



Courts and Legal Services Act 1990

1990 CHAPTER 41

PART VI

MISCELLANEOUS AND SUPPLEMENTAL

Supplemental

119 Interpretation

(1) In this Act—

“administration”, in relation to letters of administration, has the same meaning as in section 128 of the Supreme Court Act 1981;

“advocacy services” means any services which it would be reasonable to expect a person who is exercising, or contemplating exercising, a right of audience in relation to any proceedings, or contemplated proceedings, to provide;

“authorised advocate” means any person (including a barrister or solicitor) who has a right of audience granted by an authorised body in accordance with the provisions of this Act;

“authorised body” and “appropriate authorised body”—

(a) in relation to any right of audience or proposed right of audience, have the meanings given in section 27; and

(b) in relation to any right to conduct litigation or proposed right to conduct litigation, have the meanings given in section 28;

“authorised litigator” means any person (including a solicitor) who has a right to conduct litigation granted by an authorised body in accordance with the provisions of this Act;

“authorised practitioner” has the same meaning as in section 37;

“conveyancing services” means the preparation of transfers, conveyances, contracts and other documents in connection with, and other services ancillary to, the disposition or acquisition of estates or interests in land;

“court” includes—

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- (a) any tribunal which the Council on Tribunals is under a duty to keep under review;
- (b) any court-martial; and
- (c) a statutory inquiry within the meaning of section 19(1) of the Tribunals and Inquiries Act 1971;

“designated judge” means the Lord Chief Justice, the Master of the Rolls, the President of the Family Division or the Vice-Chancellor;

“the Director” means the Director General of Fair Trading;

“duly certificated notary public” has the same meaning as it has in the Solicitors Act 1974 by virtue of section 87(1) of that Act;

“the general principle” has the meaning given in section 17(4);

“licensed conveyancer” has the same meaning as it has in the Administration of Justice Act 1985 by virtue of section 11 of that Act;

“litigation services” means any services which it would be reasonable to expect a person who is exercising, or contemplating exercising, a right to conduct litigation in relation to any proceedings, or contemplated proceedings, to provide;

“member”, in relation to any professional or other body (other than any body established by this Act), includes any person who is not a member of that body but who may be subject to disciplinary sanctions for failure to comply with any of that body’s rules;

“multi-national partnership” has the meaning given by section 89(9);

“probate services” means the drawing or preparation of any papers on which to found or oppose a grant of probate or a grant of letters of administration and the administration of the estate of a deceased person;

“prescribed” means prescribed by regulations under this Act;

“proceedings” means proceedings in any court;

“qualification regulations” and “rules of conduct”—

- (a) in relation to any right of audience or proposed right of audience, have the meanings given in section 27; and
- (b) in relation to any right to conduct litigation or proposed right to conduct litigation, have the meanings given in section 28;

“qualified person” has the meaning given in section 36(6);

“registered foreign lawyer” has the meaning given by section 89(9);

“right of audience” means the right to exercise any of the functions of appearing before and addressing a court including the calling and examining of witnesses;

“right to conduct litigation” means the right—

- (a) to exercise all or any of the functions of issuing a writ or otherwise commencing proceedings before any court; and
- (b) to perform any ancillary functions in relation to proceedings (such as entering appearances to actions);

“solicitor” means solicitor of the Supreme Court; and

“the statutory objective” has the meaning given in section 17(2).

- (2) For the purposes of the definition of “conveyancing services” in subsection (1)—
“disposition”—

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- (i) does not include a testamentary disposition or any disposition in the case of such a lease as is referred to in section 54(2) of the Law of Property Act 1925 (short leases); but
 - (ii) subject to that, includes in the case of leases both their grant and their assignment; and
- “acquisition” has a corresponding meaning.

(3) In this Act any reference (including those in sections 27(9) and 28(5)) to rules of conduct includes a reference to rules of practice.

120 Regulations and orders

- (1) Any power to make orders or regulations conferred by this Act shall be exercisable by statutory instrument.
- (2) Any such regulations or order may make different provision for different cases or classes of case.
- (3) Any such regulations or order may contain such incidental, supplemental or transitional provisions or savings as the person making the regulations or order considers expedient.
- (4) No instrument shall be made under section 1(1), 26(1), 37(10), 40(1), 58, 60, 89(5) or (7), 125(4) or paragraph 4 or 6 of Schedule 9 or paragraph 9(c) of Schedule 14 unless a draft of the instrument has been approved by both Houses of Parliament.
- (5) An Order in Council shall not be made in pursuance of a recommendation made under section 29(2) or 30(1) unless a draft of the Order has been approved by both Houses of Parliament.
- (6) Any other statutory instrument made under this Act other than one under section 124(3) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

121 Financial provisions

Any expenses incurred by the Lord Chancellor under this Act shall be payable out of money provided by Parliament.

