

# Section 69 Order: modification of The Solicitors Regulation Authority regulation of sole practice

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**A consultation paper under section 70 of the Legal Services Act 2007 on proposals to modify the Solicitors Act 1974 and the Administration of Justice Act 1985 for the purposes of introducing the concept of “recognised sole solicitors’ practices”**

This consultation will close on **Wednesday 28 May 2014**

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## Introduction

1. Section 69 of the Legal Services Act 2007 (“**the Act**”) allows the Lord Chancellor to make orders which modify the functions of approved regulators. Such orders can, among other things, only be made following a recommendation from the Legal Services Board (LSB); a draft of the proposed order must be annexed to the recommendation.
2. Section 70 of the Act sets out the procedural requirements relating to a recommendation under section 69. Section 70(2) requires that before making a recommendation to the Lord Chancellor, the LSB publishes the proposed recommendation and the proposed draft order and invite representations on the proposals. The LSB must state the period in which recommendations must be made. Section 70(1) of the Act requires that the recommendation may only be made under section 69 with the consent of the approved regulator.
3. This consultation invites representations on a proposed draft recommendation and proposed draft order that, if given effect would modify the functions of The Law Society in relation to those individuals who are currently referred to as recognised sole practitioners.
4. Any representations on the proposals should be made by **28 May 2014**. The proposed recommendation and draft order can be found in Annex A.
5. Further details on how to make representations can be found on page 6.

## Background to the proposed changes

6. The Law Society is an approved regulator and licensing authority under the Act, exercising its regulatory functions through the Solicitors Regulation Authority (“**the SRA**”). It has powers under the Solicitors Act 1974 (“**SA**”) and the Administration of Justice Act 1985 (“**AJA**”) to regulate solicitors and solicitors’ firms (recognised bodies). This includes regulating individual solicitors who are established as sole practitioners. The SRA is also a licensing authority which regulates alternative business structures (“**ABS**”). Therefore the SRA currently regulates three different types of practices: sole practice; recognised bodies; and ABS. The latter two types are subject to the same authorisation process, which is one off authorisation followed by ongoing supervision. In contrast, sole practitioners require annual endorsement of their practising certificates.
7. A sole practitioner firm is like any other traditional law firm, except that it only has one principal. The practice of sole solicitors is currently governed by the SA and recognition as a sole practitioner is obtained by way of an endorsement on an

individual's practising certificate. The endorsement framework was inserted into the SA by the Act<sup>1</sup>.

8. The principal objective of the change now proposed is to create the concept of 'recognised sole solicitors' practices' who would be subject to the same type of authorisation and ongoing supervision process as recognised bodies and ABS. The aim is to achieve consistency of treatment across different types of practice. The purpose of removing the annual endorsement process is also to help reduce the regulatory burden and costs for affected firms and for the administrative functions of the SRA. The LSB concurs with the SRA's view that there should be a consistent approach to the authorisation and regulation of the SRA's regulated community.
9. This consultation is not seeking views on the policy intentions of the SRA in respect of the proposals. The SRA undertook a consultation on the policy in December 2010<sup>2</sup>. This consultation is on whether the proposed section 69 order (at Annex A) as drafted delivers the policy intentions of the SRA.
10. The policy context is that the SRA has set strategic objectives for modernising its regulatory regime, including:
  - securing appropriate consumer protection for clients regardless of size, structure, ownership or business model of the firm they engage
  - applying appropriate standards to all legal services
  - delivering operational effectiveness and efficiency; and
  - being outcomes focused and risk-based in its Handbook requirements and regulatory processes.
11. Within that wider context, the proposed policy and legislative changes intend to address developments in the nature of sole practice. As the SRA December 2010 consultation noted, the SRA regulates a wide variety of different sole practices. Some are "an individual practising with little or no other support" while others "may control a substantial enterprise, supervising a large number of fee-earners and other staff who provide a wide range of services to an extensive client base, with a considerable turnover and large client account balances". The risks and appropriate regulatory response for the latter type of sole practice is likely to be similar to comparably large firms who have more than one principal (and therefore fall into the recognised bodies framework). The SRA concluded that "there seems to be no substantive justification for a separate authorisation

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<sup>1</sup> Legal Services Act 2007 Schedule 16 Paragraph 15

<sup>2</sup> <http://www.sra.org.uk/sra/consultations/sole-practice-authorisation.page>

regime on the grounds of the business model of sole practice”<sup>3</sup>. Therefore, the SRA’s policy (in line with LSB guidance to licensing authorities<sup>4</sup>) is to authorise firms without there being a limited authorisation period.

12. The SRA’s policy statement, *Sole practice: modernising authorisation*, published on 28 March 2014<sup>5</sup>, highlighted that by bringing sole practitioners into the same authorisation based approach to regulation as other firms, the SRA is able to target regulation more effectively between the individual solicitor and the firm. This could be particularly significant in the case of very large firms run by a sole practitioner. The SRA consider this is a more proportionate way to regulate compared to the current statutory framework. It is an approach that was widely supported in the December 2010 SRA consultation.
13. The proposed change would not remove the concept of “sole solicitor” and “sole practitioner” from the regulatory framework, but instead it would facilitate the authorisation and regulation of such firms in a wider regulatory framework. This is intended to simplify the regulatory framework by reducing regulatory burden, as well as ensuring that all SRA regulated providers of legal services are treated uniformly for authorisation.
14. The SRA also set out the following justification for its position in its policy statement:
  - sole practitioners will be on a level playing field with other firms and ABS
  - there will be potential cost and time savings due to the streamlining of the processes
  - it is a more targeted authorisation process for sole practitioners' firms
  - the replacement of an annual process with risk based supervision of sole practitioners is consistent with overall SRA strategy
  - the annual renewal of the endorsement process can be difficult if a sole practitioner is under investigation, giving rise to potential enforcement problems.

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<sup>3</sup> <http://www.sra.org.uk/sra/consultations/sole-practice-authorisation.page> paragraph 24

<sup>4</sup> See paragraph 64 of [http://www.legalservicesboard.org.uk/what\\_we\\_do/consultations/closed/pdf/abs\\_guidance\\_on\\_licensing\\_rules\\_guidance.pdf](http://www.legalservicesboard.org.uk/what_we_do/consultations/closed/pdf/abs_guidance_on_licensing_rules_guidance.pdf)

<sup>5</sup> <http://www.sra.org.uk/sra/news/press/sole-practitioners-policy-statement.page>

