



Courts and Legal Services Act 1990

1990 CHAPTER 41

PART II

LEGAL SERVICES

Extension of conveyancing services

38 Refusal of approval and imposition of conditions

- (1) Where the Board proposes to refuse an application for authorisation under section 37 it shall give the applicant written notice of its proposal.
- (2) The notice shall give the Board's reasons for proposing to refuse the application and inform the applicant of the effect of subsection (7).
- (3) Any authorisation under section 37 may be given subject to the applicant complying with conditions imposed by the Board with a view to the protection of clients.
- (4) Any such conditions—
 - (a) may be imposed by the Board either when granting the application for authorisation or at any later time; and
 - (b) may be expressed to apply in relation to a specified part of the authorised practitioner's business (for example, to a specified branch or office).
- (5) Before imposing any such conditions, the Board shall give written notice of its intention to do so to the applicant or (as the case may be) authorised practitioner concerned.
- (6) The notice shall inform the person to whom it is given of the effect of subsection (7).
- (7) Where a notice is served under subsection (1) or (5), it shall be the duty of the Board to consider any representations duly made by the person on whom the notice is served before determining whether to grant or refuse the application or to impose any of the proposed conditions.
- (8) For the purposes of subsection (7), representations are duly made if—

Status: This is the original version (as it was originally enacted).

- (a) they are made to the Board before the end of the period of 28 days beginning with the day on which the notice is served; and
 - (b) unless the Board directs otherwise in a particular case, are in writing.
- (9) Where the Board—
- (a) proposes to impose a condition under this section on an authorised practitioner; and
 - (b) is satisfied that the circumstances of the case are exceptional and justify the condition taking effect immediately,
- it may disregard subsections (5) to (8) when imposing the condition.
- (10) If the Board refuses the application, or imposes any of the proposed conditions, it shall give the applicant notice in writing and, in the case of a refusal, the notice shall give the Board's reasons for refusing.
- (11) A notice under subsection (10) shall inform the applicant of his rights of appeal under section 41.
- (12) An authorised practitioner who fails to comply with a condition imposed on him under this section shall not thereby cease to be such a practitioner; but in such a case the Board may—
- (a) impose additional, or substituted, conditions on him; or
 - (b) revoke or suspend his authorisation in accordance with rules made under section 39(1).