



Main benefits

- ABS will increase access to finance: at present, providers can face constraints on the amount of equity, mainly debt equity, they can raise.
- ABS will also allow for increased flexibility: non-legal firms such as insurance companies, banks and estate agents will have the freedom to realise synergies with legal firms by forming ABS firms and offering integrated legal and other professional services.
- It will be easier to hire and retain high-quality non-legal staff: ABS firms will be able to reward non-legal staff in the same way as they reward lawyers.
- Allowing new providers into the marketplace should lead to innovation and price reductions. This should result in more people being able to access legal services.

But, to note...

- The ABS regime is facilitative. There is no obligation on a firm to become an ABS although there may be some pressure from competitors which might influence whether or not a firm decides to become one.

Summary of the provisions in the Act

Full ABS

- Part 5 of the Legal Services Act allows for approved regulators (e.g. the Law Society, Bar Council) to apply for designation as licensing authorities. The Legal Services Board (LSB) will need to consider those applications and decide whether to recommend to the Lord Chancellor that they be designated.
- Any firms that are interested in developing new business structures through the Part 5 regime will need to apply to the relevant licensing authority for a licence. A body requires a licence to provide regulated legal services if any non-lawyer has an interest in that body as defined in the Act (material or controlled interest) or is able to exercise control over it.
- There are a number of safeguards which these new firms will have to fulfil in order to be licensed:
 - Firms wishing to combine legal and non-legal services will need to satisfy licensing authorities that they are competent to provide such services.
 - If a non-lawyer owns more than 10% of the body, they will be subject to a fitness-to-own test (i.e. whether their ownership is compatible with the statutory regulatory objectives and whether they are fit and proper to own the interest).
 - Licensing authorities are under a statutory duty to avoid conflicts of interest as far as is reasonably practicable. This includes not only individuals internal conflicts of interest but also conflicts of interest between licensing authorities and other regulators, e.g. Financial Services Authority (FSA)
 - Firms will be accountable to licensing authorities through a nominated Head of Legal Practice and Head of Finance and Administration.
 - In certain circumstances, external investors can be divested of their shares

- Certain licensed bodies may qualify for exemptions and waivers of certain licensing requirements. For example, Not for profit bodies and Low-risk bodies (firms or companies with less than 10% non-lawyer ownership or management).
- Clients of licensed bodies will have the same rights to Legal Professional Privilege (“LPP”) that they would have had if they had retained a traditional law firm. The Act ensures that as long as communications with a licensed body are carried out through a lawyer or under the supervision and direction of a lawyer, then the ordinary rules of LPP will apply.
- Full ABS cannot emerge until after the LSB is established, expected in 2010.

Limited ABS

- The Act provides for a limited form of ABS to emerge before the LSB is established. The Ministry of Justice are working with the Solicitors Regulation Authority, the Council for Licensed Conveyancers, and other regulators to enable these structures to emerge. The Solicitors Regulation Authority (the regulatory arm of the Law Society) are hoping to enable regulation of these new structures from March 2009.
- The Act allows the Law Society to regulate Legal Disciplinary Practices (“LDPs”) with up to 25% non-lawyer managers. It provides that these bodies may not be approved to provide services other than solicitor or other relevant legal services. This will prohibit the early emergence of Multi-Disciplinary Practices (“MDPs”), which we consider to be a higher regulatory risk.
- The safeguards for these limited forms of ABS include a power for the Law Society to impose a more restrictive threshold on the number of non-lawyer managers. The Law Society can also direct a particular body to appoint a person (similar to a Head of Legal Practice under Part 5) to ensure compliance with the body’s statutory obligations and duties.
- These limited forms of ABS will be licensable bodies once Part 5 is commenced and will be required to apply for a licence if they wish to continue to operate as an ABS.