## **Principal purpose of the order and changes**

15. The overall objective of the proposed draft order is to enable a more consistent approach to the authorisation and regulation of the SRA's regulated community regardless of business structure. The SRA has already taken steps to harmonise the regulatory framework for recognised bodies and ABS. The aim now is to further enhance the harmonisation by introducing the 'recognised sole solicitors' practices' status that will be subject to the same authorisation and regulatory framework as for recognised bodies and ABS.
16. The specific aim of the proposed draft order therefore is to harmonise the regulatory framework of the regulation of recognised sole practitioners, thereby removing the need for a distinct sole practice endorsement process.
17. Making this change is important not simply to ensuring consistency of analytic approach between different types of firms, but also to ensuring the delivery in practice of consistent assessment of risk, level of scrutiny and timeliness of decision-making. The LSB has raised concerns on a number of occasions in recent years about the efficiency and intensity of the authorisation process for recognised bodies and ABS. Although more remains to be done, significant progress has been made in simplifying the system and it is right therefore that sole practitioner practices also benefit from this. It will, however, be vital for SRA to manage the practicalities and resourcing of the transition properly to ensure that the migration from one system to another does not lead to the creation of backlogs and resulting delays to all authorisations.
18. The Explanatory Note on the last page of the order describes and explains the changes in the order. To summarise, the proposed draft order would be to amend primary legislation and secondary legislation, specifically the SA and the AJA. With respect to the SA, the effect of the order would be to remove the concept and status of sole practitioners and any related conditions and stipulations. The AJA is similarly amended, the effect being to introduce the concept of recognised sole solicitors' practices. It also includes some secondary legislation amendments to include registered European lawyers in the changes.
19. It should also be noted that the proposed draft order makes a transitional provision. The effect of the provision is that current sole practitioners will be "passported" in to the new arrangements. It will help ensure that current sole practitioners do not incur additional costs or suffer administrative burdens.

***Question 1: Do you have any comments on either the draft order or the draft recommendation? Do they deliver the policy intention of harmonising the regulatory framework, thereby removing the need for a distinct sole practice endorsement process?***

### **Cost Benefit Analysis**

20. The Ministry of Justice advised the LSB that a full impact assessment was not required for this order. It advised that as this is a deregulatory measure, it would be appropriate to undertake a fast track Regulatory Triage Assessment (“**the assessment**”) which must be confirmed by the Regulatory Policy Committee (“**the Committee**”). The Committee provides the government with external, independent scrutiny of new regulatory and deregulatory proposals<sup>6</sup>.
21. The Committee confirmed on 25 March 2014 that on the basis of the information provided in the assessment, the proposal was suitable for fast track as a deregulatory proposal. The Committee recommended in its confirmation that both the Ministry of Justice and the SRA test, in consultation, the assumption, contained in the assessment, that the costs and benefits of the proposal are negligible.
22. Annex B contains a cost benefit analysis on which views from respondents would be welcome.

***Question 2: Do you have any comments on the cost benefit analysis and in particular the assumptions used?***

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<sup>6</sup> <https://www.gov.uk/government/organisations/regulatory-policy-committee>

## How to respond

23. We would prefer to receive responses electronically (in Microsoft word or PDF format), but hard copy responses by post or fax are also welcome. Responses should be sent to:

**Post:** Michael Mackay  
Legal Services Board  
One Kemble Street  
London WC2B 4AN

**Fax number:** 020 7271 0051

**Email:** [Consultations@LegalServicesBoard.org.uk](mailto:Consultations@LegalServicesBoard.org.uk)

24. The consultation period will end at 5pm on Wednesday 28 May 2014, 6 weeks after publication. In accordance with section 70(3) of the Act, you are given notice that any representation about the proposed section 69 order must be made to the LSB by the end of this period.
25. The LSB is happy to meet respondents to discuss views on the consultation if you would find that helpful. Please send requests to:  
[Consultations@LegalServicesBoard.org.uk](mailto:Consultations@LegalServicesBoard.org.uk)
26. We consider that this consultation satisfies the requirements of section 70 of the Act to publish a proposed draft order and proposed draft recommendation before making a recommendation to the Lord Chancellor under section 69.
27. The LSB plans to publish all responses received during the consultation period on its website. While the LSB is happy to discuss varying this general policy in individual cases, there is a strong presumption in favour of transparency. It will therefore note publicly that a submission has been received from an identified body which had withheld its consent for publication in the summary of the consultation.

## Complaints

28. Complaints or queries about the LSB's consultation process should be directed to Michelle Jacobs, Consultation Co-ordinator, at the following address:

Michelle Jacobs  
Legal Services Board  
One Kemble Street  
London WC2B 4AN

Or by e-mail to: [michelle.jacobs@legalservicesboard.org.uk](mailto:michelle.jacobs@legalservicesboard.org.uk)



## **Annex A – Draft recommendation to the Lord Chancellor and draft section 69 order which will be annexed to the recommendation**

### **Draft recommendation by the LSB to the Lord Chancellor under section 69 of the Legal Services Act 2007**

#### **Proposed recommendation for modification of The Law Society/SRA regulation of sole practice**

1. At its meeting on the [date] the Legal Services Board (the Board) decided to make a recommendation to the Lord Chancellor that he makes an order under section 69 of the Legal Services Act 2007 to modify the Solicitors Act 1974 and the Administration of Justice Act 1985 for the purposes of introducing the concept of “recognised sole solicitors’ practices”. A draft of the order is attached to this recommendation at **Annex [A]**.
2. In accordance with the requirements of section 70(2) of the Act, the Board published a draft of the proposed recommendation and draft order on [date] and invited representations about the proposals to be made to the Board by [date]. [The Board has had regard to the representations duly made] or [no representations were received].
3. In accordance with section 70(1) of the Act, the recommendation is made with the consent of The Law Society.

Chair, Legal Services Board

[Date]

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DRAFT STATUTORY INSTRUMENTS

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[2015] No.

**LEGAL SERVICES, ENGLAND AND WALES**

**The Legal Services Act 2007 (The Law Society) (Modification of Functions) Order  
[2015]**

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*Made* - - - - - \*\*\*

*Coming into force in accordance with article 1*

The Lord Chancellor makes the following Order in exercise of the powers conferred by sections 69 and 204(3) and (4) of the Legal Services Act 2007<sup>(1)</sup>.

In accordance with section 69(2) of that Act, the Order is made following a recommendation made by the Legal Services Board to which was annexed a draft Order in a form not materially different from this Order.

The Legal Services Board has made the recommendation with the consent required by section 70(1) of that Act and after complying with the requirements in section 70(2) to (4) of that Act.

In accordance with section 206(4) and (5) of that Act, a draft of this Order has been approved by a resolution of each House of Parliament.

**Citation and commencement**

1.—a) This Order may be cited as the Legal Services Act 2007 (The Law Society) (Modification of Functions) Order 2015.

(1) Article 3 of this Order comes into force on whichever is the later of [date] or the 36th day after the day on which it is made.

(2) Save as provided by paragraph (2) this Order comes into force on the day after the day on which it is made.

**Interpretation**

2. In this Order —

“the 1974 Act” means the Solicitors Act 1974<sup>(2)</sup>;

“the 1985 Act” means the Administration of Justice Act 1985<sup>(3)</sup>;

“the 2000 Regulations” means the European Communities (Lawyer’s Practice) Regulations 2000<sup>(4)</sup>;

“sole solicitor” means a solicitor who is the sole principal in a practice; and

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<sup>(1)</sup> 2007 c. 29.

<sup>(2)</sup> 1974 c. 47.

