

Draft Order laid before Parliament under section 120(4) of the Courts and Legal Services Act 1990 for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2008 No.

LEGAL SERVICES, ENGLAND AND WALES

The Probate Services (Approved Bodies) Order 2008

Made - - - - 2008
Coming into force - - 1 August 2008

This Order is made under section 55(3) of, and Paragraph 4 of Schedule 9 to the Courts and Legal Services Act 1990⁽¹⁾.

The Secretary of State has considered the advice given to him by the Legal Services Consultative Panel and the President of the Family Division.

The Secretary of State is satisfied that the bodies named in this Order have such arrangements in force as are mentioned in paragraph 4 of Schedule 9 to the Courts and Legal Services Act 1990.

A draft of this instrument has been approved by a resolution of each House of Parliament pursuant to section 120(4)(2) of that Act.

Accordingly the Secretary of State makes the following Order:

1. This Order may be cited as the Probate Services (Approved Bodies) Order 2008 and shall come into force on 1 August 2008.

2.—(1) The bodies listed in paragraph (2) shall be approved bodies for the purpose of granting an exemption under section 55 of the Courts and Legal Services Act 1990.

(2) Those bodies are—

- (a) the Council for Licensed Conveyancers;
- (b) the Institute of Chartered Accountants of Scotland.

(1) 1990 c. 41; “Secretary of State” in section 55(3) was substituted by S.I. 2003/1887, Schedule 2, paragraph 8(1)(c).
(2) Section 120(4) was amended in so far as relevant by the Access to Justice Act 1999 (c. 22), Schedule 6, paragraphs 4 and 11(1) and (2).

Draft Legislation: This is a draft item of legislation. This draft has since been made as a
UK Statutory Instrument: The Probate Services (Approved Bodies) Order 2008 No. 1865

Signed by authority of the Secretary of State

Date

Parliamentary Under Secretary of State
Ministry of Justice

EXPLANATORY NOTE

(This note is not part of the Order)

Section 23 of the Solicitors Act 1974 (c.47) (“the 1974 Act”) makes it an offence for a person who is not a solicitor, barrister or public notary (or an employee of such a person) to draw up or prepare papers on which to found or oppose a grant of probate or a grant of letters of administration. Section 55 of the Courts and Legal Services Act 1990 (c.41) (“the 1990 Act”) makes an exception to section 23 of the 1974 Act in relation to any person who has been granted an exemption from those provisions by an “approved body”.

Section 55(3) of the 1990 Act provides that an “approved body” is a professional or other body which has been approved by the Secretary of State under Schedule 9 to the 1990 Act. The procedure under that Schedule requires the Secretary of State to consult the Legal Services Consultative Panel set up under section 18A of the 1990 Act (paragraph 1) and the President of the Family Division (paragraph 2). He must also be satisfied (paragraph 4) that the organisation to be approved has in place suitable arrangements to protect consumers.

Having followed the procedure required by Schedule 9 to the 1990 Act, this Order approves the two bodies listed in article 2(2) to grant exemptions under section 55 of the 1990 Act.