum which is available alongside this instrument on the OPSI website.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Sections 1, 2, 3, 5, 6 and 7	07.03.2008	2008/222
Section 4	01.01.2010	2009/3250
Sections 8, 9, 10, 11, 20(5), 24(3), 26(2), 27, 29, 30, 33, 37(4) and (5), 41(4) and (5), 42 (6) to (10), 44(2), 45(3)(b) and (c), (4) and (7), 48(6) to (9), 49, 50 and 51(1), (3), (4) and (6) to (8)	01.01.2009	2008/3149
Sections 12 to 17, 18(1)(a) subject to transitory provision, 19, 20, 21 partially, 22 to 24 and 25 partially and subject to transitory provision	01.01.2010	2009/3250
Section 25 wholly but subject to transitional provision	29.03.2010	2010/1118
Sections 26, 28, 31, 32, 34 to 48, 51, 52 to 63, 64 partially and subject to transitory provision and 65 to 68	01.01.2010	2009/3250
Sections 69 and 70	07.03.2008	2008/222
Sections 74, 76(3)(b) and (c), (4) and (7), 79(6) to(10), 84(2) partially, 87(4) and (5), 89, 95(3) and (4), 96(1), 112(2) and (4),	01.01.2009	2008/3149
Sections 75 to 79 wholly	29.03.2010	2010/1118
Section 83(3) to (7)	29.03.2010	2010/1118
Section 114	07.03.2008	2008/222
Sections 115 to 124, 126(3), 127, 128(3)(b), (4)(d) and (5)(c), 130, 132 , 133, 136, 137(4), 140(6)(c), 141(5), (6) and (7), 144(1) and (3) to (7), 145(2) and (3),	01.01.2009	2008/3149
Sections 151 and 152 partially	01.01.2010	2009/3250
Sections 155 and 156	01.01.2009	2008/3149
Section 157(3)	29.03.2010	2010/1118
Sections 160 and 162	01.01.2009	2008/3149
Sections 163, 167 to 169 subject to transitory provision, 170 and 171 subject to transitory provision	01.01.2010	2009/3250
Section 172	07.03.2008	2008/222
Sections 173(1) and (3) to (11), 174(1), (3), (4), (6) and (7),	01.01.2009	2008/3149
Section 173 wholly, 174 and 175(1)(a), (b), (d), (j) and (l) and (2)(a) and (b)	01.01.2010	2009/3250
Section 175(1)(c), (k), (m) and (n)	01.01.2009	2008/3149
Section 175(2)(c) and (d)	29.03.2010	2010/1118
Section 176 partially	01.01.2010	2009/3250
Section 177	07.03.2008	2008/222
Sections 178 and 179	01.01.2010	2009/3250
Section 180	07.03.2008	2008/222
Section 181	01.01.2010	2009/3250
Section 182	07.03.2008	2008/222
Sections 183 to 185	01.01.2010	2009/3250
Section 187	07.03.2008	2008/222

Sections 188 to 190, 192 and 193	01.01.2010	2009/3250
Section 194(8) and (9) and (10)	30.06.2008	2008/1436
Section 194 (wholly), 195 and 196	01.10.2008	2008/1436
Sections 197 and 198	01.01.2010	2009/3250
Section 199(1) and (2)	07.03.2008	2008/222
Section 199(3)	31.03.2009	2009/503
Section 199(4), (5) and (6)(b)	30.06.2008	2008/1436
Section 199(5) wholly, (6)(a) partially, (6)(b) wholly	31.03.2009	2009/503
Section 199 wholly	01.01.2010	2009/3250
Section 200(1)	07.03.2008	2008/222
Sections 200(2) to (4), 201, 202 and 203	01.01.2009	2008/3149
Section 204(1), (3) and (4)(a)	07.03.2008	2008/222
Section 204 wholly and 205	01.01.2009	2008/3149
Sections 206, 209 and 210	07.03.2008	2008/222
Certain definitions in section 207	07.03.2008, 30.06.2008 and 31.03.2009	2008/222, 2008/1436 and 2009/503
Section 207 wholly	01.01.2010	2009/3250
Section 208(1)	31.03.2009	2009/503
Section 213	01.01.2010	2009/3250
Schedule 1	07.03.2008	2008/222
Schedules 2 and 3	01.01.2010	2009/3250
Paragraphs 3(1), (3) and (4), 4(2), 11(3), 13, 20 and 23(3) of Schedule 4	01.01.2009	2008/3149
Schedule 4 remainder except paragraph 19(2)(f)	01.01.2010	2009/3250
Schedule 5 subject to transitory provision	01.01.2010	2009/3250
Paragraphs 12(1) to (3), 13 and 14 of Schedule 6	01.01.2009	2008/3149
Schedule 6 wholly	01.01.2010	2009/3250
Paragraphs 1, 2(5) and 10(3) of Schedule 7	01.01.2009	2008/3149
Schedule 7 wholly	01.01.2010	2009/3250
Paragraphs 1, 2(5), 10(5), 13(2)(a) and 21(5) of Schedule 8	01.01.2009	2008/3149
Schedule 8 wholly	01.01.2010	2009/3250
Paragraphs 1, 2(5) and 9(5) of Schedule 9	01.01.2009	2008/3149
Schedule 9 wholly	01.01.2010	2009/3250
Paragraphs 1(1), (4) and (5), 2(2), 9(3), 11, 17, 18(5) and 25(5) of Schedule 10	01.01.2009	2008/3149
Schedules 10 and 11 wholly	29.03.2010	2010/1118
Paragraphs 2(4) and (5) and 4 of Schedule 12	01.01.2009	2008/3149
Paragraph 8 and other paragraphs (for limited purposes only) of Schedule 13	01.01.2009	2008/3149
Paragraphs 1 to 12 of Schedule 15	07.03.2008	2008/222
Paragraphs 13 to 34 of Schedule 15	01.01.2009	2008/3149
Paragraphs 1, 2(b), 4(b), 7(b), 8(1) and (2), 21, 31(1) and (2)(a) and (d), 34(1), (2)(a) and (3), 38(a) in part, 38(b)(i) and (ii), 50(a)(ii), 53, 54(1) and (4)(b), 64(1), (3) and (4), 71 subject to transitory provision, 72(a) and 75(c) partially, 80, 115, 124, 126, 128(a) and (c)(i) and 130 of Schedule 16	07.03.2008	2008/222
Paragraphs 38(b)(iii), 47, 48, 54(2)(a) and (c),	30.06.2008	2008/1436