<sup>(3)</sup> 1985 c. 61.

<sup>(4)</sup> S.I. 2000/1119.

“sole solicitor endorsement” means an endorsement of the practising certificate of a solicitor by the Law Society authorising the solicitor to practise as a sole solicitor, made under section 1B<sup>(1)</sup> of the 1974 Act.

### **Amendments**

3.—b) The amendments to the 1974 Act and the 1985 Act set out in Schedule 1 shall have effect.

(1) The amendments to the 2000 Regulations set out in Schedule 2 shall have effect.

(2) In consequence of the amendments set out in Schedule 1, paragraphs 3, 15, 17(a), (b) and (d)(ii), 22, 30(2)(d), 49(a), (c) and (e), 75(b) and 81(2)(c) of Schedule 16 to the Legal Services Act 2007 are repealed.

### **Transitional provisions: solicitors**

4.—c) In any case where immediately before the coming into force of article 3 there is in force in relation to a sole solicitor a sole solicitor endorsement, then upon the coming into force of that article —

(a) the sole solicitor endorsement shall cease to have effect, and

(b) the sole solicitor’s practise shall be treated as recognised by the Law Society under section 9 of the 1985 Act<sup>(2)</sup> as being suitable to undertake the provision of solicitor services and other relevant legal services (within the meaning of that section).

(2) The Law Society may direct in any case that recognition by virtue of paragraph (1)(b) is to have effect subject to one or more conditions if —

(a) the case is of a kind prescribed for the purposes of section 9(2F) of the 1985 Act (as amended by this Order) by rules made by the Law Society; and

(b) the Law Society considers that it is in the public interest to do so.

(3) A direction by the Law Society in accordance with paragraph (2) only has effect if written notice of it is sent, with reasons, to the sole solicitor concerned —

(a) at least 28 days before the date on which article 3 comes into force; or

(b) if the Law Society is satisfied on reasonable grounds that it is in the public interest to do so, such shorter period before that date as it may determine.

(4) A condition under paragraph (2) shall be treated as having been imposed under section 9(2F) of the 1985 Act (as amended by this Order).

(5) In any case where —

(a) before the date on which article 3 comes into force, the Law Society had received an application for a sole solicitor endorsement, and

(b) immediately before that date, the Law Society had not yet granted (or refused) that application,

then, with effect from that date, that application shall be treated by the Law Society as an application for recognition of the sole solicitor’s practice under section 9 of the 1985 Act (as amended by this Order).

### **Transitional provisions: registered European lawyers**

5.—d) Article 4 applies in relation to registered European lawyers as it applies in relation to a solicitor, subject to the following modifications:

(a) a reference to a sole solicitor is to be read as a reference to a sole practitioner; and

(b) a reference to a sole solicitor endorsement is to be read as a reference to a sole practitioner endorsement.

(2) In this article “registered European lawyer” has the meaning given by regulation 2 of the 2000 Regulations.

Signed by authority of the Lord Chancellor

Date

*Name*  
Parliamentary Under Secretary of State  
Ministry of Justice

<sup>(1)</sup> Section 1B was inserted by Paragraphs 1 and 3 of Schedule 16 to the Legal Services Act 2007.

<sup>(2)</sup> Section 9 was amended by paragraph 54 of Schedule 18, and Schedule 20, to the Courts and Legal Services Act 1990, Part 2 of Schedule 15 to the Access to Justice Act 1999, paragraphs 80 and 81 of Schedule 16 to the Legal Services Act 2007 and S.I. 2000/1119, 2001/1090 and 2011/1716.

## AMENDMENTS TO PRIMARY LEGISLATION

## PART 1

The 1974 Act is amended in accordance with this Part.

- 6.** Omit section 1B (restriction on practice as sole solicitor).
- 7.** In section 9 (applications for practising certificates)<sup>(1)</sup>, omit subsection (2).
- 8.** In section 10 (the issue of practising certificates)<sup>(2)</sup>, in subsection (4)(a) omit the words from “(including” to the end.
- 9.** In section 10A (register of holders of practising certificates)<sup>(3)</sup>, omit subsection (2)(b) (but not the “and” after it).
- 10.** In section 13 (appeals etc in connection with the issue of practising certificates)<sup>(4)</sup> —
- (a) omit subsection (1)(b) (but not the “or” after it); and
  - (b) in subsection (4) —
    - (i) omit paragraph (b); and
    - (ii) omit paragraph (f) (but not the “or” after it).
- 11.** Omit sections 13ZA (application to practise as sole practitioner while practising certificate in force) and 13ZB (fee payable on making of sole solicitor endorsement)<sup>(5)</sup>.
- 12.** In section 13A (imposition of conditions while practising certificates are in force)<sup>(6)</sup>, omit subsection (2)(a) (and the “or” after it).
- 13.** In section 13B (suspension of practising certificates where solicitors convicted of fraud or serious crime)<sup>(7)</sup> —
- (a) in subsection (1) omit “or sole solicitor endorsement”;
  - (b) in subsection (6) omit “or from practice as a sole solicitor”; and
  - (c) in subsection (8)(b) for “or sole solicitor endorsement shall not be suspended, but that the appellant’s certificate” substitute “shall not be suspended but”.
- 14.** Omit sections 17A (suspension of sole solicitor endorsement) and 17B (duration and publicity of suspension of sole solicitor endorsement)<sup>(8)</sup>.
- 15.** In section 28 (regulations)<sup>(9)</sup> —
- (a) omit subsection (1)(ca); and
  - (b) in subsection (3B) —
    - (i) omit “or sole solicitor endorsements” (in each place); and
    - (ii) omit paragraph (f).
- 16.** In section 31 (rules as to professional practice), after subsection (1A)<sup>(10)</sup> insert —
- “(1B) Rules under this section must provide that a solicitor may not practise as a sole solicitor unless there is in force in relation to that solicitor’s practice a recognition under section 9 of the Administration of Justice Act 1985.

<sup>(1)</sup> Section 9 was substituted by paragraphs 1 and 9 of Schedule 16 to the Legal Services Act 2007.

<sup>(2)</sup> Section 10 was substituted by paragraphs 1 and 9 of Schedule 16 above.

<sup>(3)</sup> Section 10A was substituted by paragraphs 1 and 10 of Schedule 16 above.

<sup>(4)</sup> Section 13 was substituted by paragraphs 1 and 14 of Schedule 16 above.

<sup>(5)</sup> Sections 13ZA and 13ZB were substituted paragraphs 1 and 15 of Schedule 16 above.

<sup>(6)</sup> Section 13A was inserted by section 5 of the Administration of Justice Act 1985 and amended by paragraphs 1 and 16 of Schedule 16 to the Legal Services Act 2007.

<sup>(7)</sup> Section 13B was inserted by section 94(3) of the Courts and Legal Services Act 1990 (c. 41) and amended by paragraph 42(1) and (3) of Schedule 7 to the Serious Organised Crime and Police Act 2005 (c. 15) and paragraphs 1 and 17 of Schedule 16 above.

