



# Legal Services Act 2007

## 2007 CHAPTER 29

### PART 6

#### LEGAL COMPLAINTS

VALID FROM 01/01/2010

#### *Information*

VALID FROM 06/10/2010

#### **147 Information and documents**

- (1) An ombudsman may, by notice, require a party to a complaint under the ombudsman scheme—
  - (a) to produce documents, or documents of a description, specified in the notice, or
  - (b) to provide information, or information of a description, specified in the notice.
- (2) A notice under subsection (1) may require the information or documents to be provided or produced—
  - (a) before the end of such reasonable period as may be specified in the notice, and
  - (b) in the case of information, in such manner or form as may be so specified.
- (3) This section applies only to information and documents the provision or production of which the ombudsman considers necessary for the determination of the complaint.
- (4) An ombudsman may—
  - (a) take copies of or extracts from a document produced under this section, and

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- (b) require the person producing the document to provide an explanation of it.
- (5) If a person who is required under this section to produce a document fails to do so, an ombudsman may require that person to state, to the best of that person's knowledge and belief, where the document is.
- (6) No person may be required under this section—
  - (a) to provide any information which that person could not be compelled to provide or give in evidence in civil proceedings before the High Court, or
  - (b) to produce any document which that person could not be compelled to produce in such proceedings.
- (7) In this section “party”, in relation to a complaint, means—
  - (a) the complainant;
  - (b) the respondent;
  - (c) any other person who in accordance with the scheme rules is to be regarded as a party to the complaint.

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#### **148 Reporting failures to provide information or produce documents**

- (1) This section applies where an ombudsman is of the opinion that an authorised person has failed to comply with a requirement imposed under section 147(1).
- (2) The ombudsman must give each relevant authorising body, in relation to that person, a report which—
  - (a) states that the ombudsman is of that opinion, and
  - (b) gives details of the failure.
- (3) A report under subsection (2) may require the relevant authorising body to report to the ombudsman the action which has been or is to be taken by it in response to the report under that subsection and the reasons for that action being taken.
- (4) The duty imposed by subsection (2) is not affected by the withdrawal or abandonment of the complaint in relation to which the requirement was imposed under section 147(1).
- (5) If an ombudsman, having regard to any report produced by the relevant authorising body in compliance with a requirement imposed under subsection (3), or any failure to comply with such a requirement, considers—
  - (a) that there has been a serious failure by the relevant authorising body to discharge its regulatory functions, or
  - (b) if such a requirement has been imposed on the body on more than one occasion, that the relevant authorising body has persistently failed adequately to discharge its regulatory functions,
 the ombudsman may make a report to that effect to the Board.
- (6) In this section “authorised person” means an authorised person in relation to any activity which is a reserved legal activity.

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#### **149 Enforcement of requirements to provide information or produce documents**

- (1) This section applies where an ombudsman is of the opinion that a person (“the defaulter”) has failed to comply with a requirement imposed under section 147(1).
- (2) The ombudsman may certify the defaulter's failure to comply with the requirement to the court.
- (3) Where an ombudsman certifies a failure to the court under subsection (2), the court may enquire into the case.
- (4) If the court is satisfied that the defaulter has failed without reasonable excuse to comply with the requirement, it may deal with—
  - (a) the defaulter, and
  - (b) in the case of a body, any manager of the body, as if that person were in contempt.
- (5) Subsection (6) applies in a case where the defaulter is an authorised person in relation to any activity which is a reserved legal activity.
- (6) The ombudsman (“the enforcing ombudsman”) may not certify the defaulter's failure to the court until a report by that or another ombudsman has been made as required by section 148(2) and the enforcing ombudsman is satisfied—
  - (a) that each relevant authorising body to whom such a report was made has been given a reasonable opportunity to take action in respect of the defaulter's failure, and
  - (b) that the defaulter has continued to fail to provide the information or produce the documents to which the requirement under section 147 related.
- (7) In this section “court” means the High Court.

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#### **150 Reports of investigations**

- (1) The OLC may, if it considers it appropriate to do so in any particular case, publish a report of the investigation, consideration and determination of a complaint made under the ombudsman scheme.
- (2) A report under subsection (1) must not (unless the complainant consents)—
  - (a) mention the name of the complainant, or
  - (b) include any particulars which, in the opinion of the OLC, are likely to identify the complainant.

#### **151 Restricted information**

- (1) Except as provided by section 152, restricted information must not be disclosed—

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- (a) by a restricted person, or
  - (b) by any person who receives the information directly or indirectly from a restricted person.
- (2) In this section and section 152—
- “restricted information” means information (other than excluded information) which is obtained by a restricted person in the course of, or for the purposes of, an investigation into a complaint made under the ombudsman scheme (including information obtained for the purposes of deciding whether to begin such an investigation or in connection with the settlement of a complaint);
- “restricted person” means—
- (a) the OLC,
  - (b) an ombudsman, or
  - (c) a person who exercises functions delegated under paragraph 22 of Schedule 15.
- (3) For the purposes of subsection (2) “excluded information” means—
- (a) information which is in the form of a summary or collection of information so framed as not to enable information relating to any particular person to be ascertained from it;
  - (b) information which at the time of the disclosure is or has already been made available to the public from other sources;
  - (c) information which was obtained more than 70 years before the date of the disclosure.

#### Commencement Information

- II** S. 151 partly in force: s. 151 not in force at Royal Assent see s. 211; s. 151 in force for certain purposes at 1.1.2010 by S.I. 2009/3250, art. 2(d) (with art. 9)

### 152 Disclosure of restricted information

- (1) A restricted person may disclose restricted information to another restricted person.
- (2) Restricted information may be disclosed for the purposes of the investigation in the course of which, or for the purposes of which, it was obtained.
- (3) Section 151 also does not preclude the disclosure of restricted information—
  - (a) in a report made under—
    - (i) section 143(2) (report of possible misconduct to approved regulators),
    - (ii) section 146(2) (report of failure to co-operate with investigation),
    - (iii) section 148 (reporting failures to provide information or produce documents), or
    - (iv) section 150 (reports of investigations),
  - (b) for the purposes of enabling or assisting the Board to exercise any of its functions,
  - (c) to an approved regulator for the purposes of enabling or assisting the approved regulator to exercise any of its regulatory functions,

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- (d) with the consent of the person to whom it relates and (if different) the person from whom the restricted person obtained it,
  - (e) for the purposes of an inquiry with a view to the taking of any criminal proceedings or for the purposes of any such proceedings,
  - (f) where the disclosure is required by or by virtue of any provision made by or under this Act or any other enactment or other rule of law,
  - (g) to such persons (other than approved regulators) who exercise regulatory functions as may be prescribed by order made by the Lord Chancellor, for such purposes as may be so prescribed.
- (4) Subsections (2) and (3) are subject to subsection (5).
- (5) The Lord Chancellor may by order prevent the disclosure of restricted information by virtue of subsection (2) or (3) in such circumstances, or for such purposes, as may be prescribed in the order.

#### Commencement Information

- I2** S. 152 partly in force: s. 152 not in force at Royal Assent see s. 211; s. 152 in force for certain purposes at 1.1.2010 by S.I. 2009/3250, art. 2(d) (with art. 9)

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#### 153 Data protection

In section 31 of the Data Protection Act 1998 (c. 29) (regulatory activity), after subsection (4B) (inserted by section 170) insert—

“(4C) Personal data processed for the purposes of the function of considering a complaint under the scheme established under Part 6 of the Legal Services Act 2007 (legal complaints) are exempt from the subject information provisions in any case to the extent to which the application of those provisions to the data would be likely to prejudice the proper discharge of the function.”

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