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.

DRAFT STATUTORY INSTRUMENTS

2011 No.

LEGAL SERVICES, ENGLAND AND WALES

The Legal Services Act 2007 (Appeals from Licensing Authority Decisions) Order 2011

Made - - - -	***
Coming into force - -	***

The Lord Chancellor makes the following Order in exercise of the powers conferred by sections 80 and 204 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 under section 80 of that Act 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) 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 and 5 of this Order—

(a) do not have effect unless an order is made designating the Council for Licensed Conveyancers 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 2007 Act" means the Legal Services Act 2007; and

"the Council" means the Council for Licensed Conveyancers.

Appeals to be made to the First-tier Tribunal

4.—(1) The First-tier Tribunal may hear and determine appeals from decisions made by the Council which are appealable under any provision of—

(a) Part 5 of the 2007 Act; or

(b) the Council's licensing rules.

(2) The First-tier Tribunal may, in relation to appeals from decisions which are appealable under the Council's licensing rules—

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

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

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

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

Modifications of the 2007 Act

5. The Schedule to this Order (which modifies provisions of Part 5 of the 2007 Act in their application in relation to decisions of the Council) has effect.

Signed by authority of the Lord Chancellor

Name
Parliamentary Under Secretary of State
Ministry of Justice

Date

SCHEDULE

Article 5

Modifications to the 2007 Act

1. Section 96 of the 2007 Act (appeals against financial penalties) has effect in relation to a penalty imposed by the Council as if —

(a) subsections (6) and (7) were omitted; and

(b) for subsection (8) there were substituted—

"(8) Except as provided by this section or Part 1 of the Tribunals, Courts and Enforcement Act 2007(**a**), the validity of a penalty is not to be questioned by any legal proceedings whatever."

2.—(1) Schedule 13 (ownership of licensed bodies) has effect in relation to decisions of the Council with the following modifications.

(2) Paragraph 18 (appeal from decision to approve notified interest subject to conditions) has effect as if—

(a) in sub-paragraph (1), "before the end of the prescribed period" were omitted;

(b) sub-paragraphs (3) and (4) were omitted; and

(**a**) 2007 c.15.

(c) in sub-paragraph (5), after "an appeal under this paragraph" there were inserted "or Part 1 of the Tribunals, Courts and Enforcement Act 2007".

(3) Paragraph 20 (appeal from decision to object to a notified interest) has effect as if—

(a) in sub-paragraph (1), "before the end of the prescribed period" were omitted;

(b) sub-paragraphs (3) and (4) were omitted; and

(c) in sub-paragraph (5), after "an appeal under this paragraph" there were inserted "or Part 1 of the Tribunals, Courts and Enforcement Act 2007".

(4) Paragraph 29 (appeal from decision to approve a notifiable interest subject to conditions) has effect as if—

(a) in sub-paragraph (1), "before the end of the prescribed period" were omitted;

(b) sub-paragraphs (3) and (4) were omitted; and

(c) in sub-paragraph (5), after "an appeal under this paragraph" there were inserted "or Part 1 of the Tribunals, Courts and Enforcement Act 2007".

(5) Paragraph 32 (appeal from decision to object to acquisition of a notifiable interest) has effect as if—

(a) in sub-paragraph (1), "before the end of the prescribed period" were omitted;

(b) sub-paragraphs (3) and (4) were omitted; and

(c) in sub-paragraph (5), after "an appeal under this paragraph" there were inserted "or Part 1 of the Tribunals, Courts and Enforcement Act 2007".

(6) Paragraph 34 (appeal from decision to impose conditions (or further conditions) on existing restricted interest) has effect as if—

(a) in sub-paragraph (1), "before the end of the prescribed period" were omitted;

(b) sub-paragraphs (3) and (4) were omitted; and

(c) in sub-paragraph (5), after "an appeal under this paragraph" there were inserted "or Part 1 of the Tribunals, Courts and Enforcement Act 2007".

(7) Paragraph 37 (appeal from decision to object to existing restricted interest) has effect as if—

(a) in sub-paragraph (1), "before the end of the prescribed period" were omitted;

(b) sub-paragraphs (4) and (5) were omitted; and

(c) in sub-paragraph (6), after "an appeal under this paragraph" there were inserted "or Part 1 of the Tribunals, Courts and Enforcement Act 2007".

(8) Paragraph 47 (notifying the Board of objection or condition as to a person's holding of a restricted interest) has effect as if, in sub-paragraph (4), for "to the High Court" there were substituted "under Part 1 of the Tribunals, Courts and Enforcement Act 2007".

(9) Paragraph 48 (notifying the Board of approval of the holding of a restricted interest by a person included in the Board's list of persons subject to objections and conditions) has effect as if, in sub-paragraph (3), for "to the High Court" there were substituted "under Part 1 of the Tribunals, Courts and Enforcement Act 2007".

(10) Paragraph 50 (appeal from decision to notify the Board where share limit or voting limit breached) has effect as if—

(a) in sub-paragraph (1), "before the end of the prescribed period" were omitted;

(b) sub-paragraphs (3) and (4) were omitted; and

(c) in sub-paragraph (5), after "any appeal under this paragraph" there were inserted "or Part 1 of the Tribunals, Courts and Enforcement 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 First-tier Tribunal to hear and determine appeals from decisions made by the Council for Licensed Conveyancers ("the Council") which are appealable under any provision of Part 5 of the 2007 Act or the Council's own licensing rules.

Article 4 provides for such appeals to be heard and determined by the First-tier Tribunal and sets out the steps that the First-tier Tribunal may take on an appeal from the licensing rules.

Certain provisions of Part 5 of the 2007 Act, as they apply to the decisions of the Council, are modified by article 5 of, and the Schedule to, this Order. The modifications take account of the provision in Part 1 of the Tribunals, Courts and Enforcement Act 2007 (c.15) for appeals which lie from determinations made by the First-tier Tribunal.

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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