<sup>(8)</sup> Sections 17A and 17B were inserted by paragraphs 1 and 22 of Schedule 16 above.

<sup>(9)</sup> Section 28 was amended, in so far as relevant, by paragraphs 1 and 30 of Schedule above.

<sup>(10)</sup> Section 31(1A) was inserted by paragraphs 1 and 31(1) and (3) of Schedule 16 above.

(1C) Rules under this section may provide that, for the purposes of the rules, this Act and the Administration of Justice Act 1985, a solicitor is not to be regarded as practising as a sole solicitor in such circumstances as may be prescribed by the rules.”.

**17.** In section 47 (jurisdiction and powers of tribunal)<sup>(1)</sup> omit —

- (a) subsection (1)(ea); and
- (b) subsection (2)(ba), (bb) and (ea).

**18.** In section 87 (interpretation)<sup>(2)</sup> —

- (a) at the end of the definition of “sole solicitor” insert “(other than an incorporated practice)”; and
- (b) omit the definition of “sole solicitor endorsement”.

**19.** In Schedule 1 (intervention in solicitor’s practice) omit paragraph 1(1)(i)<sup>(3)</sup>.

## PART 2

**20.** The 1985 Act is amended in accordance with this Part.

**21.** For the cross-heading before section 9 (“Incorporated practices”) substitute “Legal services bodies and sole solicitors’ practices”.

**22.—e)** Section 9 (incorporated practices) is amended as follows.

(1) For the heading (“Incorporated practices”) substitute “Recognition of legal services bodies and of sole solicitors’ practices”.

(2) In subsection (1) —

(a) for paragraph (b) substitute —

“(b) prescribing the circumstances in which —

- (i) legal services bodies may be recognised by the Society as being suitable bodies to undertake the provision of any solicitor services or other relevant legal services;
- (ii) sole solicitors’ practices may be recognised by the Society as being suitable to undertake the provision of any such services;”;

(b) in paragraph (c), after “bodies” insert “and sole solicitors’ practices”; and

(c) in paragraph (d), after “bodies” insert “and sole solicitors’ practices”.

(3) In subsection (1A), after “recognised bodies” insert “and recognised sole solicitors’ practices”.

(4) In subsection (1B)(b), after “a recognised body,” insert “or are employees in a recognised sole solicitor’s practice,”.

(5) In subsection (2) —

(a) in paragraph (ab), for “or descriptions of recognised body” substitute “recognised sole solicitors’ practices, or descriptions of such bodies or practices”;

(b) in paragraph (b), after “recognised bodies” insert “or recognised sole solicitors’ practices”;

(c) in paragraph (e), after “another body” insert “, or a sole solicitor’s practice,”;

(d) before paragraph (ea), insert —

“(eza) about the effect on the recognition of a sole solicitor’s practice where the sole solicitor ceases to practise as a sole principal and —

- (i) another sole solicitor succeeds that sole solicitor as sole principal in the practice; or
- (ii) a body or another sole solicitor succeeds to the whole or substantially the whole of the practice’s business;”;

(e) in paragraph (ea) —

(i) after “bodies” insert “and sole solicitors’ practices”; and

(ii) for “those bodies” substitute “them”;

(f) in paragraph (f), after “recognised bodies” insert “or recognised sole solicitors’ practices”;

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<sup>(1)</sup> Subsections (1) and (2) of section 47 were substituted by section 92(2) of the Courts and Legal Services Act 1990 and amended, in so far as relevant, by paragraphs 1 and 49(a) to (c) and (e) of Schedule 16 above.

<sup>(2)</sup> Section 87 was amended, in so far as relevant, by paragraphs 1 and 75(b) of Schedule 16 above.

<sup>(3)</sup> Paragraph 1(1)(i) of Schedule 1 was inserted by section 91(1) of the Courts and Legal Services Act 1990 and amended by paragraphs 1 and 77(1) and (2)(f)(i) of Schedule 16 above.

- (g) in paragraphs (fa) and (fb), after “recognised bodies” (in each place) insert “or employees in recognised sole solicitors’ practices”;
- (h) after paragraph (fc), insert —
- “(fd) requiring the sole solicitor in a recognised sole solicitor’s practice to appoint a person or persons to monitor compliance, by the sole solicitor and the employees in the practice, with requirements imposed on them by or by virtue of this Act, the 1974 Act or any rules applicable to them by virtue of this section or the 1974 Act;”; and
- (i) in paragraph (h) —
- (i) after “recognised bodies” insert “, or on sole solicitors in relation to recognised sole solicitors’ practices,”; and
- (ii) omit “on such bodies”.
- (6) After subsection (2), insert—
- “(2ZA) Rules under subsection (2)(fd) may provide that the person appointed under that paragraph may be the sole solicitor.”.
- (7) In subsection (2B)(a), after “body” insert “or sole solicitor’s practice”.
- (8) In subsection (2F), after “a body” insert “or a sole solicitor’s practice”.
- (9) In subsection (2G) —
- (a) after “a body” insert “or a sole solicitor’s practice”; and
- (b) in paragraphs (a) and (b), omit “body’s” (in each place).
- (10) In subsection (2H) —
- (a) in paragraph (a) —
- (i) after “conditions requiring the body” insert “, or the sole solicitor,”; and
- (ii) omit “by the body”; and
- (b) in paragraph (b), after “the body” insert “, or the sole solicitor,”.
- (11) In subsection (5) —
- (a) after “any body” insert “or sole solicitor’s practice”; and
- (b) for “a recognised body” substitute “recognised under this section”.
- (12) In subsection (6) —
- (a) for “recognised bodies and” substitute “recognised bodies,”; and
- (b) after “such bodies” insert “, and with respect to matters relating to recognised sole solicitors’ practices”.
- (13) In subsection (8) —
- (a) after the definition of “authorised person” insert—
- “references to employment in a recognised sole solicitor’s practice are references to employment by a sole solicitor for the purposes of a practice recognised under this section;”
- (b) after the definition of “recognised body” insert —
- ““recognised sole solicitor’s practice” means a sole solicitor’s practice for the time being recognised under this section;”; and
- (c) after the definition of “registered European lawyer” insert —
- ““sole solicitor” has the meaning given by section 87(1) of the 1974 Act;”.

23. After section 10 (penalty for pretending to be a body recognised under section 9)<sup>(1)</sup>, insert—

**“Penalty for sole solicitor pretending that practice is recognised**

**10A.—(1)** A sole solicitor shall not describe or hold out the sole solicitor’s practice as a practice for the time being recognised under section 9 unless it is so recognised.

(2) Any person who contravenes subsection (1) is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(3) In this section “sole solicitor” has the same meaning as in section 9.”.

24.—f) Schedule 2 (legal services practices: supplementary provisions) is amended as follows.

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<sup>(1)</sup> Section 10 was amended by the Statute Law (Repeals) Act 1993 (c. 61) and by paragraphs 80 and 83 of Schedule 16 to the Legal Services Act 2007.

