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Dear Colleague,

Legal Services Act 2007, Schedule 5 - ending the transitional period

The Ministry of Justice (MoJ) has told us that it wants to include in the commencement order for Part 5 of the Act, provision ending the transitional protection that Part 2 of Schedule 5 to the Act provides. The transitional period can only be ended on the recommendation of the LSB.

I am therefore writing to ask for your views about ending the transitional period for all authorised persons covered by Part 2 of Schedule 5 to the Act, 12 months after Part 5 of the Act is commenced (currently expected to be October 2011). For the avoidance of doubt, this letter does not concern the transitional protection for non-commercial bodies listed in section 23 of the Act.

Part 2 of Schedule 5 makes provision deeming certain categories of person to be authorised by an approved regulator to conduct certain reserved legal activities for the duration of the transitional period, or to be exempt during that period. At the end of the transitional period, unless a person is authorised or exempt, they will commit an offence if they carry out a reserved legal activity.

In our consultation document published on 18 November 2009 *Alternative business structures: approaches to licensing*, we asked whether a 12-month period would be appropriate for Legal Disciplinary Practices and recognised bodies. However, the protection currently provided by Part 2 of Schedule 5 extends beyond those types of entity to all authorised persons.

Our view is that it is inappropriate to allow transitional arrangements to continue indefinitely. A period of 12 months after the commencement of Part 5 would seem to be an appropriate length of time to allow approved regulators to put in place arrangements that are needed (if any) to ensure authorisation prior to the end of the transitional protection. However, Schedule 5, paragraph 3(2) makes provision for there to be different appointed days for different purposes. It may be that you consider that any recommendation concerning those you regulate should make use of this power.

Please could you therefore let me know, by Friday 6 May, your views on ending the transitional period 12 months after Part 5 is commenced and, in particular, whether there is any reason to consider a different length of time for those you regulate.

I would of course be very happy to discuss this with you.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Chris Kenny'. The signature is written in a cursive style and is connected to a long, thin horizontal line that extends to the right and then curves downwards and back to the left, ending in a small hook.

Chris Kenny
Chief Executive
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