

SCHEDULES

SCHEDULE 2

Section 12

THE RESERVED LEGAL ACTIVITIES

Introduction

- 1 This Schedule makes provision about the reserved legal activities.
- 2 In this Schedule “the appointed day” means the day appointed for the coming into force of section 13 (entitlement to carry on reserved legal activities).

Rights of audience

- 3 (1) A “right of audience” means the right to appear before and address a court, including the right to call and examine witnesses.
(2) But a “right of audience” does not include a right to appear before or address a court, or to call or examine witnesses, in relation to any particular court or in relation to particular proceedings, if immediately before the appointed day no restriction was placed on the persons entitled to exercise that right.

Conduct of litigation

- 4 (1) The “conduct of litigation” means—
 - (a) the issuing of proceedings before any court in England and Wales,
 - (b) the commencement, prosecution and defence of such proceedings, and
 - (c) the performance of any ancillary functions in relation to such proceedings (such as entering appearances to actions).
(2) But the “conduct of litigation” does not include any activity within paragraphs (a) to (c) of sub-paragraph (1), in relation to any particular court or in relation to any particular proceedings, if immediately before the appointed day no restriction was placed on the persons entitled to carry on that activity.

Reserved instrument activities

- 5 (1) “Reserved instrument activities” means—
 - (a) preparing any instrument of transfer or charge for the purposes of the Land Registration Act 2002 (c. 9);
 - (b) making an application or lodging a document for registration under that Act;
 - (c) preparing any other instrument relating to real or personal estate for the purposes of the law of England and Wales or instrument relating to court proceedings in England and Wales.

Status: This is the original version (as it was originally enacted).

- (2) But “reserved instrument activities” does not include the preparation of an instrument relating to any particular court proceedings if, immediately before the appointed day, no restriction was placed on the persons entitled to carry on that activity.
- (3) In this paragraph “instrument” includes a contract for the sale or other disposition of land (except a contract to grant a short lease), but does not include—
 - (a) a will or other testamentary instrument,
 - (b) an agreement not intended to be executed as a deed, other than a contract that is included by virtue of the preceding provisions of this sub-paragraph,
 - (c) a letter or power of attorney, or
 - (d) a transfer of stock containing no trust or limitation of the transfer.
- (4) In this paragraph a “short lease” means a lease such as is referred to in section 54(2) of the Law of Property Act 1925 (c. 20) (short leases).

Probate activities

- 6 (1) “Probate activities” means preparing any probate papers for the purposes of the law of England and Wales or in relation to any proceedings in England and Wales.
- (2) In this paragraph “probate papers” means papers on which to found or oppose—
 - (a) a grant of probate, or
 - (b) a grant of letters of administration.

Notarial activities

- 7 (1) “Notarial activities” means activities which, immediately before the appointed day, were customarily carried on by virtue of enrolment as a notary in accordance with section 1 of the Public Notaries Act 1801 (c. 79).
- (2) Sub-paragraph (1) does not include activities carried on—
 - (a) by virtue of section 22 or 23 of the Solicitors Act 1974 (c. 47) (reserved instrument activities and probate activities), or
 - (b) by virtue of section 113 of the Courts and Legal Services Act 1990 (c. 41) (administration of oaths).

Administration of oaths

- 8 The “administration of oaths” means the exercise of the powers conferred on a commissioner for oaths by—
 - (a) the Commissioners for Oaths Act 1889 (c. 10);
 - (b) the Commissioners for Oaths Act 1891 (c. 50);
 - (c) section 24 of the Stamp Duties Management Act 1891 (c. 38).