- (1) In paragraph 1<sup>(1)</sup> —
- (a) in sub-paragraphs (1) and (2) —
    - (i) after “recognised body” (in each place) insert “or a recognised sole solicitor’s practice”; and
    - (ii) after “to a body” (in each place) insert “or sole solicitor’s practice”;
  - (b) in sub-paragraph (2A), after “recognised body,” insert “or to an employee in a recognised sole solicitor’s practice,”;
  - (c) after sub-paragraph (2A), insert —
 

“(2B) In this Schedule references to employment in a recognised sole solicitor’s practice have the same meaning as in section 9.”; and
  - (d) In sub-paragraph (4) —
    - (i) after “shall apply” insert “for the purposes of this Schedule; and”;
    - (ii) in paragraph (a), for “this Schedule” substitute “any provision of this Schedule in so far as it has effect in relation to a recognised body”; and
    - (iii) before “as if” insert “they shall apply”.
- (2) In paragraph 2<sup>(2)</sup> —
- (a) after sub-paragraph (1), insert —
 

“(1A) A sole solicitor may appeal to the High Court against —

    - (a) a decision to refuse an application for recognition of the solicitor’s practice under section 9;
    - (b) a decision to impose a condition under subsection (2F) of that section on the recognition of the solicitor’s practice under that section;
    - (c) a decision to impose a condition under subsection (2G) of that section on the recognition of the solicitor’s practice under that section.”;
    - (b) after sub-paragraph (2), insert —
 

“(2A) Where the recognition of a recognised sole solicitor’s practice is subject to a condition within section 9(2H)(b), the sole solicitor may appeal to the High Court against any decision by the Society to refuse to approve the taking of any step for the purposes of that condition.”;
    - (c) in sub-paragraph (4) —
      - (i) after “(1)(a) or (b)” insert “or (1A)(a) or (b)”;
      - (ii) after “the body” (in each place) insert “or sole solicitor’s practice”;
    - (d) in sub-paragraph (5) —
      - (i) after “sub-paragraph (1)(c)” insert “or (1A)(c)”;
      - (ii) omit “body’s”;
    - (e) in sub-paragraph (6), after “sub-paragraph (2)” insert “or (2A)”.

(3) After paragraph 14<sup>(3)</sup>, insert —

**“14ZA.—**(1) The Society may give a notice under this paragraph if it is satisfied that it is necessary to do so for the purpose of investigating whether a recognised sole solicitor’s practice continues to be suitable to be recognised under section 9.

    - (2) A notice under this paragraph is a notice which requires a person within sub-paragraph (3) —
      - (a) to provide information, or information of a description, specified in the notice, or
      - (b) to produce documents, or documents of a description, specified in the notice.
    - (3) The persons are —
      - (a) the sole solicitor;
      - (b) an employee in the recognised sole solicitor’s practice.
    - (4) For the purposes of this paragraph, section 44B(4) to (7) of the 1974 Act applies —
      - (a) in relation to a notice under this paragraph as if it were a notice under section 44B of that Act, and

<sup>(1)</sup> Paragraph 1 was amended, in so far as relevant, by paragraphs 80 and 86(a), (b), (c) and (e) of Schedule 16 above.

<sup>(2)</sup> Paragraph 2 was substituted by paragraphs 80 and 87 of Schedule 16 to the Legal Services Act 2007.

<sup>(3)</sup> Paragraph 14 was substituted by paragraphs 80 and 101 of Schedule 16 above.

(b) in relation to a person given a notice under this paragraph as if that person were a person given a notice under that section,

and references in subsections (6) and (7) of that section to powers conferred by that section are to be read as references to powers conferred by this paragraph.

(5) Where powers conferred by Part 2 of Schedule 1 to the 1974 Act are exercisable in relation to a person within paragraph (a) or (b) of sub-paragraph (3), they continue to be so exercisable after the person has ceased to be a person within the paragraph in question.

(6) Section 44BA of the 1974 Act (power to require explanation of document or information) applies in relation to a notice under this paragraph and the person to whom such a notice is given as it applies in relation to a notice under section 44B of the 1974 Act and the person to whom such a notice is given.

(7) Subsection (1) of section 44BC of that Act (falsification of documents etc) applies in relation to an investigation of the kind mentioned in sub-paragraph (1) as it applies in relation to the investigations mentioned in that subsection, and subsections (2), (4) and (5) of that section apply accordingly.

(8) Subsection (3) of that section (provision of false information etc) applies in relation to a requirement imposed under this paragraph as it applies in relation to a requirement imposed by section 44B of that Act, and subsections (4) and (5) of that section apply accordingly.”.

(4) In paragraph 14A<sup>(1)</sup> —

(a) in sub-paragraph (1) after “discipline investigation” insert “or by the sole solicitor in a recognised sole solicitor’s practice which is subject to a discipline investigation”;

(b) in sub-paragraph (2) —

(i) after “recognised body” insert “, or by a sole solicitor, or any employee, in a recognised sole solicitor’s practice,”; and

(ii) for “any rules applicable to it” substitute “any rules applicable to them”; and

(c) in sub-paragraph (4) —

(i) after “which a recognised body” insert “or a sole solicitor”; and

(ii) after “from the recognised body” insert “or from that sole solicitor”.

(5) For paragraph 14B(1)<sup>(2)</sup>, substitute —

“(1) This paragraph applies where the Society is satisfied that —

(a) a recognised body, or a manager or employee of a recognised body, or

(b) a sole solicitor, or any employee, in a recognised sole solicitor’s practice,

has failed to comply with a requirement imposed by or by virtue of this Act or any rules applicable to that person by virtue of section 9 of this Act.”.

(6) In paragraph 14C(4)(e)<sup>(3)</sup>, after “recognised body,” insert “or in the case of a sole solicitor, or an employee, in a recognised sole solicitor’s practice,”.

(7) In the heading before paragraph 16, at the end insert “and recognised sole solicitors’ practices”.

(8) In paragraph 16<sup>(4)</sup>, after sub-paragraph (1A) insert —

“(1B) The Tribunal has jurisdiction to hear and determine any of the following complaints made to it under this paragraph with respect to the sole solicitor, or an employee, in a recognised sole solicitor’s practice (“the relevant person”) —

(a) a complaint that the relevant person has been convicted by any court of a criminal offence which renders that person unsuitable to be the sole solicitor, or an employee, in a recognised sole solicitor’s practice (or both);

(b) a complaint that the relevant person has failed to comply with any requirement imposed by or by virtue of this Act or any rules applicable to the relevant person by virtue of section 9 of this Act.”.

(9) In paragraph 17<sup>(5)</sup> —

(a) in paragraph (a), for “or (1A)” substitute “, (1A) or (1B)”;

(b) in paragraph (c) —

(i) after “16(1A)” insert “or (1B)”;

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<sup>(1)</sup> Paragraph 14A was substituted by paragraphs 80 and 102 of Schedule 16 to the Legal Services Act 2007.

<sup>(2)</sup> Paragraph 14B was inserted by paragraphs 80 and 103 of Schedule 16 above.

