

Legal Services Act 2007

Sections 12-15 and Schedules 2 and 3

12 Meaning of “reserved legal activity” and “legal activity”

(1) In this Act “reserved legal activity” means—

- (a) the exercise of a right of audience;
- (b) the conduct of litigation;
- (c) reserved instrument activities;
- (d) probate activities;
- (e) notarial activities;
- (f) the administration of oaths.

(2) Schedule 2 makes provision about what constitutes each of those activities.

(3) In this Act “legal activity” means—

- (a) an activity which is a reserved legal activity within the meaning of this Act as originally enacted, **and**
- (b) any other activity which consists of one or both of the following—

(i) the provision of legal advice or assistance in connection with the application of the law or with any form of resolution of legal disputes;

(ii) the provision of representation in connection with any matter concerning the application of the law or any form of resolution of legal disputes.

(4) But “legal activity” does not include any activity of a judicial or quasi-judicial nature (including acting as a mediator).

(5) For the purposes of subsection (3) “legal dispute” includes a dispute as to any matter of fact the resolution of which is relevant to determining the nature of any person’s legal rights or liabilities.

(6) Section 24 makes provision for adding legal activities to the reserved legal activities.

Carrying on the activities

13 Entitlement to carry on a reserved legal activity

(1) The question whether a person is entitled to carry on an activity which is a reserved legal activity is to be determined solely in accordance with the provisions of this Act.

(2) A person is entitled to carry on an activity (“the relevant activity”) which is a reserved legal activity where—

- (a) the person is an authorised person in relation to the relevant activity, or
- (b) the person is an exempt person in relation to that activity.

(3) Subsection (2) is subject to section 23 (transitional protection for noncommercial bodies).

(4) Nothing in this section or section 23 affects section 84 of the Immigration and Asylum Act 1999 (c. 33) (which prohibits the provision of immigration advice and immigration services except by certain persons).

Offences

14 Offence to carry on a reserved legal activity if not entitled

(1) It is an offence for a person to carry on an activity (“the relevant activity”) which is a reserved legal activity unless that person is entitled to carry on the relevant activity.

(2) In proceedings for an offence under subsection (1), it is a defence for the accused to show that the accused did not know, and could not reasonably have been expected to know, that the offence was being committed.

(3) A person who is guilty of an offence under subsection (1) is liable—
(a) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum (or both), and
(b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine (or both).

(4) A person who is guilty of an offence under subsection (1) by reason of an act done in the purported exercise of a right of audience, or a right to conduct litigation, in relation to any proceedings or contemplated proceedings is also guilty of contempt of the court concerned and may be punished accordingly.

(5) In relation to an offence under subsection (1) committed before the commencement of section 154(1) of the Criminal Justice Act 2003 (c. 44), the reference in subsection (3)(a) to 12 months is to be read as a reference to 6 months.

15 Carrying on of a reserved legal activity: employers and employees etc

(1) This section applies for the interpretation of references in this Act to a person carrying on an activity which is a reserved legal activity.

(2) References to a person carrying on an activity which is a reserved legal activity include a person (“E”) who—

(a) is an employee of a person (“P”), and
(b) carries on the activity in E’s capacity as such an employee.

(3) For the purposes of subsection (2), it is irrelevant whether P is entitled to carry on the activity.

(4) P does not carry on an activity (“the relevant activity”) which is a reserved legal activity by virtue of E carrying it on in E’s capacity as an employee of P, **unless the provision of relevant services to the public or a section of the public (with or without a view to profit) is part of P’s business.**

(5) Relevant services are services which consist of or include the carrying on of the

relevant activity by employees of P in their capacity as employees of P.

(6) Where P is an independent trade union,

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.

(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).

SCHEDULE 3 Section 19

EXEMPT PERSONS

There are various exemptions which amount to little more than protection for some working in Government offices .