Draft Order laid before Parliament under section 206(4) and (5) of the Legal Services Act 2007 (c. 29), for approval by resolution of each House of Parliament.

D R A F T S T A T U T O R Y I N S T R U M E N T S

2011 No.

LEGAL SERVICES, ENGLAND AND WALES

The Legal Services Act 2007 (Appeals from Licensing Authority Decisions) (No.2) Order 2011

Made - - - - ***

Coming into force in accordance with article 2

The Lord Chancellor makes the following Order in exercise of the powers conferred by sections 80 and 204(3) of the Legal Services Act 2007(**a**).

In accordance with section 80(3) of that Act, the Order is made following a recommendation made by the Legal Services Board to which was annexed a draft order which was in a form not materially different from this Order.

The Legal Services Board made its recommendation with the consents required by section 81(1) of that Act and having complied with the requirements of section 81(2) to (5) of that Act.

A draft of this Order has been approved by a resolution of each House of Parliament pursuant to section 206(4) and (5) of the Legal Services Act 2007.

Citation

1. This Order may be cited as the Legal Services Act 2007 (Appeals from Licensing Authority Decisions) (No.2) Order 2011.

Commencement

2.—(1) Except as provided in paragraph (2), this Order comes into force on the day after the day on which it is made.

(2) Articles 4(1), (2) and (4) and 5—

(a) do not have effect unless an order is made designating the Society as a licensing authority under Part 1 of Schedule 10 to the 2007 Act in relation to one or more reserved legal activities; and

(b) where such an order is made, come into force at the same time as that order.

(**a**) 2007 c.29.

Interpretation

3. In this Order—

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

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

"licensing decision" means any decision made by the Society which is appealable under any provision of—

(a) Part 5 of the 2007 Act; or

(b) the Society's licensing rules;

"the Society" means the Law Society;

"the Tribunal" means the Solicitors Disciplinary Tribunal.

Appeals from licensing decisions of the Society to be made to the Tribunal

4.—(1) The Tribunal may hear and determine appeals from licensing decisions.

(2) On determining such appeals, the Tribunal may make such order as it thinks fit as to the payment by any party of costs.

(3) Subsections (9)(b), (10)(a) and (b) and (12) of section 46 of the 1974 Act(**b**) (Tribunal rules about procedure for hearings etc.) apply in relation to appeals from licensing decisions as they apply in relation to applications or complaints made by virtue of any provision of the 1974 Act.

(4) Subsection (11) of section 46 of the 1974 Act applies in relation to appeals from licensing decisions as it applies in relation to applications or complaints made by virtue of any provision of the 1974 Act and has effect as if for the words from "the applicant" to "application)" there were substituted "any party to the appeal".

Additional provisions about decisions appealable under licensing rules

5.—(1) This article applies to an appeal from a decision which is appealable under a provision of the Society's licensing rules.

(2) On an appeal to which this article applies, the Tribunal may—

(a) affirm the Society's decision in whole or in part;

(b) quash the Society's decision in whole or in part;

(c) substitute for all or part of the Society's decision another decision of a kind that the Society could have taken;

(d) remit a matter to the Society (generally, or for determination in accordance with a finding made or direction given by the Tribunal).

(3) A party to the appeal may appeal to the High Court on a point of law arising from the decision of the Tribunal, but only with the permission of the High Court.

(4) On an appeal under paragraph (3) the High Court may make such order as it thinks fit.

Signed by authority of the Lord Chancellor

Name
Parliamentary Under Secretary of State
Ministry of Justice

Date

(**a**) 1974 c.47.
(**b**) Section 46(9) was amended by sections 177 and 210 of, and paragraphs 1, 47(1) and (5) of Schedule 16 and Schedule 23 to, the Legal Services Act 2007.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision under Part 5 of the Legal Services Act 2007 (c.29) ("the 2007 Act") for the Solicitors Disciplinary Tribunal ("the Tribunal") to hear and determine appeals from decisions made by the Law Society which are appealable under any provision of Part 5 of the 2007 Act or the Law Society's own licensing rules ("licensing appeals").

Article 4 provides for licensing appeals to be heard and determined by the Tribunal; makes provision for costs orders on licensing appeals; and modifies section 46 of the Solicitors Act 1974 (c. 47) in its application to licensing appeals.

Article 5 sets out the steps that the Tribunal may take on an appeal from the licensing rules and makes provision about appeals from the Tribunal which lie to the High Court.

A full impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is published with the Explanatory Memorandum alongside the instrument on www.legislation.gov.uk.

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