<sup>(3)</sup> Paragraph 14C was inserted by paragraphs 80 and 103 of Schedule 16 above.

<sup>(4)</sup> Paragraph 16(1A) was inserted by paragraphs 80 and 104(d) of Schedule 16 above.

<sup>(5)</sup> Paragraph 17 was amended by paragraphs 80 and 105 of Schedule 16 to the Legal Services Act 2007.



(ii) after “such a body” insert “or (as the case may be) to an employee in a recognised sole solicitor’s practice”.

(10) In paragraph 18A<sup>(1)</sup> —

(a) in sub-paragraph (1) —

(i) after “under paragraph 16(1A)” insert “or (1B)”;

(ii) after “the Tribunal is satisfied that a manager or employee of a recognised body” insert “, or the sole solicitor, or an employee, in a recognised sole solicitor’s practice”;

(iii) in paragraph (a), after “as mentioned in paragraph (a) of paragraph 16(1A)” insert “or (as the case may be) paragraph (a) of paragraph 16(1B)”;

(iv) in paragraph (c), at the beginning insert “(in the case of a manager or employee of a recognised body)”;

(b) in sub-paragraph (2), before paragraph (a) insert —

“(za) in the case of a complaint relating to a sole solicitor, or an employee, in a recognised sole solicitor’s practice, an order revoking the recognition under section 9 of this Act of the sole solicitor’s practice;”.

(11) After paragraph 20(1)<sup>(2)</sup>, insert —

“(1A) Where the Tribunal makes any such order as is referred to in section 47(2A) of the 1974 Act in the case of a solicitor who is an employee in a recognised sole solicitor’s practice, the Tribunal may, if it thinks fit, order that any solicitor who is for the time being the sole solicitor in that practice shall be excluded (either permanently or for a specified period) from criminal legal aid work (as defined in that section).”.

(12) In paragraph 21<sup>(3)</sup> —

(a) in sub-paragraph (1) —

(i) in paragraph (a), after “recognised body” insert “or of the sole solicitor in a recognised sole solicitor’s practice”;

(ii) in paragraph (b) —

(aa) after “recognised body” insert “, or of the sole solicitor in a recognised sole solicitor’s practice;”;

(bb) after “that such a manager” insert “or sole solicitor”;

(iii) at the end of paragraph (c), insert —

“or

(d) any such order as is mentioned in paragraph (a) or (b) is made in the case of a person employed in a recognised sole solicitor’s practice and the act or omission constituting the ground on which the order was made was instigated or connived at by the sole solicitor, or, if the act or omission was a continuing act or omission, the sole solicitor had or reasonably ought to have had knowledge of its continuance;”;

(iv) after “an application made with respect to the recognised body” insert “or the recognised sole solicitor’s practice”;

(b) in sub-paragraph (3) —

(i) after “recognised body” insert “, or to a sole solicitor in a recognised sole solicitor’s practice;”;

(ii) after “of the body” insert “, or the sole solicitor in the practice;”;

(c) in sub-paragraph (4), after “recognised body” insert “, or in a sole solicitor’s practice;”.

(13) In paragraph 32(1)<sup>(4)</sup> —

(a) after paragraph (d), insert —

“(da) the Society considers that there has been undue delay on the part of the personal representatives of a deceased solicitor who immediately before death was practising as the sole principal of a recognised body in connection with the recognised body’s business or in connection with any trust; or

(db) the Society is satisfied that a solicitor practising as the sole principal of a recognised body is incapacitated by illness, injury or accident to such an extent as to be unable to attend to the solicitor’s practice or to the recognised body’s business; or”.

(14) After paragraph 32, insert —

<sup>(1)</sup> Paragraph 18A was inserted by paragraphs 80 and 107 of Schedule 16 above.

<sup>(2)</sup> Paragraph 20 was amended by paragraphs 80 and 108 of Schedule 16 above and by paragraphs 27 and 32 of Schedule 5 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10).

<sup>(3)</sup> Paragraph 21 was amended by paragraphs 80 and 109 of Schedule 16 above.

<sup>(4)</sup> Paragraph 32 was amended by paragraphs 80 and 119 of Schedule 16 to the Legal Services Act 2007 and by S.I. 2003/2096.

“**32A.** On the death of a solicitor practising as the sole principal of a recognised body, paragraphs 6 to 8 of Schedule 1 to the 1974 Act shall apply to the client accounts of the recognised body.”.

(15) In paragraph 35<sup>(1)</sup> —

- (a) in paragraph (a), after “paragraph 32,” insert “32A,”; and
- (b) after paragraph (b), insert —

“(ba) any reference to paragraph 2 of that Schedule shall be construed as including a reference to paragraph 32A of this Schedule;”.

## SCHEDULE 2

Article 3(2)

### AMENDMENTS TO SECONDARY LEGISLATION

The 2000 Regulations are amended in accordance with this Schedule.

**25.** In regulation 2(1) (interpretation)<sup>(2)</sup>, before the definition of “solicitor” insert —

““sole practitioner” means a registered European lawyer who is the sole principal in a practice (other than an incorporated practice);”.

**26.** In Schedule 4<sup>(3)</sup> —

- (a) in paragraph 1, after sub-paragraph (3) insert—

“(4) For the purpose of making rules under section 31 of the Solicitors Act 1974 and section 9 of the Administration of Justice Act 1985 by virtue of sub-paragraph (3)—

- (a) a reference to a sole solicitor is to be read as a reference to a sole practitioner; and
- (b) a reference to a recognised sole solicitor’s practice is to be read as a reference to a recognised sole practitioner’s practice (that is, to a sole practitioner’s practice for the time being recognised under section 9).”;

- (b) in paragraph 7 —

- (i) in sub-paragraph (1), omit —
  - (aa) “1B,”;
  - (bb) “13ZA, 13ZB,” and
  - (cc) “17A, 17B,”; and
- (ii) omit sub-paragraph (1A)(b);

- (c) in paragraph 24 —

- (i) in sub-paragraph (1) —
  - (aa) after “The provisions of sections” insert “9(2F) to (2H) and (5), 10A,”; and
  - (bb) for the words from “and for this purpose the reference to a person’s solicitor” to the end substitute—

“and for this purpose—

    - (a) reference to a sole solicitor in sections 9 and 10A is to be read as a reference to a sole practitioner; and
    - (b) the reference to a person’s solicitor in section 40(1) is to be read as a reference to a registered European lawyer acting for a person.”; and
- (ii) for sub-paragraph (2), substitute —

“(2) The provisions of Schedule 2 to that Act apply to registered European lawyers as they apply to solicitors, and for that purpose —

- (a) reference to a sole solicitor is to be read as a reference to a sole practitioner;
- (b) reference to a recognised sole solicitor’s practice is to be read as a reference to a recognised sole practitioner’s practice (that is, to a sole practitioner’s practice for the time being recognised under section 9 of the 1985 Act);
- (c) reference to the roll is to be read as a reference to the register of European lawyers, and accordingly —
  - (i) reference to a solicitor being suspended from practice is to be read as a reference to a European lawyer’s registration being suspended; and

<sup>(1)</sup> Paragraph 35 was amended by paragraphs 80 and 122 of Schedule 16 above.

