



LSRA

**An tÚdarás Rialála
Seirbhísí Dlí
Legal Services
Regulatory Authority**

Legal Services Regulatory Authority

Independence, innovation, consumer protection, accountability and transparency

Brian J. Doherty

Chief Executive Officer

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The Legal Services Regulation Act, 2015

- ▶ Enacted on 30 December 2015

*“ To provide for the regulation of the provision of legal services, to provide for the establishment of the **legal services regulatory authority**, to provide for the establishment of the **legal practitioners disciplinary tribunal** to make determinations as to misconduct by legal practitioners, to provide for **new structures** in which legal practitioners may provide services together or with others, to provide for the establishment of a **roll of practising barristers**, to provide for reform of the law relating to the charging of **costs** by legal practitioners and the **system of the assessment of costs** relating to the provision of legal services, to provide for the manner of **appointment of persons to be Senior Counsel**, to provide for matters relating to **clinical negligence actions** and to provide for related matters.”*

The Legal Services Regulatory Authority

Six Statutory Objectives

“The Legal Services Regulatory Authority will

- (1) Protect and promote the public interest.*
- (2) Support the proper and effective administration of justice.*
- (3) Protect and promote the interests of consumers relating to the provision of legal services.*
- (4) Promote competition in the provision of legal services in the State.*
- (5) Encourage an independent, strong and effective legal profession.*
- (6) Promote and maintain adherence to the professional principles of legal practitioners specified in the 2015 Act.”*

The Legal Services Regulatory Authority

Eleven Key Functions

The Authority will undertake the following specific functions as part of its role:

- (1) Keep under review and make recommendations to the Minister in respect of:
 - a. admission requirements of the Law Society, Bar Council, and Honorable Society of King's Inns;
 - b. availability and quality of education and training including ongoing training for the solicitors' and barristers' professions;
 - c. policies in relation to admission and, or, entitlement to practise of the Law Society, Bar Council and the Honorable Society of the King's Inns;
 - d. professional codes;
 - e. the organisation of the provision of legal services in the State.

The Legal Services Regulatory Authority

- (2) Disseminate information in respect of the education and accreditation requirements and any other matters referred to above as the LSRA thinks fit.
- (3) Specify the nature and minimum levels of professional indemnity insurance required.
- (4) Establish and administer a system of inspection of legal practitioners for the purposes of the Act.
- (5) Receive and investigate complaints.
- (6) Maintain the roll of practising barristers.
- (7) Promote public awareness and disseminate information to the public in respect of legal services, including the cost of such services.

The Legal Services Regulatory Authority

(8) Keep the Minister for Justice & Equality informed of developments in respect of the provision of legal services including their cost.

(9) Keep the Minister informed of developments in respect of the provision of legal services and make recommendations to assist the Minister in coordinating and developing policy.

(10) Undertake, commission or assist in research projects and other activities in respect of the provision of legal services which may increase public awareness and promote an improvement in standards for their provision, and make recommendations to the Minister for Justice & Equality.

(11) Perform any other functions conferred by the Act or by regulations made under it.

Work Done to Date- Building a Regulatory Authority

- ▶ Authority 1st Meeting 26 October 2016
- ▶ 18 Meetings to Date
- ▶ Interim CEO Appointed from 1 January 2017
- ▶ Permanent CEO Appointed 14 September 2017
- ▶ Temporary Serviced Accommodation
- ▶ IT System
- ▶ Website
- ▶ Financial and Legal Services
- ▶ Recruitment of staff- Section 26 Transfers & Direct recruitment
- ▶ DPER Code of Practice for the Governance of State Bodies
- ▶ GDPR

Work Done to Date- Statutory Reporting

- ▶ 31 March 2017 (Section 118) Public Consultation and Report in relation to the regulation, monitoring and operation of Legal Partnerships
- ▶ 31 March 2017 (Section 119) Research Report on the establishment, regulation, monitoring and operation of Multi-Disciplinary Practices
- ▶ 31 July 2017 (Section 118) Further interim report in relation to Legal Partnerships
- ▶ 29 September 2017 (Section 119) Public consultation and report on the establishment, regulation, monitoring and operation of Multi-Disciplinary Practices
- ▶ 29 September 2017 (Section 120) Public consultation and report on certain issues relating to barristers

