

By Email Only

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Dear Helen

Extension notice issued under Part 3 of Schedule 4 to the Legal Services Act 2007

This letter is an extension notice issued under paragraph 21(5)(b) of Schedule 4 to the Legal Services Act 2007 (the "Act"). The words used in this extension notice have the meanings given to them in the Act.

On 23 October 2017 we received an application from The Association of Chartered Certified Accountants (the ACCA) to introduce regulatory arrangements with regards to the regulation of probate activities. Paragraph 21(4) of Schedule 4 to the Act sets out an initial decision period of 28 days within which the Legal Services Board (LSB) may make a decision on the application; paragraph 21(5) allows for this period to be extended.

We have completed an initial assessment of the ACCA's application and concluded that, having considered the circumstances of this application, it is appropriate for the LSB to extend the initial decision period beyond 28 days. The ACCA is proposing to use its status as an approved regulator for the first time. Given that the ACCA has not done this before, the LSB must consider an entirely new set of regulatory arrangements, and be satisfied that the ACCA will perform its function as an approved regulator in accordance with the Act's "designation requirements".

The designation requirements are relevant because the LSB may only refuse an application to alter regulatory arrangements (or introduce new ones) if it is satisfied that one or more of the grounds for refusal in paragraph 25 of Schedule 4 have been triggered. In terms of this application, one of the key grounds for refusal that we will need to consider is paragraph 25(3)(b):

*"granting the application would be contrary to any provision made by or by virtue of this Act or any other enactment or **would result in any of the designation requirements ceasing to be satisfied in relation to the approved regulator**" [emphasis added].*

The designation requirements are set out in paragraph 25(4) as follows:

“(a) a requirement that the approved regulator has appropriate internal governance arrangements in place, a requirement that the applicant is competent, and has sufficient resources to perform the role of approved regulator in relation to the reserved legal activities in respect of which it is designated, and the requirements of paragraph 13(2)(c) to (e)” [of Schedule 4 to the Act]

Paragraph 13(2) to Schedule 4 sets out the criteria that must apply before the LSB may grant an application for designation in relation to a particular reserved legal activity. Among those criteria are the following:

“...(c) that the applicant’s proposed regulatory arrangements make appropriate provision, (d) that the applicant’s proposed regulatory arrangements comply with the requirements of sections 52 and 54 (resolution of regulatory conflict), and (e) that those arrangements comply with the requirements imposed by sections 112 and 145 (requirements imposed in relation to the handling of complaints)”.

As indicated above, there are a number of issues that the LSB will need to consider before it can be satisfied that the Act’s designation requirements will be met by the ACCA. Therefore, while we will do our utmost to make a decision expeditiously, the LSB must have sufficient time to properly and thoroughly consider the issues that are relevant to this application, so that it may effectively discharge its obligations under Schedule 4 to the Act.

Therefore, and in accordance with paragraphs 21(5), (6) and (7) of Schedule 4 to the Act, the Board hereby extends the initial decision period by 90 days from when the application was submitted, to 19 January 2018 (the final business day before the 90th day of 20 January).

In our acknowledgement of receipt of the application, sent by email to the ACCA on 24 October, we communicated that, in certain circumstances, it may be necessary to extend the decision period. I understand we had also said in communications with the ACCA that the designation aspects of the Schedule 4 refusal criteria would be relevant in this case.

If you have any questions in relation to this notice please contact Stephanie Borthwick (stephanie.borthwick@legalservicesboard.org.uk, telephone 020 7271 0089).

A copy of this extension notice will be published on the LSB’s website within the next two business days.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Neil Buckley', with a stylized flourish at the end.

Neil Buckley
Chief Executive

E neil.buckley@legalservicesboard.org.uk

cc Ian Waters, Head of Standards, the ACCA