<sup>(2)</sup> There are amendments to regulation 2(1) which are not relevant to this Order.

<sup>(3)</sup> Schedule 4 is amended, in so far as relevant, by S.I. 2009/1587.

- (ii) reference to a solicitor being struck off the roll is to be read as a reference to a European lawyer being struck off the register of European lawyers; and
- (d) reference to a person who is not a solicitor is to be read as a reference to a person who is neither a solicitor nor a registered European lawyer.”; and
- (d) in the Table —
  - (i) omit the whole of the entries for section 1B; section 9(2); section 10(4)(a); section 10A(2)(b); section 13(1)(b), (4)(b) and (f); section 13ZA(1); section 13ZA(1), (2), (5) and (8)(b); section 13ZA(3); section 13ZA(2), (5), (6)(b) and (8)(c); section 13ZB and section 13A(2)(a);
  - (ii) in the entry for section 13B(1) and (8)(b), in the right hand column, omit the second sentence (which makes provision about sole solicitor endorsement);
  - (iii) in the entry for section 13B(6), in the right hand column, omit —
    - (aa) “or from practice as a sole solicitor”; and
    - (bb) “or suspension of a sole solicitor endorsement”;
  - (iv) omit the whole of the entries for section 17A and section 17B;
  - (v) in the entry for section 28(1)(c) to (d), in the right hand column, omit the second sentence (which makes provision about sole solicitor endorsement);
  - (vi) in the entry for section 28(3B) to (3G), in the right hand column, omit the second and fourth sentences (which both make provision about sole solicitor endorsement); and
  - (vii) in the entry for section 47, in the right hand column, omit the third sentence (which makes provision about suspension from practice as a sole solicitor) and the fourth sentence (which makes provision about sole solicitor endorsement).

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order amends the Administration of Justice Act 1985 (c.61) (“the 1985 Act”) in order to make provision as to the regulation of sole solicitors’ practices. It also amends the provisions of the Solicitors Act 1974 (c.47) (“the 1974 Act”) relating to sole solicitors, and the provisions of the European Communities (Lawyer’s Practice) Regulations 2000 (S.I. 2000 No.1119) (“the 2000 Regulations”). Article 3, which implements those changes, comes into force on [date] 2016 (Article 2(1)). Other provisions of the Order come into force on the day after the day on which it is made.

Article 3(1) and Part 2 of Schedule 1 to the Order amend section 9 of the 1985 Act (incorporated practices) to provide for the Law Society to make rules prescribing the circumstances in which a sole solicitor’s practice may be recognised as being suitable to undertake the provision of solicitor services or other relevant legal services, and makes further related amendments to the 1985 Act.

Article 3(1) of, and Part 1 of Schedule 1 to, the Order amend section 31 of the 1974 Act (rules as to professional practice, conduct and discipline) to require rules under that section to provide that a solicitor may not practise as a sole solicitor unless there is in force in relation to the sole solicitor’s practice a recognition under section 9 of the 1985 Act. It also repeals the provisions of the 1974 Act relating to sole solicitor endorsements on solicitors’ practising certificates and makes minor and consequential amendments to that Act. In addition paragraph 20(14) to (16) brings the arrangements for intervention in recognised bodies in which the sole solicitor manager dies or become incapacitated into line with the arrangements which will apply in comparable circumstances to recognised sole solicitors’ practices.

Article 3(2) of, and Schedule 2 to, the Order make consequential amendments to the 2000 Regulations (which regulate the practice of registered European lawyers).

The Order makes transitional provision in relation to sole solicitor endorsements (and, for registered European lawyers, sole practitioner endorsements) which are in force upon the coming into force of the Order. It provides for the practices of solicitors and registered European lawyers whose practising certificates are subject to such endorsements to be recognised under section 9 of the 1985 Act from the coming into force of article 3. It also provides for the Law Society to direct that recognition has effect subject to one or more conditions. By virtue of the Order such a condition is to be treated as having been imposed under section 9(2F) of the 1985 Act and so takes effect in accordance with Rules made by the Society under section 9(2I) of that Act. It also makes provision in relation to applications for such endorsements which have not been determined by the Law Society immediately before the date on which article 3 comes into force (articles 4 and 5).

An impact assessment is annexed to the Explanatory Memorandum accompanying this instrument and is available alongside this instrument on [www.legislation.gov.uk](http://www.legislation.gov.uk).

## Annex B – Cost Benefit Analysis



### Introduction

1. 1 This cost benefit assessments presents illustrative analysis based on the Solicitors Regulation Authority's (SRA) internal management data and subject matter expertise.
1. 2 This assessment provides an overview of the possible impacts of removing some of the regulatory burden from sole practitioner firms.
1. 3 The impact of these reforms has been assessed relative to the base case of the current position. A number of assumptions have been applied in order to estimate the potential costs and benefits of the reforms to sole practitioner regulation.
1. 4 In summary, based on our assumptions outlined in this document, the net benefit for the 2,992 sole practitioner firms in England and Wales may be around £50,000 per annum.

### Rationale for intervention

2. 1 The Law Society of England and Wales is an approved regulator under the Legal Services Act 2007 (LSA 2007). The SRA is the independent regulatory body of the Law Society which regulates all forms of solicitor's practices and Alternative Business Structures (ABSs).
2. 2 One type of solicitor's practice is known under the SRA's rules as a recognised sole practitioner, also referred to here as sole practitioner firms. These are currently regulated differently from other vehicles through which solicitors practise e.g. partnerships, Limited Liability Partnerships (LLPs), other types of recognised bodies and ABSs.
2. 3 In particular, rather than being authorised and regulated as business entities, sole practitioners are authorised through an endorsement on their Practising Certificate (PC). This endorsement is required under the Solicitors Act 1974. PCs are issued annually by the SRA and so the endorsement mechanism for authorising a sole practitioner is an annual occurrence. PCs are issued to all individual solicitors (in December 2014 there were around 131,000 PC holders in total), but not all individual solicitors are sole practitioners (in fact there are only around 3,000 sole practitioners).
2. 4 By contrast, apart from sole practitioners all other law firms which the SRA regulates are provided with a certificate of authorisation, or a licence in the case of ABSs, that does not have to be renewed annually.
2. 5 The SRA has improved the information it collects annually from all law firms, including sole practitioners, and this together with other intelligence and information received allows the SRA to take risk-based action against the small number that require attention. The SRA considers that putting sole practitioners through a formal annual endorsement process is no longer an appropriate use of resources for either the firm or the SRA.

- 2.6 The SRA proposes to harmonise the authorisation regime and to remove the annual endorsement required for sole practitioners, thereby allowing regulation to be more proportionately targeted at risk through supervisory activity.
- 2.7 The SRA's data shows that in January 2014 there was a total of 2,992 sole practitioner firms. Sole practitioners are not always small – sole practitioner status is a reflection of ownership structure rather than size. The largest sole practitioner firms are multi million pound businesses that operate like other large corporate entities.

