Part 3: Scope of Practice, Authorisation and Licensing Rules

Part 3 - A. Application Rules

rS1

Section 3.B applies to all *BSB regulated persons* and *unregistered barristers* and "You" and "Your" should be construed accordingly. It provides that you must not carry on any *reserved legal activity* or practise as a *barrister* unless you are authorised to do so, and explains the different capacities within which you may work if you are so authorised and any limitations on the scope of your *practice*. It also explains the further requirements which you must follow if you intend to work in more than one capacity.

rS2

Section 3.C applies to *barristers* and *registered European lawyers* and sets out the basis on which they may apply for a *practising certificate* which will entitle them to practise within England and Wales.

rS3

Section 3.D applies to *European lawyers* and provides details about how to apply to become a *registered European lawyer* in England and Wales, thus entitling them to apply for a *practising certificate* in accordance with the provisions of 3.C.

rS4

Section 3.E applies to all entities wishing to be regulated by the BSB and sets out the basis upon which entities may be:

.1 authorised to practise as a *BSB authorised body*; or

.2 licensed to practise as a *BSB licensed body*.

rS5

Section 3.F applies to all *BSB entities.* It contains the continuing compliance requirements which apply to them.

Part 3 - B. Scope of Practice Rules

Part 3 - B1. No practice without authorisation (Rule S6) Rules

rS6

You must not carry on any *reserved legal activity* unless you are entitled to do so under the *LSA*.

Guidance to Rule S6 Guidance

gS1

You are not entitled to carry on any *reserved legal activity*, whether on your own behalf or acting as a *manager* or employee, unless you are either authorised or exempt in respect of that *reserved legal activity*. Where you are a *manager* or employee of a *person* who, as part of their *practice*, supplies services to *the public* or to a section of *the public* (with or without a view to profit), which consist of, or include, the carrying on of *reserved legal activities*, that *person* must also be entitled to carry on that *reserved legal activity* under the LSA. Authorisation in accordance with this Part 3 permits you to carry on the *reserved legal activities* specified in your authorisation.

Part 3 - B1. No practice without authorisation (Rules S7-S15) Rules

rS7

You must not permit any third party who is not authorised to provide *reserved legal activities* to provide such *reserved legal activities* on your behalf.

rS8

If:

.1 you are an individual and do not have a *practising certificate*; or

.2 you are an entity and you have not been authorised or licensed to provide *reserved legal activities* in accordance with Section 3.E, then:

.a you may not practise as a *barrister* or a *registered European lawyer* or as a *BSB entity* (as appropriate); and

.b you are not authorised by the *Bar Standards Board* to carry on any *reserved legal activity*.

rS9

For the purposes of this *Handbook*, you practise as a *barrister* or a *registered European lawyer*, or a *BSB entity* if you are supplying *legal services* and:

.1 you are an individual and you hold a *practising certificate*; or

.2 you hold yourself out as a *barrister* or a *registered European lawyer* (as appropriate) or

.3 you are an entity and you have been authorised or licensed to provide *reserved legal activities* in accordance with Section 3.E; or

.4 you act as a *manager* of, or have an ownership interest in, an *authorised (non-BSB) body* and as such you are required by the rules of that body's *Approved Regulator* to hold a *practising certificate* issued by the *Bar Standards Board* (as the case may be).

rS10

For the purposes of this Section 3.B1 any reference to the supply of *legal services* includes an offer to supply such services.

rS11

Rule rS9.1 above does not apply to you if you are a *pupil* without a provisional practising certificate if and insofar as you accept a noting brief with the permission of your *pupil supervisor* or head of *chambers* or *HOLP*.

rS12

If you are an *unregistered barrister* or *registered European lawyer* but do not hold a *practising certificate* and you supply *legal services* in the manner provided for in Rules rS13, rS14 and rS15 below, then you shall not, by reason of supplying those services:

.1 be treated for the purposes of this Section B of Part 3 as *practising barrister* or a *registered European lawyer*; or

.2 be subject to the rules in Part 2 of this *Handbook* or the rules in this Section 3.B which apply to *practising barristers*.

rS13

Rule rS12 applies to you if and insofar as:

.1 you are practising as a *foreign lawyer*; and

.2 you do not:

(a) give advice on *English Law*; or

(b) supply *legal services* in connection with any proceedings or contemplated proceedings in England and Wales (other than as an expert witness on foreign law).

rS14

Rule rS12 applies to you if:

.1 you are authorised and currently permitted to carry on reserved legal activities by another *Approved Regulator*; and

.2 you hold yourself out as a *barrister* or a *registered European lawyer* (as appropriate) other than as a *manager* or employee of a *BSB entity*; and

.3 when supplying *legal services* to any *person* or *employer* for the first time, you inform them clearly in writing at the earliest opportunity that you are not practising as a *barrister* or a *registered European lawyer*.

rS15

Rule rS12 applies to you provided that:

.1 you supplied *legal services* prior to 31 March 2012 pursuant to paragraph 206.1 or 206.2 of the 8th Edition of the Code; and

.2 if you supply any *legal services* in England and Wales, you were called to the *Bar* before 31 July 2000; and

.3 before 31 March in each year, and promptly after any change in the details previously supplied to the *Bar Standards Board*, you provide in writing to the *Bar Standards Board*, details of the current address(es) with telephone number(s) of the office or premises from which you do so, and:

(a) if you are employed, the name, address, telephone number and nature of the *practice* of your *employer*; or

(b) if you are an employee or *manager* of, or you have an ownership interest in, a *regulated entity*, the name, address, email address, telephone number and the name of the *regulated entity* and its *Approved Regulator*; and

.4 unless you only offer services to your *employer* or to the *regulated entity* of which you are a *manager* or an employee or which you have an ownership interest in, you are (or, if you are supplying *legal services* to *clients* of your *employer* or *regulated entity* of which you are an *owner*, *manager* or an employee, your *employer* or such body is) currently insured in accordance with the requirements of Rule C76r and you comply with the requirements of Section 2.D4.

