STATUTORY INSTRUMENTS

2010 No. 213

LEGAL SERVICES, ENGLAND AND WALES

The Legal Services Act 2007 (Levy) Rules 2010

Made - - - -	*28th January 2010*
Laid before Parliament	*5th February 2010*
Coming into force - -	*15th March 2010*

The Legal Services Board with the consent of the Lord Chancellor makes the following Rules in exercise of the powers conferred by sections 173, 174 and 204(2), (3) and (4)(b) of the Legal Services Act 2007(**a**).

In accordance with section 173(3) of that Act, the Legal Services Board has satisfied itself that the apportionment of the levy as between different leviable bodies is in accordance with fair principles.

The Legal Services Board has complied with the consultation requirements in section 205 of that Act.

General

Citation and commencement

1.—(1) These Rules may be cited as the Legal Services Act 2007 (Levy) Rules 2010.

(2) These Rules come into force on 15th March 2010.

Interpretation

2.—(1) In these Rules—

"the 1990 Act" means the Courts and Legal Services Act 1990(**b**);

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

"the Board" means the Legal Services Board;

"consumer", "manager" and "person" have the same meaning as in the 2007 Act;

"duly certificated notary" has the meaning given in paragraph 12 of Schedule 5 to the 2007 Act;

"leviable Board expenditure" has the meaning given in section 173(6) of the 2007 Act;

"leviable body", in relation to any time after the coming into force of these Rules, means—

(a) The Law Society;

(**a**) 2007 c. 29.
(**b**) 1990 c. 41.

(b) The General Council of the Bar;

(c) The Master of the Faculties;

(d) The Institute of Legal Executives;

(e) The Council for Licensed Conveyancers;

(f) The Chartered Institute of Patent Attorneys;

(g) The Institute of Trade Mark Attorneys;

(h) The Association of Law Costs Draftsmen;

"leviable Lord Chancellor expenditure" has the meaning given in section 173(9) and (10) of the 2007 Act;

"leviable OLC expenditure" has the meaning given in section 173(7) and (8) of the 2007 Act;

"the OLC" means the Office for Legal Complaints;

"relevant body", in relation to any time before the coming into force of these Rules, means a body listed in any of sub-paragraphs (a) to (h) of the definition of "leviable body";

"service complaint" means a complaint made to a relevant body which—

(a) was made by, or on behalf of, a consumer;

(b) relates to an act or omission of any person which occurred before the coming into force of these Rules at a time when that person—

(i) was regulated by the relevant body, or

(ii) was not so regulated but was a manager or employee of a person who was so regulated; and

(c) was eligible to be dealt with under arrangements made by the relevant body for the determination of consumer complaints.

(2) Any reference in a provision of these Rules to a person regulated by a relevant body is to any person who, at the date referred to in that provision, fell within one or more of sub-paragraphs (a) to (f)—

(a) any person with any right of audience before a court in relation to any proceedings which was granted, or is deemed to have been granted, by the relevant body under sections 27(2)(a)(**a**) (rights of audience) or 31(**b**) (barristers or solicitors) of the 1990 Act;

(b) any person with any right to conduct litigation in relation to any proceedings which was granted, or is deemed to have been granted, by the relevant body under sections 28(2)(a)(**c**) (rights to conduct litigation) or 31 of the 1990 Act;

(c) any person providing probate services by virtue of an exemption under section 55(**d**) (preparation of probate papers etc: exemption from section 23(1) of the Solicitors Act 1974(**e**)) of the 1990 Act which was granted by the relevant body;

(d) any person practising as a duly certificated notary in accordance with rules made by the relevant body under section 57(**f**)(notaries) of the 1990 Act;

(e) any person who is authorised by, or registered with, the relevant body and who is an authorised person within the meaning of section 113(**g**) (administration of oaths and taking of affidavits) of the 1990 Act; or

---

(**a**) 1990 c. 41. Section 27(2)(a) was amended by paragraph 6(2) of Schedule 6 to the Access to Justice Act 1999 (c. 22). The section was repealed by paragraph 84(g) of Schedule 21 to the Legal Services Act 2007.

(**b**) Section 31 was substituted by section 36 of the Access to Justice Act 1999. The section was repealed by paragraph 84(g) of Schedule 21 to the Legal Services Act 2007.

