EXPLANATORY MEMORANDUM TO THE

LEGAL SERVICES OMBUDSMAN (JURISDICTION) (AMENDMENT) ORDER 2005

2005 No. 489

1. This explanatory memorandum has been prepared by the Department for Constitutional Affairs and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Description

2.1 This Order will extend the remit of the Legal Services Ombudsman so that she may investigate allegations about the way in which the Institute of Trade Mark Attorneys has handled complaints made to it, following the making of the Institute of Trade Mark Attorneys Order 2005.

2.2 The Institute of Trade Mark Attorneys Order 2005 will come into force on 1 April 2005. The Order designates the Institute of Trade Mark Attorneys as an authorised body for the purposes of sections 27 and 28 of the Courts and Legal Services Act 1990, under which authorised bodies may grant rights of audience and rights to conduct litigation.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Background

4.1 Section 22(1) of the Courts and Legal Services Act 1990 provides that the Legal Services Ombudsman may investigate allegations made to her about the manner in which a professional body in the legal services field has handled a complaint made to it about one of its members. Section 22(11) grants the Lord Chancellor (now the Secretary of State) power by Order to specify professional bodies for the purposes of the subsection and so extend the remit of the Legal Services Ombudsman.

5. Extent

5.1 This instrument applies to England and Wales.

6. European Convention on Human Rights

Not applicable.

7. Policy background

7.1 The Institute of Trade Mark Attorneys Order 2005 was laid last year to grant ITMA rights of audience and rights to conduct litigation. This Order comes into force on 1 April 2005.

7.2. However, unless the Legal Service Ombudsman's remit is extended to include ITMA, there will be no oversight of any complaints handling that may arise from ITMA's new rights. It is therefore in the consumer interest that ITMA be brought within the LSO remit. A similar Order was laid in respect of the Chartered Institute of Patent Agents when they were granted rights of audience in 1999.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has negligible impact on business, charities or voluntary bodies.

9. Contact

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