Part 3 - B2. Provision of reserved legal activities and of legal services

Rules

rS16

You may only carry on *reserved legal activities* or supply other *legal services* in the following capacities:

.1 as a *self-employed barrister*, subject to the limitations imposed by Section 3.B3;

.2 as a *BSB entity* subject to the limitations imposed by Section 3.B4;

.3 as a *manager* of a *BSB entity* or as an *employed barrister (BSB entity)*, subject to the limitations imposed by Section 3.B5;

.4 as a *manager* of an *authorised (non-BSB) body* or as an *employed barrister (authorised non-BSB body),* subject to the limitations imposed by Section 3.B6;

.5 as an *employed barrister (non authorised body)*, subject to the limitations imposed by Section 3.B7; or

.6 as a *registered European lawyer* in any of the above capacities, in which case the equivalent limitations that would have applied if you were practising as a *barrister* shall apply to your *practice* as a *registered European lawyer*.

rS17

Where you carry on *reserved legal activities* in one of the capacities set out at Rule rS16, so as to be subject to regulation by the *Bar Standards Board* in respect of those *reserved legal activities*, any other *legal services* you may supply in that same capacity will also be subject to regulation by the *Bar Standards Board*, even if unreserved.

rS18

You may only *practise* or be involved with the supply of *legal services* (whether *reserved legal activities* or otherwise) in more than one of the capacities listed in Rule rS16 after:

.1 having obtained an amended *practising certificate* from the *Bar Standards Board* which recognises the capacities in respect of which you are intending to practise; and

.2 having agreed with each *employer* or *regulated entity* with which you are involved a protocol that enables you to avoid or resolve any conflict of interests or duties arising from your *practice* and/or involvement in those capacities,

and provided always that you do not work in more than one capacity in relation to the same case or issue for the same *client*, at the same time.

rS19

If you are a *pupil* with a provisional practising certificate, you may only supply *legal services* to *the public* or exercise any right which you have by reason of being a *barrister*, if you have the permission of your *pupil supervisor*, or head of *chambers* or *HOLP* (as appropriate).

rS20

Subject to Rule rS21, if you are a *barrister* of less than three *years' standing* , you may:

.1 only supply *legal services* to the public or exercise any *right of audience* by virtue of authorisation by the *Bar Standards Board*; or

.2 only *conduct litigation* by virtue of authorisation by the *Bar Standards Board*,

if your principal place of *practice* (or if you are *practising* in a dual capacity, each of your principal places of *practice*) is either:

.a a *chambers* or an annex of *chambers* which is also the principal place of *practice* of a relevant qualified *person* who is readily available to provide guidance to you; or

.b an office of an organisation of which an employee, *partner*, *manager* or *director* is a relevant qualified *person* who is readily available to provide guidance to you.

rS21

If you are an *employed barrister (non-authorised body)* and you are only exercising a *right of audience* or conducting litigation for those *persons* listed at Rule rS39.1 to rS39.6, then the place of *practice* from which you perform such duties is only required to be an office of an organisation of which an employee, *partner*, *manager* or *director* is a relevant qualified *person* who is readily available to provide guidance to you if you are of less than one year's standing.

rS22

In Rule rS20 and Rule rS21 above, the references to "qualified *person*" mean the following:

Supply of legal services to the public – qualified person

.1 Where you are a *barrister* intending to supply *legal services* to *the public*, a *person* shall be a qualified *person* for the purpose of Rule rS20 if they:

.a have been entitled to *practise* and have *practised* as a *barrister* (other than as a *pupil* who has not completed *pupillage* in accordance with the Bar Qualification Rules) or as a *person* authorised by another *Approved Regulator* for a period (which need not have been as a *person* authorised by the same *Approved Regulator*) for at least six years in the previous eight years; and

.b for the previous two years have made such *practice* their primary occupation; and

.c are not acting as a qualified *person* in relation to more than two other people; and

.d has not been designated by the *Bar Standards Board* as unsuitable to be a qualified *person*.

