

**Notice under paragraph 3 of Schedule 22 to the Legal Services Act 2007  
publishing the Law Society's recommendation and draft order amending the  
Law Society's regulatory functions**

On 1 October 2008, the Law Society and Solicitors Regulation Authority submitted, in accordance with paragraph 2(4)(a) of Schedule 22 to the Legal Services Act 2007 ("the 2007 Act"), a recommendation to the Lord Chancellor that an order should be made under paragraph 2 of Schedule 22 for the purpose of enabling the Law Society, as designated regulator, to expand the categories of persons who may fall within the definition of "legal services body" in new section 9A of the Administration of Justice Act 1985 (as inserted by Schedule 16 to the 2007 Act) and may therefore be regulated as a recognised body under section 9 of the 1985 Act.

A copy of the Law Society's recommendation and a draft of the proposed Order are attached:

- [Law Society recommendation](#) [PDF 0.06mb, 1 page]
- [Draft Statutory Instrument: The Legal Services Act 2007 \(Functions of a Designated Regulator\) Order 2008](#) [PDF 0.03mb, 3 pages]

## **Background**

Part 5 of the Legal Services Act 2007 provides for the establishment of Alternative Business Structures (ABS), once the Legal Services Board is satisfied that suitable arrangements are in place. However, in advance of the full ABS regime, the Solicitors Regulation Authority, the regulatory arm of the Law Society, will be able to approve and regulate limited forms of ABS.

The 2007 Act amends section 9 of the Administration of Justice Act 1985 (the 1985 Act) and inserts a new section 9A. Section 9 gives the Law Society the power to recognise bodies as suitable to carry on certain services. The 2007 Act amendments extend this power, allowing the Law Society to recognise other entities through which solicitors practise (such as partnerships), and allow legal disciplinary practices (LDPs). The rule making powers under section 9 have also been enhanced to enable the Society to impose conditions upon recognition granted to a body. The new section 9A sets certain requirements for LDPs. It permits LDPs to have up to 25% non-lawyer owners and managers but these practices will only be able to provide legal services and any non-lawyer managers must be individuals approved as suitable by the SRA. The SRA are preparing to regulate these bodies from March 2009.

As currently drafted, the new section 9A would restrict the possibility of some law firms having multiple corporate tiers (where those firms may own other firms which, in turn, own other firms). Under the existing regulatory structure, multiple tiers of corporate ownership are permitted and some law firms have already established these types of structure.

If section 9A were to be commenced in its current form, some law firms would need to restructure. Clearly this would be costly and would be difficult to achieve before the LDP regime is commenced. It also does not meet Ministry of Justice aims of enabling more flexibility for firms in providing legal services.

## The Draft Order

The Draft Order seeks to address this issue by:

- Removing the restriction on the number of corporate tiers permissible for legal services bodies.
- Ensuring that partnerships and recognised bodies in existence at the date of the commencement of section 9A should continue, subject to certain restrictions, to be regarded as “legally qualified”. This will enable existing bodies to become LDPs if they meet the SRA’s management and control requirements and are approved by the SRA.

The Lord Chancellor may, by virtue of paragraph 3(3) of Schedule 22 to the 2007 Act, specify a period within which representations on the proposed Order and the accompanying recommendation can be made.

Representations are invited in writing from interested parties by 17 October 2008  
Please send representations to:

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A copy of the recommendation and the Draft Order have been sent to the Lord Chief Justice and the Office of Fair Trading.