(**c**) Section 28(2)(a) was amended by paragraph 7(2) of Schedule 6 to the Access to Justice Act 1999. The section was repealed by paragraph 84(e) of Schedule 21 to the Legal Services Act 2007.

(**d**) Section 55 was amended by S.I. 2003/1887. The section was repealed by paragraph 88 of Schedule 21 to the Legal Services Act 2007.

(**e**) 1974 c. 47. Section 23 was repealed by paragraph 26 of Schedule 16 to the Legal Services Act 2007.

(**f**) Section 57 was amended by Part 2 of Schedule 15 to the Access to Justice Act 1999.

(**g**) Section 113 was amended by Part 2 of Schedule 15 to the Access to Justice Act 1999 and S.I. 2003/1887. The section was repealed by paragraph 96 of Schedule 21 to the Legal Services Act 2007.

(f) any person licensed or otherwise authorised by the relevant body to carry on conveyancing services within the meaning of section 119 of the 1990 Act.

The scope of the levy imposed by these Rules

3.—(1) These Rules provide for the imposition of a levy on each leviable body for the purpose of raising an amount corresponding to the aggregate of the expenditure referred to in paragraphs (2), (3) and (4).

(2) The expenditure referred to in this paragraph is such of the following as is incurred in connection with the establishment of the Board—

(a) leviable Board expenditure; and

(b) leviable Lord Chancellor expenditure.

(3) The expenditure referred to in this paragraph is such of the following as is incurred in connection with the establishment of the OLC—

(a) leviable OLC expenditure; and

(b) leviable Lord Chancellor expenditure.

(4) The expenditure referred to in this paragraph is leviable Board expenditure which—

(a) is incurred in respect of the three month period ending on 31st March 2010; and

(b) does not fall within paragraph (2)(a).

(5) Estimated expenditure may be taken into account for the purposes of determining the amount of any expenditure for the purposes of these Rules.

(6) The Board must obtain the Lord Chancellor's agreement to the amount to be raised by way of the levy under these Rules.

(7) Nothing in these Rules affects the power in section 173 of the 2007 Act to raise any amount which—

(a) does not fall within paragraph (2), (3) or (4); or

(b) may be required on account of any discrepancy between the amount to be raised by way of the levy under these Rules and the amount actually received by the Board.

Amount payable by each leviable body

Determining the amount of the levy for each leviable body

4.—(1) The amount of levy that each leviable body must pay to the Board is to be determined by adding together the amounts determined under rules 5, 6 and 7 in relation to that leviable body.

(2) The Board must notify each leviable body of the imposition of the levy, stating—

(a) the amount determined for that body, and

(b) that the payment is to be made by the time specified in rule 9,

and the leviable body must pay that amount to the Board.

Amount of levy: costs in connection with the establishment of the Board

5.—(1) This rule determines the amount to be paid by each leviable body in relation to the expenditure referred to in rule 3(2).

(2) The amount which the leviable body is required to pay under rule 4 is an amount equal to the relevant proportion of that expenditure.

(3) The relevant proportion is the number at 1st April 2009 of persons regulated by the body in question, in its capacity as a relevant body, as a proportion of the total number at that date of such persons regulated by all relevant bodies.

Amount of levy: costs in connection with the establishment of the OLC

6.—(1) This rule determines the amount to be paid by each leviable body in relation to the expenditure referred to in rule 3(3).

(2) The amount which the leviable body is required to pay under rule 4 is an amount equal to the relevant proportion of that expenditure.

(3) Subject to paragraph (4), the relevant proportion is the number of service complaints which, in the course of the three year period ending on 31st December 2008, were received by the body in question, in its capacity as a relevant body, as a proportion of the total number of service complaints received by all relevant bodies in the course of the same three year period.

(4) No amount is payable under this rule if the proportion determined under paragraph (3) is less than 1 in 1000.

Amount of levy: costs incurred by the Board between 1st January 2010 and 31st March 2010

7.—(1) This rule determines the amount to be paid by each leviable body in relation to the expenditure referred to in rule 3(4).

(2) The amount which the leviable body is required to pay under rule 4 is an amount equal to the relevant proportion of that expenditure.

(3) The relevant proportion is to be determined in the manner specified in rule 5(3).

Duty to provide information required to calculate the levy

8.—(1) For the purpose of enabling the Board to determine the amount payable by a leviable body by virtue of rules 5, 6 and 7, each leviable body must provide the Board with the information required by paragraphs (2) and (3).