The exercise of a right of audience – qualified person

.2 Where:

.a you are a *barrister* exercising a *right of audience* in England and Wales, a *person* is a qualified *person* for the purpose of Rule rS20 if they:

.i have been entitled to *practise* and have *practised* as a *barrister* (other than as a *pupil* who has not completed *pupillage* in accordance with the *Bar Qualification Rules*) or as a *person* authorised by another *Approved Regulator* for a period (which need not have been as a *person* authorised by the same *Approved Regulator*) for at least six years in the previous eight years; and

.ii for the previous two years:

(1) have made such *practice* their primary occupation; and

(2) have been entitled to exercise a *right of audience* before every *court* in relation to all proceedings; and

.iii are not acting as a qualified *person* in relation to more than two other people; and

.iv have not been designated by the *Bar Standards Board* as unsuitable to be a qualified *person*; or

.b you are a *barrister* exercising a *right of audience* in a *Member State* other than the United Kingdom pursuant to the *Establishment Directive*, or in Scotland or Northern Ireland pursuant to the European Communities (Lawyer's Practice) Regulations 2000, a *person* shall be a qualified *person* for the purposes of Rule rS20 if they:

.i have been designated by the *Bar Standards Board* as possessing qualifications and experience in that state or country which are equivalent to the qualifications and experience required by Rule rS22.2.a.i and rS22.2.a.ii above; and

.ii are not acting as a qualified *person* in relation to more than two other people; and

.iii have not been designated by the *Bar Standards Board* as unsuitable to be a qualified *person*.

The exercise of a right to conduct litigation – qualified person

.3 Where:

.a you are a *barrister* exercising a *right to conduct litigation* in England and Wales, a *person* is a qualified *person* for the purpose of Rule rS20 if they:

.i have been entitled to *practise* and have *practised* as a *barrister* (other than as a *pupil* who has not completed *pupillage* in accordance with the Bar Qualification Rules) or as a *person* authorised by another *Approved Regulator* for a period (which need not have been as a *person* authorised by the same *Approved Regulator*) for at least six years in the previous eight years; and

.ii for the previous two years have made such *practice* their primary occupation; and

.iii are entitled to *conduct litigation* before every *court* in relation to all proceedings; and

.iv are not acting as a qualified *person* in relation to more than two other people; and

.v have not been designated by the *Bar Standards Board* as unsuitable to be a qualified *person*; or

.b you are a *barrister* exercising a *right to conduct litigation* in a *Member State* other than the United Kingdom pursuant to the *Establishment Directive*, or in Scotland or Northern Ireland pursuant to the European Communities (Lawyer's Practice) Regulations 2000, a *person* is a qualified *person* for the purposes of Rule rS20 and rS21 if they:

.i have been designated by the *Bar Standards Board* as having qualifications and experience in that state or country which are equivalent to the qualifications and experience required by Rule rS22.3.a.i and rS22.3.a.ii above; and

.ii are not acting as a qualified *person* in relation to more than two other people; and

.iii have not been designated by the *Bar Standards Board* as unsuitable to be a qualified *person*.

Guidance to Rules S20-S22 Guidance

gS2

If you are a *practising barrister* of less than three *years' standing* and you are authorised to *conduct litigation*, you will need to work with a qualified *person* who is authorised to do litigation as well as with someone who meets the criteria for being a qualified *person* for the purpose of providing services to *the public* and exercising *rights of audience*. This may be, but is not necessarily, the same *person*.

Part 3 - B3. Scope of practice as a self-employed barrister (Rules S23-S24) Rules

rS23

Rules rS24 and rS25 below apply to you where you are acting in your capacity as a *self-employed barrister*, whether or not you are acting for a fee.

rS24

You may only supply *legal services* if you are appointed or instructed by the *court* or instructed:

.1 by a *professional client* (who may be an employee of the *client*); or

.2 by a *licensed access client*, in which case you must comply with the *licensed access rules*; or

.3 by or on behalf of any other *client*, provided that:

.a the matter is *public access instructions* and:

.i you are entitled to provide public access work and the *instructions* are relevant to such entitlement; and

.ii you have notified the *Bar Standards Board* that you are willing to accept *instructions* from lay *clients*; and

.iii you comply with the *public access rules*; or

.b the matter relates to the *conduct of litigation* and

.i you have a litigation extension to your *practising certificate*; and

.ii you have notified the *Bar Standards Board* that you are willing to accept *instructions* from lay *clients*.

Guidance to Rule S24 Guidance

gS3

References to professional *client* in Rule rS24.1 include *foreign lawyers* and references to *client* in Rule rS24.3 include *foreign clients*.

gS4

If you are instructed by a *foreign lawyer* to provide advocacy services in relation to *court* proceedings in England and Wales, you should advise the *foreign lawyer* of any limitation on the services you can provide. In particular, if *conduct of litigation* will be required, and you are not authorised to *conduct litigation* or have not been instructed to do so, you should advise the *foreign lawyer* to take appropriate steps to instruct a *person* authorised to *conduct litigation* and, if requested, assist the *foreign lawyer* to do so. If it appears to you that the *foreign lawyer* is not taking reasonable steps to instruct someone authorised to *conduct litigation*, then you should consider whether to return your *instructions* under rules C25 and C26.

Part 3 - B3. Scope of practice as a self-employed barrister (Rules S25-S26) Rules

rS25

Subject to Rule rS26, you must not in the course of your *practice* undertake the management, administration or general conduct of a *client's* affairs.

rS26

Nothing in Rule rS25 prevents you from undertaking the management, administration or general conduct of a client's affairs where such work is *foreign work* performed by you at or from an office outside England and Wales which you have established or joined primarily for the purposes of carrying out that particular *foreign work* or *foreign work* in general.

