

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Fourth Delegated Legislation Committee

DRAFT LEGAL SERVICES ACT 2007 (CHARTERED
INSTITUTE OF LEGAL EXECUTIVES) (APPEALS
FROM LICENSING AUTHORITY DECISIONS)
ORDER 2020

Monday 24 February 2020

No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor’s Room, House of Commons,

not later than

Friday 28 February 2020

© Parliamentary Copyright House of Commons 2020

This publication may be reproduced under the terms of the Open Parliament licence, which is published at www.parliament.uk/site-information/copyright/.

The Committee consisted of the following Members:

Chair: Ms KAREN BUCK

- | | |
|---|---|
| † Chalk, Alex (<i>Parliamentary Under-Secretary of State for Justice</i>) | † O'Brien, Neil (<i>Harborough</i>) (Con) |
| † Charalambous, Bambos (<i>Enfield, Southgate</i>) (Lab) | Powell, Lucy (<i>Manchester Central</i>) (Lab/Co-op) |
| † Crouch, Tracey (<i>Chatham and Aylesford</i>) (Con) | † Pursglove, Tom (<i>Corby</i>) (Con) |
| † Doyle-Price, Jackie (<i>Thurrock</i>) (Con) | † Rimmer, Ms Marie (<i>St Helens South and Whiston</i>) (Lab) |
| † Edwards, Ruth (<i>Rushcliffe</i>) (Con) | Russell-Moyle, Lloyd (<i>Brighton, Kemptown</i>) (Lab/Co-op) |
| † Everitt, Ben (<i>Milton Keynes North</i>) (Con) | Yasin, Mohammad (<i>Bedford</i>) (Lab) |
| † Fletcher, Katherine (<i>South Ribble</i>) (Con) | |
| † Garnier, Mark (<i>Wyre Forest</i>) (Con) | Leoni Kurt, <i>Committee Clerk</i> |
| Graham, Richard (<i>Gloucester</i>) (Con) | |
| † Hayes, Helen (<i>Dulwich and West Norwood</i>) (Lab) | |
| Hillier, Meg (<i>Hackney South and Shoreditch</i>) (Lab/Co-op) | † attended the Committee |

Fourth Delegated Legislation Committee

Monday 24 February 2020

[Ms KAREN BUCK *in the Chair*]

Draft Legal Services Act 2007 (Chartered Institute of Legal Executives) (Appeals from Licensing Authority Decisions) Order 2020

6 pm

Ben Everitt (Milton Keynes North) (Con): I have an interest to declare. Until recently, I was head of strategy at the Institute of Chartered Accountants in England and Wales which, although an accounting body, has delegated licensing authority in the legal sector.

The Chair: Thank you. I call the Minister to move the motion.

The Parliamentary Under-Secretary of State for Justice (Alex Chalk): I beg to move,

That the Committee has considered the draft Legal Services Act 2007 (Chartered Institute of Legal Executives) (Appeals from Licensing Authority Decisions) Order 2020.

The order is straightforward and, I hope, uncontroversial. It relates to the functions of the Chartered Institute of Legal Executives—CILEx. In summary, the order enables the first-tier tribunal to hear and determine appeals against CILEx in its role as a licensing authority.

As the Committee is aware, the Legal Services Act 2007 defines six reserved legal activities that only individuals and firms regulated by one of 11 approved regulators can provide to the public. CILEx is an experienced regulator under that Act and authorises and regulates individuals and firms in respect to five of the six reserved legal activities: conduct of litigation, right of audience, reserved instrument activities, probate activities and administration of oaths.

In February last year, statutory instrument 2019/166, the Legal Services Act 2007 (Designation as a Licensing Authority) Order 2019, designated CILEx as a licensing authority as well as an approved regulator, which means that, as well as regulating individuals and firms, it can license alternative business structures—legal firms that are owned or operated by non-lawyers. They were introduced by the 2007 Act to encourage competition by allowing, for the first time, lawyers to join with non-lawyers, such as accountants, engineers and social workers, and raise external capital. Notable alternative business structures include the Co-op Legal Services and the big four accountancy firms.

Alternative business structures have been permitted by the 2007 Act since October 2011, and there are now more than 1,300 in England and Wales. Most of the other legal services regulators, including the Law Society and the Bar Council, are already licensing authorities. The Act stipulates that there must be an independent body to determine appeals against decisions of licensing authorities. The order enables the general regulatory chamber of the first-tier tribunal to fulfil that role.

In the 12 months since CILEx became a licensing authority, an interim appeals procedure, agreed by the Legal Services Board, has been in place. It is more appropriate, however, that the first-tier tribunal determines any appeals against CILEx in its role as a licensing authority. The first-tier tribunal has judges with experience of considering regulatory appeals. Furthermore, similar orders have been made in respect of appeals against the decisions of the Bar Standards Board, the Council for Licensed Conveyancers, the Chartered Institute of Patent Attorneys, the Chartered Institute of Trade Mark Attorneys and the Institute of Chartered Accountants in England and Wales when each was designated as a licensing authority.

I reassure the Committee that, although Her Majesty's Courts and Tribunals Service will face additional costs associated with the potential increase in cases to be determined by the first-tier tribunal, CILEx will meet the set-up and operating costs, so there will be no net financial impact on the sector. On that basis, I commend the order to the Committee.

6.3 pm

Bambos Charalambous (Enfield, Southgate) (Lab): The Chartered Institute of Legal Executives is an approved regulator under the Legal Services Act 2007. Since 1 April 2019, it has had the power to regulate reserved legal activities, as set out in the explanatory notes. Since that power came into force, CILEx has had to set up temporary arrangements to deal with appeals from any financial penalties it has imposed on individuals or alternative business structures, or related to refusals or conditional approvals to grant licences. Clearly, the temporary arrangements, although they are, no doubt, working well and overseen by the Legal Services Board, need to be changed to a permanent system.

The Opposition agree that the first-tier tribunal is the appropriate appellate body for appeals from CILEx for the types of decisions stated for reserved legal activities, especially as it already carries out the same role for appeals from other licensing authorities operating under the 2007 Act, as the Minister mentioned. I have been in contact with CILEx, which sees the order as a positive step that it has anticipated for some time. For those reasons, we will not oppose the order.

Question put and agreed to.

6.5 pm

Committee rose.