## Proposed Reforms

**Option 1- Align the system of authorisation for sole practitioners with that used for other types of law firms and provide an effective and consistent approach to the regulation of legal services for those regulated by the SRA.**

The key elements of option 1 comprise:

- 3.1 Moving to 'firm-based' regulation fully across all law firms. This means that rather than solely regulating solicitors as individuals via their practising certificates, the SRA also regulates the practices within which they operate. Firm-based regulation reflects the reality of solicitors and other fee earners and staff providing a service together, and reflects the way in which consumers access services (i.e. they instruct a firm, not the individual who happens to head the firm).
- 3.2 Harmonising the system of authorisation for solicitor practices including sole practitioners, recognised bodies and ABSs.
- 3.3 Providing an effective and consistent approach to the regulation of legal services.
- 3.4 In order to achieve the desired policy outcome, a statutory change is required. Government intervention is necessary by making an Order under section 69 of the Legal Services Act 2007 to amend the statutory powers so that the desired changes can be introduced. The SRA therefore intends to make a proposal to the LSB that they make a recommendation to the Lord Chancellor that he make an Order.

## Intended Effects

- 4.1 Harmonising the regulatory regime will generate efficiencies and reduce regulatory burdens for sole practitioners. They will no longer need to apply for an endorsement on their PC annually. This would reduce their administrative burden via an associated reduction in the time they spend reading and interpreting the guidance in the SRA handbook.
- 4.2 This option will allow the SRA to provide a more effective and consistent approach to the regulation of legal services for those it regulates. The SRA operates under a cost-recovery

basis and running two regulatory regimes for authorising law firms creates increased costs for the SRA, which are then passed on to firms and ultimately to consumers.

- 4.3 Failure to reduce the regulatory burden would result in continued inefficiencies and increased costs for both sole practitioners and the SRA. Although the change is relatively modest, Government intervention is needed as legislation is required. It also provides a consistent foundation for regulation as the SRA continues its programme of reducing on-going regulatory burdens via removal of blanket requirements and more effective targeting of regulatory activity at significant risks. Thus, while the direct financial burden from this change is minimal it is a precursor to other cost reduction through better targeting of ongoing regulation.
- 4.4 We are also mindful that differing authorisation regimes for different structures can lead to regulation being a contributor to a firm's decision on their business structure. It is hard to justify this unless real risks are attached to different structures.

## Costs and Benefits

- 5.1 The cost benefit assessment identifies impacts on sole practitioners, the SRA and consumers of legal services in England and Wales. Costs and benefits of each option are compared to the base case do nothing option.

### Option 0: Base case (do nothing)

- 5.2 Under the 'do nothing' base case, the current system would continue to apply. The 'do nothing' option is compared against itself and therefore its costs and benefits are necessarily zero, as is its Net Present Value (NPV).

### Option 1- Align the system of authorisation for sole practitioners with that used for other types of law firms and provide an effective and consistent approach to the regulation of legal services for those regulated by the SRA.

- 5.3 The main elements of this option are outlined in section 3 "Proposed Reforms and section 4 "Intended Effects"

## Assumptions

- 5.4 The following key assumptions have been used to help provide an illustrative guide of the expected impacts of the reforms:

- The number of firms registered as sole practitioners will remain the same. SRA data shows that there are around 2,992 sole practitioner firms with around 4,735 solicitors working within these firms.
- Sole practitioner firms spend approximately half an hour a year reading the necessary guidance for the annual renewal.

- The hourly gross wage for a solicitor was £21.29 in 2012 according to the Office of National Statistics Annual Survey of Hourly Earnings.<sup>1</sup>

## Benefits

### *Benefits to Sole Practitioners*

5. 5 Sole practitioners will no longer be required to secure an annual endorsement on their PC. Instead sole practitioners will receive a certificate of authorisation that will not require annual renewal. This will bring the regulation of sole practitioners in line with that of other law firms.
5. 6 The process that sole practitioners will follow to renew their PC itself, as opposed to renewing the endorsement on their PC, will be unchanged. The current form which sole practitioner's fill in is an 'RF1RSP' form, under the new proposals this will be replaced by an 'RF1RB'. These forms are of the same length and content thus meaning there will be no additional requirements for sole practitioners to follow.
5. 7 One practical change that sole practitioners will see if Option 1 is implemented is that the SRA Handbook will be slightly shorter as the need for separate regulations for sole practitioners will fall away as they will be subject to the same rules that apply to other types of law firms. It is estimated that this will shrink the Handbook by approximately 14 pages.
5. 8 As an illustrative guide the potential savings from the reduction in guidance, assuming all sole practitioners/solicitors read the necessary guidance, is around £50,000 for the 4,735 sole practitioners who read the guidance.<sup>2</sup>.

### *Benefits to the Solicitors Regulation Authority*

5. 9 Harmonising the regulatory regime would result in operational benefits for the SRA if there was no longer a requirement for sole practitioners to complete their renewal on a separate form. The existing process requires an editorial team to draft and audit the proposed questions on both applications ensuring that there is consistency. Combining the forms would reduce the resources required for the editorial and testing teams as their resources would not need to be duplicated. There would also be a move away from manual checks on firms to a more risk based approach. This is in accordance with the better regulation principle. These benefits have been assessed as negligible in scale and have therefore not been monetised.

### *Benefits to consumers of legal services*

5. 10 Any benefits here will be negligible in scale.

<sup>1</sup> <http://www.ons.gov.uk/ons/publications/re-reference-tables.html?edition=tcm%3A77-328218> Table 14- c contains estimates of paid hours worked, weekly, hourly and annual earnings for UK employees by gender and full-time/part-time working by 4 digit Standard Occupation Classification 2010.

<sup>2</sup> The half hour of time saved equates to £10.65. This is multiplied by the 4,735 solicitors registered by the SRA.



## Costs



### *Costs to sole practitioners*

5. 11 It is not anticipated that there will be any significant transitional costs for sole practitioners. There may be negligible initial one-off familiarisation and awareness costs relating to the new arrangements. The new authorisations will be issued to sole practitioners by the SRA without the need for sole practitioners to submit a separate application.

### *Costs to the Solicitors Regulation Authority*

5. 12 The proposal is likely to impose negligible one-off adjustment costs on the SRA from removing guidance and adjusting IT processes for the harmonised system. There is limited data available as to how much these IT processes would cost as they will be amalgamated alongside other SRA IT changes.

### *Costs to consumers of legal services*

5. 13 No costs are anticipated to consumers of legal services.

## **Small and Micro-Business Assessment**

- 6.1 The group of sole practitioners contains a disproportionate number of small and micro businesses, but it should be noted that not all sole practitioners are necessarily of this size. In some cases they are enterprises of a considerable size in terms of both numbers of employees and turnover (and their employees do not need to be solicitors who hold a PC, they may also be paralegals and barristers). Overall, sole practitioners will benefit from this proposal and not face any significant additional costs.

April 2014