Part 3 - B4. Scope of practice as a BSB entity (Rules S27-S28) Rules

rS27

Rules rS28 and rS29 apply to you where you are acting in your capacity as a *BSB entity*.

rS28

You may only supply *legal services* if you are appointed or instructed by the *court* or instructed:

.1 by a professional *client* (who may be an employee of the *client*);

.2 by a *licensed access client*, in which case you must comply with the *licensed access rules*; or

.3 by or on behalf of any other *client*, provided that:

.a at least one manager or employee is suitably qualified and experienced to undertake public access work; and

.b you have notified the *Bar Standards Board* that you are willing to accept *instructions* from *lay clients*.

Guidance to Rule S28 Guidance

gS5

References to professional client in Rule rS28.1 include foreign lawyers and references to client in Rule rS28.3 include foreign clients.

gS6

If you are instructed to provide advocacy services in relation to *court* proceedings in England and Wales by a *foreign lawyer* or other professional *client* who does not have a *right to conduct litigation* pursuant to Rule rS28.1 and you are not authorised to *conduct litigation* yourself or you are otherwise not instructed to conduct the litigation in the particular matter, then you must:

.1 advise the *foreign lawyer* to take appropriate steps to instruct a *solicitor* or other authorised litigator to conduct the litigation and, if requested, take reasonable steps to assist the *foreign lawyer* to do so;

.2 cease to act and return your *instructions* if it appears to you that the *foreign lawyer* is not taking reasonable steps to instruct a *solicitor* or other authorised litigator to conduct the litigation; and

.3 not appear in *court* unless a *solicitor* or other authorised litigator has been instructed to conduct the litigation.

gS7

The public access and licensed access rules do not apply to *BSB entities* as their circumstances will vary considerably. Nevertheless those rules provide guidance on best practice. In the case of a barrister, "suitably qualified and experienced to undertake public access work" will mean successful completion of the public access training required by the BSB or an exemption for the requirement to do the training. If you are a *BSB entity*, you will also need to have regard to relevant provisions in the Code of Conduct (Part 2 of this Handbook), especially C17, C21.7, C21.8 and C22. You will therefore need to consider whether:

.1 You have the necessary skills and experience to do the work, including, where relevant, the ability to work with a vulnerable client;

.2 The employees who will be dealing with the *client* are either authorised to *conduct litigation* or entitled to do public access work or have had other relevant training and experience;

.3 it would be in the best interests of the client or of the interests of justice for the client to instruct a solicitor or other professional client if you are not able to provide such services;

.4 If the matter involves the *conduct of litigation* and you are not able or instructed to *conduct litigation*, whether the client will be able to undertake the tasks that you cannot perform for them;

.5 The *client* is clear about the services which you will and will not provide and any limitations on what you can do, and what will be expected of them;

.6 If you are not able to act in legal aid cases, the *client* is in a position to take an informed decision as to whether to seek legal aid or proceed with public access.

gS8

You will also need to ensure that you keep proper records.

Part 3 - B4. Scope of practice as a BSB entity (Rules S29-S30) Rules

rS29

Subject to Rule rS30, you must not in the course of your *practice* undertake the management, administration or general conduct of a *client's* affairs.

rS30

Nothing in Rule rS29 prevents you from undertaking the management, administration or general conduct of a client's affairs where such work is foreign work performed by you at or from an office outside England and Wales which you have established or joined primarily for the purposes of carrying out that particular foreign work or foreign work in general.

Part 3 - B5. Scope of practice as a manager of a BSB entity or as an employed barrister (BSB entity) Rules

rS31

Rules rS32 and rS33 below apply to you where you are acting in your capacity as a *manager* of a *BSB entity* or as an *employed barrister (BSB entity)*.

rS32

You may only supply *legal services* to the following *persons*:

.1 the *BSB entity*; or

.2 any employee, *director*, or company secretary of the *BSB entity* in a matter arising out of or relating to that *person's* employment;

.3 any *client* of the *BSB entity*;

.4 if you supply *legal services* at a *Legal Advice Centre*, *clients* of the *Legal Advice Centre*; or

.5 if you supply *legal services* free of charge, members of the public.

rS33

Subject to Rule rS34, you must not in the course of your practice undertake the management, administration or general conduct of a *client's* affairs.

rS34

Nothing in Rule rS33 prevents you from undertaking the management, administration or general conduct of a client's affairs where such work is foreign work performed by you at or from an office outside England and Wales which you have established or joined primarily for the purposes of carrying out that particular foreign work or foreign work in general.

Part 3 - B6. Scope of practice as a manager of an authorised (non-BSB) body or as an employed barrister (authorised non-BSB body)

Rules

rS35

Rules rS36 and rS37 apply to you where you are acting in your capacity as a *manager* of an *authorised (non-BSB) body* or as an *employed barrister (authorised non-BSB body)*.

rS36

You may only supply legal services to the following persons:

.1 the *authorised (non-BSB) body*;

.2 any employee, *director* or company secretary of the *authorised (non-BSB) body* in a matter arising out of or relating to that *person's* employment;

.3 any *client* of the *authorised (non-BSB) body*;

.4 if you provide *legal services* at a *Legal Advice Centre*, *clients* of the *Legal Advice Centre*; or

.5 if you supply *legal services* free of charge, members of the public.

rS37

You must comply with the rules of the *Approved Regulator* or *licensing authority* of the *authorised (non-BSB) body*.

