

Direction 107 issued under Part 3 of Schedule 4 to the Legal Services Act 2007 to the Institute of Chartered Accountants in England and Wales (ICAEW)

1. This is a direction issued pursuant to paragraph 19(3) of Schedule 4 to the Legal Services Act 2007 (the Act).
2. Unless stated otherwise, words in this direction are used as they are defined in the Act.
3. In accordance with paragraph 19(3) of Schedule 4 to the Act, the Board has directed that the following alterations by ICAEW to its regulatory arrangements be treated as exempt alterations for the purposes of paragraph 19(2)(c) of Schedule 4:

ICAEW Probate Regulations and Probate Compensation Scheme Regulations

Proposed changes

4. In becoming an approved regulator and licensing authority for probate in 2014, the ICAEW opted for appeals in relation to ICAEW-accredited probate firms to be referred to the General Regulatory Chamber of the First-tier Tribunal (FTT). The statutory instruments were put in place, but the ICAEW and HM Courts and Tribunal Service have been resolving operational matters. In the meantime, provision was made for appeals to be heard by the ICAEW's Appeal Committee. The operational matters have now been resolved and the changes to both sets of regulations are to refer appeals to the FTT. Three miscellaneous technical drafting changes have also been proposed:
 - Probate regulation 9.1 amended to clarify that the Probate Committee is established under the regulations.
 - Probate regulation 12.1 amended to accord with changes in the terminology used in the ICAEW's Disciplinary Bye-laws in October 2016.
 - Probate Compensation Scheme regulation 3.2 amended to clarify that the Probate Committee may make a partial grant in cases where there are insufficient funds in the scheme to grant an application in full. The regulation, as currently worded, could be interpreted that an application would be declined if due to inadequate funds it could not be granted in full.

Reason for exemption direction

5. The proposed alterations are technical in nature and are mostly being made in order to reflect that the FTT is now formally and operationally the appeals body in relation to decisions concerning ICAEW-accredited probate firms. The additional changes are points of drafting clarification and do not represent fundamental alterations to regulatory policy or approach.
6. A copy of the alteration was submitted to the Board on 7 February 2017.
7. This direction is to be deemed made on and to be effective from 20 February 2017.