122 Power to make corresponding provision for Northern Ireland

An Order in Council made under paragraph 1(1)(b) of Schedule 1 to the Northern Ireland Act 1974 which contains a statement—

- (a) that it amends the law in Northern Ireland with respect to —
 - (i) the pensions of county court judges and resident magistrates, and
 - (ii) pensions in relation to which provisions of the Judicial Pensions Act (Northern Ireland) 1951 apply; and
- (b) that it is made only for purposes corresponding to those of—
 - (i) sections 79 to 83 and Schedules 12 and 13 and such other provisions of this Act as are consequential on those sections and those Schedules;
 - (ii) section 118,

shall not be subject to sub-paragraphs (4) and (5) of paragraph 1 of that Schedule (affirmative resolution of both Houses of Parliament) but shall

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be subject to annulment in pursuance of a resolution of either House of Parliament.

123 Extent

- (1) The following provisions of this Act extend to Scotland—
- (a) section 65;
 - (b) section 71(2), so far as necessary;
 - (c) sections 79 to 83;
 - (d) sections 104 to 107;
 - (e) section 116, this section and sections 124 and 125, so far as necessary;
 - (f) paragraph 13 of Schedule 1;
 - (g) paragraph 8 of Schedule 3;
 - (h) paragraph 11 of Schedule 5;
 - (i) Schedule 10, so far as it amends any enactment extending to Scotland;
 - (j) paragraphs 5, 34 to 36, 39, 41 and 42 of Schedule 16;
 - (k) paragraph 1 of Schedule 17; and
 - (l) Schedule 20, so far as it repeals any enactment extending to Scotland.
- (2) The following provisions of this Act extend to Northern Ireland—
- (a) section 8;
 - (b) section 71(2), so far as necessary;
 - (c) sections 79(1) and 80 to 84;
 - (d) sections 109, 110, 116, 118, 121, 122, this section and sections 124 and 125 so far as necessary;
 - (e) paragraph 13 of Schedule 1;
 - (f) paragraph 8 of Schedule 3;
 - (g) paragraph 11 of Schedule 5;
 - (h) Schedule 10, so far as it amends any enactment extending to Northern Ireland;
 - (i) Schedule 13;
 - (j) paragraphs 5, 25, 33, 35, 39 and 41 of Schedule 16;
 - (k) Schedules 17, 18 and 19, so far as they amend or relate to any enactment extending to Northern Ireland;
 - (l) Schedule 20 so far as it repeals any such enactment.

124 Commencement

- (1) The following provisions come into force on the passing of this Act—
- (a) sections 1, 5, 119 to 123, this section and section 125(1); and
 - (b) paragraphs 2 and 3 of Schedule 17.
- (2) The following provisions come into force at the end of the period of two months beginning on the day on which this Act is passed—
- (a) sections 6, 8, 11, 16, 64, 65, 72, 73, 85, 87 and 88, 90 to 92, 94 to 97, 98 and 108 to 110;
 - (b) paragraphs 1, 11, 12, 16 and 20 of Schedule 17;
 - (c) paragraphs 7, 8, 14 to 16, 55 and 57 of Schedule 18; and
 - (d) paragraph 1 of Schedule 19.

- (3) The other provisions of this Act shall come into force on such date as may be appointed by order made by the Lord Chancellor or by the Secretary of State or by both, acting jointly.
- (4) Different dates may be appointed for different provisions of this Act and for different purposes.

125 Short title, minor and consequential amendments, transitionals and repeals

- (1) This Act may be cited as the Courts and Legal Services Act 1990.
- (2) The minor amendments set out in Schedule 17 shall have effect.
- (3) The consequential amendments set out in Schedule 18 shall have effect.
- (4) The Lord Chancellor may by order make such amendments or repeals in relevant enactments as appear to him to be necessary or expedient in consequence of any provision made by Part II with respect to advocacy, litigation, conveyancing or probate services.
- (5) In subsection (4) “relevant enactments” means such enactments or instruments passed or made before or in the same Session as this Act as may be specified in the order.
- (6) The transitional provisions and savings set out in Schedule 19 shall have effect.
- (7) The repeals set out in Schedule 20 (which include repeals of certain enactments that are spent or of no further practical utility) shall have effect.