Part 3 - B7. Scope of practice as an employed barrister (non authorised body) Rules

rS38

Rule rS39 applies to you where you are acting in your capacity as an *employed barrister (non authorised body)*.

rS39

Subject to s. 15(4) of the Legal Services Act 2007, you may only supply *legal services* to the following *persons*:

.1 your *employer*;

.2 any employee, *director* or company secretary of your *employer* in a matter arising out of or relating to that *person's* employment;

.3 if your *employer* is a public authority (including the Crown or a Government department or agency or a local authority), another public authority on behalf of which your *employer* has made arrangements under statute or otherwise to supply any *legal services* or to perform any of that other public authority's functions as agent or otherwise;

.4 if you are employed by or in a Government department or agency, any Minister or Officer of the Crown;

.5 if you are employed by a *trade association*, any individual member of the association;

.6 if you are, or are performing the functions of, a *Justices' clerk* , the Justices whom you serve;

.7 if you are employed by the *Legal Aid Agency*, members of the public;

.8 if you are employed by or at a *Legal Advice Centre*, *clients* of the *Legal Advice Centre*;

.9 if you supply *legal services* free of charge, members of the public; or

.10 if your *employer* is a *foreign lawyer* and the *legal services* consist of foreign work, any *client* of your *employer*.

Guidance to Rule S39 Guidance

gS8A

If you provide services through a *non-authorised body* (A) whose purpose is to facilitate the provision by you of in-house *legal services* to another *non-authorised body* (B) then for the purposes of rS39 you will be treated as if you are employed by B and you should comply with your duties under this *Handbook* as if you are employed by B.

gS8B

If you provide services through a *non-authorised body* (C) whose purpose is to facilitate the provision by you of *legal services* to an authorised body (D) or clients of D (where those services are provided by D and regulated by D's *Approved Regulator*) then you will be treated as if you are employed by D and you should comply with your duties under this *Handbook* as if you are employed by D.

gS8C

Reserved legal activities may only be provided in a way that is permitted by s15 of the *Legal Services Act 2007*. S15 details when an employer needs to be authorised to carry on *reserved legal activities* and prevents those activities from being provided to the public, or a section of the public, by a *non-authorised body*.

Part 3 - B8. Scope of practice of a barrister called to undertake a particular case Rules

rS40

If you are called to the *Bar* under rQ25 (temporary call of QFLs), you may not *practise* as a *barrister* other than to conduct the case or cases specified in the certificate referred to in rQ26.

Part 3 - B9. Legal Advice Centres Rules

rS41

You may supply *legal services* at a *Legal Advice Centre* on a voluntary or part time basis and, if you do so, you will be treated for the purposes of this *Handbook* as if you were employed by the *Legal Advice Centre*.

rS42

If you supply legal services at a *Legal Advice Centre* to clients of a *Legal Advice Centre* in accordance with Rule rS41:

.1 you must not in any circumstances receive either directly or indirectly any fee or reward for the supply of any *legal services* to any *client* of the *Legal Advice Centre* other than a salary paid by the *Legal Advice Centre*;

.2 you must ensure that any fees in respect of *legal services* supplied by you to any *client* of the *Legal Advice Centre* accrue and are paid to the *Legal Advice Centre*, or to the Access to Justice Foundation or other such charity as prescribed by order made by the Lord Chancellor under s.194(8) of the Legal Services Act 2007; and

.3 you must not have any financial interest in the *Legal Advice Centre*.

Guidance to Rules S41-S42 Guidance

gS9

You may provide *legal services* at a *Legal Advice Centre* on an unpaid basis irrespective of the capacity in which you normally work.

gS10

If you are a *self-employed barrister*, you do not need to inform the Bar Standards Board that you are also working for a *Legal Advice Centre*.

gS11

Transitional arrangements under the LSA allow *Legal Advice Centres* to provide *reserved legal activities* without being authorised. When this transitional period comes to an end, the Rules relating to providing services at *Legal Advice Centres* will be reviewed.

Part 3 - B10. Barristers authorised by other approved regulators Rules

rS43

If you are authorised by another *Approved Regulator* to carry on a *reserved legal activity* and currently permitted to *practise* by that *Approved Regulator*, you must not *practise* as a *barrister* and you are not eligible for a *practising certificate*.

Part 3 - C. Practising Certificate Rules Rules

Part 3 - C1. Eligibility for practising certificates and litigation extensions Rules

rS44

In this Section 3.C, references to “you” and “your” are references to *barristers* and *registered European lawyers* who are intending to apply for authorisation to *practise* as a *barrister* or a *registered European lawyer* (as the case may be) or who are otherwise intending to apply for a *litigation*

extension to their existing *practising certificate*.

rS45

You are eligible for a *practising certificate* if:

.1 you are a *barrister* or *registered European lawyer* and you are not currently *suspended* from *practice* and have not been disbarred; and

.2 you meet the requirements of Rules rS46.1, rS46.2, rS46.3 or rS46.4; and

.3 either:

.a within the last 5 years either (i) you have held a *practising certificate*; or (ii) you have satisfactorily completed (or have been exempted from the requirement to complete) the pupillage component of training; or

.b if not, you have complied with such training requirements as may be imposed by the *Bar Standards Board*.

rS46

You are eligible for:

.1 a *full practising certificate* if either:

.a you have satisfactorily completed *pupillage*; or

.b you have been exempted from the requirement to complete pupillage; or

.c on 30 July 2000, you were entitled to exercise full *rights of audience* by reason of being a *barrister*; or

.d you were called to the *Bar* before 1 January 2002 and:

