

## Commencement of Schedule 18 of the Legal Services Act 2007 (Immigration Advice and Immigration Services)

### Questions and Answers

#### 1. What is Schedule 18 of the Legal Services Act?

Schedule 18 of the Legal Services Act 2007 (the 2007 Act) relates to oversight regulation of immigration advice and services. Under the Immigration and Asylum Act 1999, one responsibility of the Immigration Services Commissioner (ISC) and her Office (OISC) was to ensure that The Law Society, Institute of Legal Executives and The General Council of the Bar (which are Approved Regulators under the 2007 Act) effectively regulate, through their regulatory arms, their members who provide immigration advice and services.

Commencement of Schedule 18 transfers this responsibility to the Legal Services Board (LSB) and additionally allows other Approved Regulators to apply to the LSB to become regulators of immigration advice and services.

Schedule 18 only applies to Approved Regulators under the 2007 Act. OISC will continue to regulate those individuals offering immigration and advice services directly regulated by it.

#### 2. When do the changes take effect?

The new oversight regime started on 1 April 2011 and the LSB is now responsible for ensuring that the Solicitors Regulation Authority (SRA), Bar Standards Board (BSB) and Ilex Professional Standards (IPS) regulate their members who provide immigration advice and services effectively.

On 1 April, our Rules that determine how we will consider applications from other Approved Regulators who might wish to regulate immigration advisers also came in to effect. We have made the Rules required by Schedule 18 by updating our *Rules for Approved Regulator Designation Applications*. The new *Rules for applications for Approved Regulator and Qualifying Regulator designation* are available at [www.legalservicesboard.org.uk](http://www.legalservicesboard.org.uk).

#### 3. What will this mean?

The LSB is an oversight regulator. What this means in practice is that we don't directly monitor individuals and organisations providing legal advice and services. Our goal is to reform and modernise the legal services market as a whole by putting the interests of consumers at the heart of the system.

As immigration advice and services will be a new piece of work for us, we will consider looking to see where there might be any gaps in how this advice is regulated currently by the relevant Approved Regulators. We will also work closely with the relevant Approved Regulators to develop an understanding of how they assess compliance and use their enforcement powers for immigration advice and services.

#### **4. How will this affect consumers of immigration advice and services?**

For consumers, we do not expect there to be any immediate changes. The SRA, BSB and IPS will still regulate the solicitors, barristers and legal executives who provide immigration advice and services and OISC will still be responsible for direct regulation of its advisers.

This means that complaints about an OISC regulated individual will be handled by OISC and complaints about an SRA, BSB or IPS regulated individual will be handled by the Legal Ombudsman.

Longer term, we expect that a consistent, modern and consumer focused approach in the regulation of all legal services, including immigration, will lead to better outcomes for consumers.

#### **5. How will this affect individuals who provide immigration advice and services?**

Solicitors, barristers and legal executives who provide immigration advice and services are unlikely to see any day-to-day change, although longer term we will seek to address any issues that we identify (see Question 3 above).

Individuals who are directly regulated by OISC will not be affected by Schedule 18 being commenced and will continue to be directly regulated by OISC.

#### **6. How will this affect Approved Regulators?**

For the SRA, BSB and IPS, the LSB will be taking more interest in their regulation of immigration advisers, particularly in the early days. The SRA, BSB and IPS will no longer be subject to oversight regulation from OISC for immigration advice and services.

Until 1 April, OISC charged The Law Society, ILEX and General Council of the Bar for its oversight activities. Now that the LSB has taken over this function, it will not charge those regulators a separate fee for immigration but will instead absorb the cost of this additional regulation within its current budget. This will mean a saving for the affected Approved Regulators.

However, there will still be a bill from OISC for any OISC activities carried out in 2009/10 and 2010/11.

For the other Approved Regulators under the 2007 Act, should they wish to, they will now have an opportunity to apply to the LSB to regulate immigration advisers. Other bodies can also apply, but only if they are in the parallel process of applying to become an Approved Regulator in relation to a reserved legal activity.