(3), (4)(a), (5), (6)(a) and (9)(b), 56(c), 81(1) and (9), 86(g) partially, 111, 112(a), (c) and (d) and 113(b)(iii), 125(c), (d), (e), (f) and (g) and 128(c)(ii) of Schedule 16		
Paragraphs 31(2)(c) and (e), 32(1), (2)(a) and (c) to (e) and (3) to (7), 33, 35, 36, 37, 41(1) and (2), 42, 43, 44, 45, 46, 49(b), (d), (f) and (h), 50(b) and (c), 54(6)(b) and (7), 59(b)(iii), 62(d) and (e), 70, 72(b), 74, 75(a) and (c) partially, 77, 79, 81 wholly, 82, 83, 84(1), (2) and (4), 85, 86 wholly, 87 to 93, 94, 95 to 99, 101, 102, 103, 104, 105(a), (b)(i) and (iii) and (c), 106(a), (b), (d) and (e) partially, 107, 108 to 110, 113(b)(iv) and (c), 114, 116 to 123, 125 wholly, 127, 131, 132, 133, 134 and 136 of Schedule 16	31.03.2009	2009/503
Paragraphs 3, 5, 6, 7(a), 8(3) to (5), 9, 10, 11 subject to transitory provision, 12, 13, 14, 15 subject to transitory provision, 16, 17, 18, 19, 20, 22, 23, 30, 40, 41(3) to (6), 49(a), (c) and (e), 50(a)(i), 51, 52, 54(2)(b), 75(b) and (c)(partially), 128(d), (e)(ii), (f) and (g), 129, 135 and 138 of Schedule 16	01.07.2009	2009/1365
Paragraphs 2(a) and (c) wholly, 4(a) and (c) wholly, 24 and 25, 26 subject to transitory provision, 27 subject to transitory provision, 28 subject to transitory provision, 29, 31(2)(b), (3) and (4), 32(2)(b), 34(2)(b), 38(a), 54(8) and (9)(a), 55, 56(a) and (b), 57, 58, 59(a) and (b)(i) and (ii), 60, 61, 62(a) to (c), 63, 64(2), 65 to 69, 73 subject to saving, 75(c) partially, 76, 112(b), 113(a) and (b)(i) and (ii), 128(b) and (e)(i) and 137 of Schedule 16	01.01.2010	2009/3250
Paragraph 1 of Schedule 17	07.03.2008	2008/222
Paragraph 10 of Schedule 17	01.01.2010	2009/3250
Paragraph 11 of Schedule 17	07.03.2008	2008/222
Paragraphs 2(a), 4, 5(1), (2)(a) and (b) partially and (3)(a) and (b) partially, 6, 7(1) and (2)(a) and (b) partially, 8, 9, 12 to 19, 20, 21, 22, 24 to 26, 28, 29, 30(1), (2)(b) and (3), 31 and 32(1) to (6)(f), (6)(g) partially and (7) to (18), 33, 34(1), (5) and (6) and 35(1), (5) and (7) to (11) of Schedule 17	31.03.2009	2009/503
Paragraphs 2 wholly and 3 of Schedule 17	01.01.2010	2009/3250
Paragraphs 23, 27, 30 wholly, 34 wholly and 35(2) to (4) and (6) of Schedule 17	01.01.2010	2009/3250
Paragraphs 1, 5, 8 and 9 of Schedule 19	07.03.2008	2008/222
Paragraphs 6(1) and (2) and 11(1) and (6) of Schedule 19	30.06.2008	2008/1436
Schedule 20	01.10.2008	2008/1436
Paragraphs 65, 67, 83, 87, 99, 100(b) to (d) and 101 of Schedule 21	31.03.2009	2009/503
Schedule 21 wholly save transitory and saving provision in respect of paragraphs 84(f), 88, 96 and 100(a) and (f)	01.01.2010	2009/3250
Paragraphs 1 to 5 and paragraph 9 (for certain	07.03.2008	2008/222

purposes) of Schedule 22		
Paragraph 18 of Schedule 22	30.06.2008	2008/1436
Paragraphs 6 to 8, 11(1), 13, 14, 15, 16 and 17 of Schedule 22	31.03.2009	2009/503
Schedule 23 partially	07.03.2008, 30.06.2008, 01.10.2008, 31.03.2009, 01.07.2009 and 01.01.2010	2008/222, 2008/1436, 2008/1436, 2009/503, 2009/1365 and 2009/3250
Schedule 24	01.01.2010	2009/3250

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