.i you notified the *Bar Council* that you wished to exercise a *right of audience* before every *court* and in relation to all proceedings; and

.ii you have complied with such training requirements as the *Bar Council* or the *Bar Standards Board* may require or you have been informed by the *Bar Council* or the *Bar Standards Board* that you do not need to comply with any such further requirements;

in each case, before 31 March 2012;

.2 a *provisional practising certificate* if you have satisfactorily completed (or have been exempted from the requirement to complete) a period of pupillage satisfactory to the *BSB* for the purposes of Rule Q4 and at the time when you apply for a *practising certificate* you are registered as a *Pupil*;

.3 a *limited practising certificate* if you were called to the *Bar* before 1 January 2002 but you are not otherwise eligible for a *full practising certificate* in accordance with Rule rS46.1 above; or

.4 a *registered European lawyer's practising certificate* if you are a *registered European lawyer*.

rS47

You are eligible for a litigation extension:

.1 where you have or are due to be granted a *practising certificate* (other than a *provisional practising certificate*); and

.2 where you are:

.a more than three *years' standing* ; or

.b less than three *years' standing* , but your principal place of *practice* (or if you are *practising* in a dual capacity, each of your principal places of *practice*) is either:

.i a *chambers* or an annex of *chambers* which is also the principal place of *practice* of a qualified *person* (as that term is defined in Rule rS22.3) who is readily available to provide guidance to you; or

.ii an office of an organisation of which an employee, *partner*, *manager* or *director* is a qualified *person* (as that term is defined in Rule rS22.3) who is readily available to provide guidance to you;

.3 you have the relevant administrative systems in place to be able to provide *legal services* direct to *clients* and to administer the conduct of litigation; and

.4 you have the procedural knowledge to enable you to *conduct litigation* competently.

Guidance to Rule S47.3 Guidance

gS12

You should refer to the more detailed guidance published by the *Bar Standards Board* from time to time which can be found on its website. This provides more information about the evidence you may be asked for to show that you have procedural knowledge to enable you to *conduct litigation* competently

Part 3 - C2. Applications for practising certificates and litigation extensions by barristers and registered European lawyers Rules

rS48

You may apply for a *practising certificate* by:

.1 completing the relevant application form (in such form as may be designated by the *Bar Standards Board*) and submitting it to the *Bar Standards Board*; and

.2 submitting such information in support of the application as may be prescribed by the *Bar Standards Board*; and

.3 paying (or undertaking to pay in a manner determined by the *Bar Council*) the appropriate *practising certificate fee* to the *Bar Council* in the amount determined in accordance with Rule rS50 (subject to any reduction pursuant to Rule rS53).

rS49

You may apply for a litigation extension to a *practising certificate* (other than a *provisional practising certificate*) by:

.1 completing the relevant application form supplied by the *Bar Standards Board* and submitting it to the *Bar Standards Board*; and

.2 confirming that you meet the relevant requirements of Rule rS47.1;

.3 paying (or undertaking to pay in a manner determined by the *Bar Standards Board*) the *application fee* (if any) and the *litigation extension fee* (if any) to the *Bar Standards Board*;

.4 confirming, in such form as the *Bar Standards Board* may require from time to time, that you have the relevant administrative systems in place to be able to provide *legal services* direct to *clients* and to administer the *conduct of litigation* in accordance with Rule rS47.3; and

.5 confirming, in such form as the *Bar Standards Board* may require from time to time, that you have the procedural knowledge to enable you to *conduct litigation* competently in accordance with Rule rS47.4.

rS50

An application will only have been made under either Rule rS48 or rS49 once the *Bar Standards Board* has received, in respect of the relevant application, the application form in full, together with the *application fee*, the *litigation extension fee* (if any, or an undertaking to pay such a fee in a manner determined by the *Bar Standards Board*), all the information required in support of the application, confirmation from you, in the form of a declaration, that the information contained in, or submitted in support of, the application is full and accurate, and (in the case of Rule S48) once the *Bar Council* has received the *practising certificate fee* (if any, or an undertaking to pay such a fee in a manner determined by the *Bar Council*).

rS51

On receipt of the application, the *Bar Standards Board* may require, from you or a third party (including, for the avoidance of doubt, any *BSB entity*), such additional information, documents or references as it considers appropriate to the consideration of your application.

rS52

You are personally responsible for the contents of your application and any information submitted to the *Bar Standards Board* by you or on your behalf and you must not submit (or cause or permit to be submitted on your behalf) information to the *Bar Standards Board* which you do not believe is full and accurate.

rS53

When applying for a *practising certificate* you may apply to the *Bar Standards Board* for a reduction in the *practising certificate fee* payable by you if your gross fee income or salary is less than such amount as the *Bar Council* may decide from time to time. Such an application must be submitted by completing the form supplied for that purpose by the *Bar Standards Board*.

