

Status: Point in time view as at 14/10/2008. This version of this cross heading contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Legal Services Act 2007, Cross Heading: Determination of application. (See end of Document for details)

SCHEDULES

VALID FROM 01/04/2011

SCHEDULE 18

IMMIGRATION ADVICE AND IMMIGRATION SERVICES

PART 1

QUALIFYING REGULATORS

Determination of application

- 5 (1) The Board must make rules specifying how it will determine applications under paragraph 3.
- (2) Rules under sub-paragraph (1) must, in particular, provide that the Board may grant an application only if it is satisfied—
- (a) that, if a designation order were to be made in relation to the applicant, the applicant would have appropriate internal governance arrangements in place at the time the order takes effect,
 - (b) that, if such an order were made, the applicant would be competent to perform the role of designated qualifying regulator (within the meaning of section 86A of the Immigration and Asylum Act 1999 (c. 33)) at that time,
 - (c) that the arrangements made by the applicant for authorising persons to provide immigration advice or immigration services provide that persons may not be so authorised unless they are persons who are also authorised by the applicant to carry on activities which are reserved legal activities,
 - (d) that the applicant's proposed regulatory arrangements make appropriate provision, and
 - (e) that the applicant's proposed regulatory arrangements comply with the requirements imposed by sections 112 and 145 (requirements imposed in relation to the handling of complaints).
- (3) The rules made for the purposes of sub-paragraph (2)(a) must in particular require the Board to be satisfied—
- (a) that the exercise of the applicant's regulatory functions would not be prejudiced by any of its representative functions, and
 - (b) that decisions relating to the exercise of its regulatory functions would so far as reasonably practicable be taken independently from decisions relating to the exercise of its representative functions.
- (4) In subsection (2)(c) the reference to persons who are also authorised by the applicant to carry on activities which are reserved legal activities includes, in

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relation to any application by the Law Society, registered foreign lawyers (within the meaning of section 89 of the Courts and Legal Services Act 1990).

- 6 (1) After considering—
- (a) the application and accompanying material,
 - (b) any other information provided by the applicant,
 - (c) any advice duly given and representations duly made by virtue of paragraph 4, and
 - (d) any other information which the Board considers relevant to the application,
- the Board must decide whether to grant the application.
- (2) The Board must give notice of its decision to the applicant (“the decision notice”).
 - (3) Where the Board decides to refuse the application, the decision notice must specify the reasons for that decision.
 - (4) The Board must publish the decision notice.
 - (5) Paragraph 15 of Schedule 4 (period within which decision must be made) applies in relation to a decision notice under this paragraph as it applies in relation to a decision notice under paragraph 14 of that Schedule.

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