(2) The leviable body must provide—

(a) a statement of the number at 1st April 2009 of persons who were regulated by the body in question, in its capacity as a relevant body; and

(b) a statement of the number of service complaints received by the body in question, in its capacity as a relevant body, in the course of the three year period ending on 31st December 2008.

(3) Any statement provided under paragraph (2) must contain or be accompanied by such information as will enable the Board, or such person as the Board may appoint, to be satisfied that the numbers stated are correct.

(4) The information must be provided no later than the end of the period of one month starting with the date on which these Rules come into force.

Arrangements for payment

Making payment

9. Subject to rule 10, the amount of levy that a leviable body is required to pay to the Board under rule 4 must be paid in full by the leviable body no later than—

(a) 31st March 2010; or

(b) if later, the end of the period of 28 days starting with the date of the notice given to the leviable body in accordance with rule 4(2).

Agreement to delay part of payment

10.—(1) A leviable body may enter into a written agreement with the Board to delay payment of part of the amount of the levy.

(2) No agreement under paragraph (1) may provide for a delay in payment of any amount that exceeds the aggregate of—

(a) 66 per cent. of the amount determined for the leviable body under rule 5 ("amount A"); and

(b) 66 per cent. of the amount determined for the leviable body under rule 6 ("amount B").

(3) Each agreement must—

(a) specify the percentage of either or both of amount A and amount B which is to be subject to a delay in payment under the agreement;

(b) specify the minimum percentage of amount A, and of amount B, which the leviable body must pay no later than 31st March 2011; and

(c) provide that the leviable body must pay any outstanding balance of either or both amounts no later than 31st March 2012.

(4) Where the percentage of amount A, or of amount B, which is specified under paragraph (3)(a) is 34 per cent. or more, the minimum payment specified under paragraph (3)(b) in relation to that amount must be 33 per cent.

(5) Nothing in this rule affects the liability of the leviable body to pay the remainder of the amount of the levy in accordance with the deadline for payment determined in accordance with rule 9.

Interest payable on late payment

11. If payment is not made by a leviable body in accordance with the requirements of rules 9 and 10, the Board is entitled to charge interest on any amount unpaid at the rate which is for the time being specified in section 17(1) of the Judgments Act 1838(**a**) in relation to a judgment debt.

Made by the Legal Services Board at its meeting on 28th January 2010

Terence Connor
David Edmonds CBE
Stephen Green
Rosemary Martin
Bill Moyes
Barbara Saunders OBE
Nicole Smith
David Wolfe
Chris Kenny

I consent
Signed by authority of the Lord Chancellor

Bridget Prentice
Parliamentary Under Secretary of State
Ministry of Justice

4th February 2010

(**a**) 1838 c. 110. A relevant amendment was made by S.I. 1993/564.

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules impose a levy under sections 173 and 174 of the Legal Services Act 2007 (c. 29). The levy covers the expenditure incurred in connection with the establishment of the Legal Services Board ("the Board"), the expenditure incurred in connection with the establishment of the Office for Legal Complaints ("the OLC") and the expenditure incurred by the Board in respect of the period between 1st January 2010 and 31st March 2010.

Rule 3 sets out the scope of the levy. The total amount to be raised is to cover expenditure incurred in establishing the Board and the OLC and the expenditure incurred by the Board in respect of the period between 1st January 2010 and 31st March 2010.

Rules 4 to 8 specify the procedure for determining the amount of levy that each leviable body must pay and the procedure for notification by the Board of the amount due. Under rule 4, that amount is determined for each leviable body by adding together a proportion of the categories of expenditure referred to in rule 3 and the proportion for each category is to be calculated in accordance rules 5, 6 and 7. Rule 8 requires leviable bodies to provide the Board with the information necessary for it to calculate these proportions.

Rule 9 requires that the levy must be paid in full no later than 31st March 2010 or, if later, 28 days after the date of the notice to the leviable body under rule 4. Rule 10 states that this requirement does not apply if the Board and the leviable body agree in writing that the leviable body may delay payment of part of the amount due, subject to certain limits specified in that rule. Interest is payable under rule 11 in the event of any late payment.

An impact assessment in relation to the levy is available from the Legal Services Board, Victoria House, Southampton Row, London WC1B 4AD or at www.legalservicesboard.org.uk.

© Crown copyright 2010

Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Carol Tullo, Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.