Part 3 - C3. Practising certificate fees and litigation extension fees Rules

rS54

The *practising certificate fee* shall be the amount or amounts prescribed in the Schedule of *Practising Certificate Fees* issued by the *Bar Council* from time to time, and any reference in these Rules to the "appropriate *practising certificate fee*" or the " *practising certificate fee* payable by you" refers to the *practising certificate fee* payable by you pursuant to that Schedule, having regard, amongst other things, to:

.1 the different annual *practising certificate fees* which may be prescribed by the *Bar Council* for different categories of *barristers*, e.g. for Queen's Counsel and junior counsel, for *barristers* of different levels of seniority, and/or for *barristers practising* in different capacities and/or according to different levels of income (i.e. *self-employed barristers*, *employed barristers*, *managers* or employees of *BSB entities* or *barristers practising* with dual capacity);

.2 any reductions in the annual *practising certificate fees* which may be permitted by the *Bar Council* in the case of *practising certificates* which are valid for only part of a *practising certificate year*;

.3 any discounts from the annual *practising certificate fee* which may be permitted by the *Bar Council* in the event of payment by specified methods;

.4 any reduction in, or rebate from, the annual *practising certificate fee* which may be permitted by the *Bar Council* on the grounds of low income, change of category or otherwise; and

.5 any surcharge or surcharges to the annual *practising certificate fee* which may be prescribed by the Bar Council in the event of an application for renewal of a *practising certificate* being made after the end of the *practising certificate year*.

rS55

The *litigation extension fee* shall be the amount or amounts prescribed by the *Bar Standards Board* from time to time, and in these Rules the "appropriate *litigation extension fee*" or the " *litigation extension fee* payable by you" is the *litigation extension fee* payable by you having regard to, among other things:

.1 any reductions in the annual *litigation extension fees* which may be permitted by the *Bar Standards Board* in the case of *litigation extensions* which are valid for only part of a *practising certificate year*;

.2 any discounts from the annual *litigation extension fee* which may be permitted by the *Bar Standards Board* in the event of payment by specified methods;

.3 any reduction in, or rebate from, the annual *litigation extension fee* which may be permitted by the *Bar Standards Board* on the grounds of low income, change of category, or otherwise; and

.4 any surcharge or surcharges to the annual *litigation extension fee* which may be prescribed by the *Bar Standards Board* in the event of an application for a *litigation extension* being made at a time different from the time of your application for a *practising certificate*.

rS56

If you have given an undertaking to pay the *practising certificate fee* to the *Bar Council* or the *litigation extension fee* to the *Bar Standards Board*, you must comply with that undertaking in accordance with its terms.

Part 3 - C4. Issue of practising certificates and litigation extensions Rules

rS57

The *Bar Standards Board* shall not issue a *practising certificate* to a *barrister* or *registered European lawyer*:

.1 who is not eligible for a *practising certificate*, or for a *practising certificate* of the relevant type; or

.2 who has not applied for a *practising certificate*; or

.3 who has not paid or not otherwise undertaken to pay in a manner determined by the *Bar Council*, the appropriate *practising certificate fee*; or

.4 who is not insured against claims for professional negligence as provided for in Rule C76.

rS58

The *Bar Standards Board* shall not grant a *litigation extension* to a *barrister* or *registered European lawyer*:

.1 in circumstances where the *Bar Standards Board* is not satisfied that the requirements of *litigation extension* are met; or

.2 who has not applied for a *litigation extension*; or

.3 who has not paid or not otherwise undertaken to pay in a manner determined by the *Bar Standards Board*, the appropriate *application fee* (if any) and the *litigation extension fee* (if any).

rS59

The *Bar Standards Board* may refuse to issue a *practising certificate* or to grant a *litigation extension*, or may revoke a *practising certificate* or a *litigation extension* in accordance with Section 3.C5, if it is satisfied that the information submitted in support of the application for the *practising certificate* or *litigation extension* (as the case may be) is (or was when submitted) incomplete, inaccurate or incapable of verification, or that the relevant *barrister* or *registered European lawyer*:

.1 does not hold adequate insurance in accordance with Rule C76;

.2 has failed and continues to fail to pay the appropriate *practising certificate fee* to the *Bar Council* or *litigation extension fee* to the *Bar Standards Board* when due;

.3 would be, or is, *practising* in breach of the provisions of Section 3.B;

.4 has not complied with any of the requirements of the Continuing Professional Development Regulations applicable to them;

.5 has not declared information on type and area of practice in a form determined by the BSB;

.6 has not made the declarations required by the BSB in relation to Youth Court work;

.7 has not made the declarations required by the BSB in relation to the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017;

.8 has not provided the BSB with a unique email address.

rS60

When the *Bar Standards Board* issues a *practising certificate* or a *litigation extension*, it shall:

.1 inform the relevant *barrister* or *registered European lawyer* of that fact; and

.2 in the case of a *practising certificate*, publish that fact, together with the name and *practising address* of the *barrister* and *registered European lawyer* and the other details specified in Rule rS61 in the register on the *Bar Standards Board's* website; or

.3 in the case of a litigation extension:

.a issue a revised and updated *practising certificate* to incorporate an express reference to such litigation extension in accordance with Rule rS66; and

.b amend the register maintained on the Bar Standards Board's website to show that the relevant *barrister* or *registered European lawyer* (as the case may be) is now authorised to *conduct litigation*.

rS61

A *practising certificate* must state:

.1 the name of the *barrister* or *registered European lawyer* (as the case may be);

.2 the period for which the *practising certificate* is valid;

.3 the *reserved legal activities* which the *barrister* or *registered European lawyer* (as the case may be) to whom it is issued is thereby authorised to carry on;

.4 the capacity (or capacities) in which the *barrister* or *registered European lawyer* (as the case may be) practises; and