Work Done to Date- Statutory Reporting

- ▶ 30 September 2018 (section 34) Public consultation and Report into the arrangements for education and training of legal practitioners in the State
- ▶ 29 March 2019 (Section 6) Public consultation and Report of review of the operation of the 2015 Act

Work Done to Date-Roll of Practising Barristers

- ▶ Commenced on 29 June 2018
- ▶ Six months establishment phase
- ▶ Roll of Practising Barristers is a public-facing register of all barristers entitled to provide legal services in the State.
- ▶ Definitions of “qualified barrister”, “practising barrister” and providing “legal services as a barrister” in the 2015 Act are broad.
- ▶ Criminal offence under section 136 of the 2015 Act to provide legal services as a barrister if your name is not on the Roll
- ▶ Roll publicly available on the LSRA website.
- ▶ Updated every Friday.

Part 6 of the Act: Complaints

- ▶ Commenced 7 October 2019
- ▶ Complaints process put on statutory footing
- ▶ Applies to practising solicitors and practising barristers
- ▶ Focuses on resolution by informal means
- ▶ Time limits for some complaints
- ▶ Establishes independent Legal Practitioners Disciplinary Tribunal
- ▶ Six monthly reports on performance of LSRA under Part 6

Three Categories of Complaint

- ▶ Legal services of an inadequate standard (section 51(1)(a))
- ▶ Costs sought by legal practitioner was or is excessive (section 51(1)(b))
- ▶ Misconduct under section 50
- ▶ Time limit of three years for inadequate service and excessive costs
- ▶ No time limit for misconduct
- ▶ Client of a legal practitioner can complaint about inadequate services and excessive costs
- ▶ Anyone can complain about misconduct

Misconduct under Section 50(1)

- a) Involves fraud or dishonesty,
- b) Is connected with the provision by the legal practitioner of legal services, which were, to a substantial degree, of an inadequate standard,
- c) Where occurring otherwise than in connection with the provision of legal services, would justify a finding that the legal practitioner concerned is not a fit and proper person to engage in the provision of legal services,
- d) Consists of an offence under this act,
- e) In the case of a solicitor, consists of a breach of the *Solicitors Acts 1954 to 2015* or any regulations made under those Acts,
- f) In the case of a solicitor, consists of an offence under *Solicitors Acts 1954 to 2015*,

Misconduct under Section 50(1)

- g. In the case of a barrister, is likely to bring the barristers' profession into disrepute,
- h. In the case of a solicitor, is likely to bring the solicitors' profession into disrepute,
- i. In the case of a legal practitioner who is a managing legal practitioner of a multi-disciplinary practice, consists of a failure by him or her to comply with his or her obligations under this Act as a managing legal practitioner,
- j. Consists of the commission of an arrestable offence,
- k. Consists of the commission of a crime or offence outside the State which, if committed within the State, would be an arrestable offence,
- l. Consists of seeking an amount of costs in respect of the provision of legal services, that is grossly excessive,
- m. Consists of a breach of this Act or regulations made under it, or
- n. Consists of a contravention of section 215(1) (withdrawal from case)

Preliminary Review and Admissibility

- ▶ Section 57(2) Notification of Legal Practitioner including copy of the complaint and any documents submitted.
- ▶ Request Legal Practitioner's observations on the complaint.
- ▶ Section 57(4) LSRA may request further information from Legal Practitioner of Complainant
- ▶ LSRA can determine that the complaint is:
 - ▶ Admissible,
 - ▶ Inadmissible, or
 - ▶ Subject of civil or criminal proceedings.

