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

2014 No.

LEGAL SERVICES, ENGLAND AND WALES

The Legal Services Act 2007 (The Institute of Chartered Accountants in England and Wales) (Modification of Functions) Order 2014

Made - - - - ***

Coming into force in accordance with article 1(2)

The Lord Chancellor makes the following Order in exercise of the powers conferred by sections 64(2) and (3), 69(1) and (4) and 204(3) of the Legal Services Act 2007(**a**).

In accordance with section 69(2) and (3) of that Act, this 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 (5) of that Act.

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

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Legal Services Act 2007 (The Institute of Chartered Accountants in England and Wales) (Modification of Functions) Order 2014.

(2) This Order comes into force on the day after the day on which it is made.

(3) In this Order—

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

"the Institute" means the Institute of Chartered Accountants in England and Wales.

Power to make regulations or rules providing for appeals to the First-tier Tribunal

2.—(1) The Institute may make regulations or rules providing for appeals to the First-tier Tribunal against decisions made by the Institute in its capacity as an approved regulator, including in its role as a licensing authority.

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

(2) The regulations or rules made by the Institute may provide for a decision on such an appeal to be final and for orders as to payment of costs)(**a**).

Power of intervention

3.—(1) Schedule 14 to the 2007 Act (licensing authority's powers of intervention) applies in relation to the Institute in its capacity as an approved regulator (other than its role as a licensing authority) and persons authorised by the Institute as it applies in relation to a licensing authority and licensed bodies, subject to the modifications in paragraphs (2) and (3).

(2) Schedule 14 is to be read as if each reference to—

(a) a "licence" was a reference to an "authorisation";

(b) a "licensed body" was a reference to an "authorised person"(**b**);

(c) "a licensing authority" or the "relevant licensing authority" was a reference to "the Institute"; and

(d) a "manager" was a reference to a "principal".

(3) Paragraph 1(3) of Schedule 14 is to be read as if after sub-paragraph (e) there were inserted—

"(f) the authorised person is the subject of a bankruptcy order under Part IX of the Insolvency Act 1986(**c**) (bankruptcy);

(g) the authorised person is established outside England and Wales and is subject to an event in their country of establishment analogous to an event set out in paragraphs (a) to (f) above."

(4) In this article, "principal" includes—

(a) an individual in sole practice;

(b) a person who is a partner;

(c) a member of a limited liability partnership;

(d) a director;

(e) a member of a governing body, or

(f) an individual or person who is held out as being a director, partner, member of a limited liability partnership, or member of a governing body.

Signed by authority of the Lord Chancellor

Name
Parliamentary Under Secretary of State
Ministry of Justice

Date

(**a**) The Institute of Chartered Accountants in England and Wales ("the Institute") was designated as an approved regulator for probate activities by the Legal Services Act 2007 (Approved Regulator) Order 2014 (S.I. 2014/1872) and as a licensing authority for probate activities by the Legal Services Act 2007 (Licensing Authority) Order 2014 (S.I. 2014/1925). Probate activities are described in paragraph 6(1) of Schedule 2 to the Legal Services Act 2007 ("the 2007 Act").

(**b**) "Authorised person" is defined by section 18 of the 2007 Act.

(**c**) 1986 c. 45.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order is made under section 69 of the Legal Services Act 2007 (c. 29) ("the 2007 Act"). It modifies the functions of the Institute of Chartered Accountants in England and Wales ("the Institute").

Article 2 allows the Institute to make rules or regulations providing for appeals to the First-tier Tribunal against decisions made by the Institute in its role as an approved regulator, including in its capacity as a licensing authority.

Article 3 provides for the Institute to have the same intervention powers when acting as an approved regulator in relation to persons authorised by it as it has when acting as a licensing authority in relation to licensed bodies under Schedule 14 to the 2007 Act, with the modifications listed in paragraphs (2) and (3).

An impact assessment has been prepared for this instrument and can be found at www.legislation.gov.uk or obtained from the Head of Legal Services Policy, Law and Access to Justice Group, Ministry of Justice, 102 Petty France, London SW1H 9AJ.

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