Preliminary Review and Admissibility

▶ Grounds for inadmissibility:

- ▶ Section 58(2)(a) frivolous or vexatious,
- ▶ Section 58(2)(b) without substance or foundation
- ▶ Section 58(3)
 - “the act or omission to which the complaint relates is the same or substantially the same act or omission as that which was the subject matter of a complaint in respect of that legal practitioner which was previously determined under this Act”
- ▶ Section 58(4) previously determined under the Solicitors Acts 1954-2015 by the High Court or the Law Society
- ▶ Section 58(4) previously subject of civil or criminal proceedings determined in favour of the solicitor
- ▶ Section 58(5) - Equivalent sections for barristers
- ▶ Section 58(7) Time limits for inadequate service and excessive costs.

Resolution by Informal Means

- ▶ Excessive costs, inadequate service and 50(1)(b).
- ▶ The LSRA “*shall invite the client and the legal practitioner concerned to make efforts to resolve the matter the subject of the complaint in an informal manner.*” (section 60(1) and section 61(1)).
- ▶ Where both the client and the legal practitioner agree, the Authority may facilitate the resolution of the matter:
 - ▶ By offering its assistance in resolving the matter in an informal manner, or
 - ▶ By identifying to the legal practitioner and the client other persons who are willing to assist in resolving the matter in an informal manner.
- ▶ Where resolution “unlikely to be reached.”
- ▶ Determination by the Authority.
- ▶ Review Committee

Review Committee

- ▶ Determinations under section 60 or 61
- ▶ Requested by complainants or legal practitioners
- ▶ Review Committee of 3 persons (2 lay and 1 legal practitioner)
- ▶ Review Committee can
 - a) Confirm the determination of the Authority,
 - b) Remit the complaint with directions to be dealt with again
 - c) Issue a direction under section 60(6) or 61(6)
- ▶ Determinations of Review Committee can be appealed to the High Court

Complaints Committee

- ▶ Authority refers misconduct matters to the Complaints Committee under 51(2).
- ▶ 27 members.
- ▶ At least 8 Law Society nominations and at least 4 Bar of Ireland nominations.
- ▶ Divisional Committees.
- ▶ Divisional Committee shall request the legal practitioner to respond to the complaint.
- ▶ Require information, affidavit or appearance.
- ▶ Divisional Committee can specify measures under section 71(1).
- ▶ Divisional Committee direction and/or determination can be appealed to the High Court.

Legal Practitioners Disciplinary Tribunal

- ▶ Established under section 74.
- ▶ Hears applications by the Complaints Committees and Law Society.
- ▶ 33 Members appointed by the President of the High Court.
- ▶ Applications presented by Authority or the Law Society
- ▶ Powers to take evidence under section 80.
- ▶ Oral hearing heard in public unless contrary to the interests of justice.
- ▶ Sanctions under section 82.
- ▶ Referral of Matters to the High Court section 82(2)
- ▶ Authority, Law Society or Legal Practitioner can appeal to the High Court.

Report under Section 73

- ▶ Six monthly reporting obligation.
- ▶ Number and type of complaints.
- ▶ General nature and outcome of the complaints.
- ▶ Number of complaints referred to the Complaints Committees.
- ▶ Where sanction imposed the nature of the act or omission.
- ▶ Measures taken by the Complaints Committees.
- ▶ Outcomes including sanction.
- ▶ Where determination made under 71(1) can, where the LSRA considers it appropriate, include the name of the legal practitioner.

Limited Liability Partnerships

Limited Liability Partnerships

- ▶ A partner in an LLP shall not be *personally* liable for any debts, obligations or liabilities arising in contract or tort of the partnership.
- ▶ Introduces in Ireland a model commonly found elsewhere.
- ▶ LSRA introduced the framework for Limited Liability Partnerships
 - ▶ Section 130 Regulations on operation and management of LLPs
 - ▶ Application and authorisation process
 - ▶ Register of Limited Liability Partnerships
 - ▶ 1 November 2019

Next Steps and Challenges

- ▶ Implementing the Levy Provisions (Part 7)
- ▶ Section 218 Advertising Regulations
- ▶ Section 34(1)(a) Further Report on Legal Education and Training
- ▶ Section 34(1)(b) Report on whether the professions should be unified
- ▶ Section 33(1) Annual report on the admission policies of the legal professions
- ▶ Legal Partnerships
- ▶ Patents of Precedence

Questions?