.5 whether the *barrister* or *registered European lawyer* (as the case may be) is registered with the *Bar Standards Board* as a *Public Access* practitioner.

rS62

A *practising certificate* may be valid for a *practising certificate year* or part thereof and for one month after the end of the *practising certificate year*.

rS63

A *full practising certificate* shall authorise a *barrister* to exercise a *right of audience* before every *court* in relation to all proceedings.

rS64

A *provisional practising certificate* shall authorise a *pupil* to exercise a *right of audience* before every *court* in relation to all proceedings.

rS65

A *limited practising certificate* shall not authorise a *barrister* to exercise a *right of audience*, save that it shall authorise a *barrister* to exercise any *right of audience* which they had by reason of being a *barrister* and was entitled to exercise on 30 July 2000.

rS66

A *practising certificate* shall authorise a *barrister* to *conduct litigation* in relation to every *court* and all proceedings if the *practising certificate* specifies a *litigation extension*.

rS67

Every *practising certificate* issued to a *barrister* shall authorise the *barrister*:

.1 to undertake:

.a *reserved instrument activities*;

.b *probate activities*;

.c *the administration of oaths*; and

.d *immigration work*.

rS68

A *registered European lawyer's practising certificate* shall authorise a *registered European lawyer* to carry on the same *reserved legal activities* as a *full practising certificate* issued to a *barrister*, save that:

.1 a *registered European lawyer* is only authorised to exercise a *right of audience* or *conduct litigation* in proceedings which can lawfully only be provided by a *solicitor*, *barrister* or other qualified *person*, if they act in conjunction with a *solicitor* or *barrister* authorised to *practise* before the *court*, tribunal or public authority concerned and who could lawfully exercise that right; and

.2 a *registered European lawyer* is not authorised to prepare for remuneration any instrument creating or transferring an interest in land unless they have a *home professional title* obtained in Denmark, the Republic of Ireland, Finland, Sweden, Iceland, Liechtenstein, Norway, the Czech Republic, Cyprus, Hungary or Slovakia.

Part 3 - C5. Amendment and revocation of practising certificates and litigation extensions

Rules

rS69

You must inform the *Bar Standards Board* as soon as reasonably practicable, and in any event within 28 days, if any of the information submitted in support of your *practising certificate* application form or *litigation extension* application form:

.1 was incomplete or inaccurate when the application form was submitted; or

.2 changes before the expiry of your *practising certificate*.

rS70

If you wish to:

.1 change the capacity in which you *practise* (e.g. if you change from being an *employed barrister* or a *manager* or employee of a *BSB entity* or an *authorised (non-BSB) body* to a *self-employed barrister*, or vice versa, or if you commence or cease *practice* in a dual capacity); or

.2 cease to be authorised to *conduct litigation*,

before the expiry of your *practising certificate*, you must:

.a notify the *Bar Standards Board* of such requested amendment to your *practising certificate*; and

.b submit to the *Bar Standards Board* such further information as the *Bar Standards Board* may reasonably require in order for them to be able to determine whether or not to grant such proposed amendment to your *practising certificate*; and

.c within 14 days of demand by the *Bar Council* pay to the *Bar Council* the amount (if any) by which the annual *practising certificate fee* which would apply to you in respect of your amended *practising certificate* exceeds the annual *practising certificate fee* which you have already paid (or undertaken to pay) to the *Bar Council*. In the event that the revised annual *practising certificate fee* is less than the amount originally paid to the *Bar Council* or in circumstances where you wish to cease to be authorised to *conduct litigation*, the *Bar Council* is not under any obligation to refund any part of the annual *practising certificate fee* already paid although it may in its absolute discretion elect to do so in the circumstances contemplated by the Schedule of *Practising Certificate* Fees issued by the *Bar Council* from time to time. In circumstances where you wish to cease to be authorised to *conduct litigation*, the *Bar Standards Board* is not under any obligation to refund any part of the *litigation extension fee* already paid although it may in its absolute discretion elect to do so.

rS71

The *Bar Standards Board* may amend a *practising certificate* if it is satisfied that any of the information contained in the relevant application form was inaccurate or incomplete or has changed, but may not amend a *practising certificate* (except in response to a request from the *barrister* or a *registered European lawyer*) without first:

.1 giving written notice to the *barrister* or *registered European lawyer* of the grounds on which the *practising certificate* may be amended; and

.2 giving the *barrister* or *registered European lawyer* a reasonable opportunity to make representations.

rS72

The *Bar Standards Board* shall endorse a *practising certificate* to reflect any qualification restriction or condition imposed on the *barrister* or *registered European lawyer* by the *Bar Standards Board* or by a *Disciplinary Tribunal*, *Interim Suspension or Disqualification Panel*, *Fitness to Practise Panel* or the High Court.

rS73

The *Bar Standards Board*:

.1 shall revoke a *practising certificate*:

.a if the *barrister* becomes authorised to practise by another *approved regulator*;

.b if the *barrister* or *registered European lawyer* is disbarred or *suspended* from *practice* as a *barrister* or *registered European lawyer* whether on an interim basis under section D of Part 5 or otherwise under section B of Part 5;

.c if the *barrister* or *registered European lawyer* has notified the *Bar Standards Board* that they no longer wish to have a *practising certificate*; and

.2 may revoke a *practising certificate*:

.a in the circumstances set out in Rule rS59; or

.b if the *barrister* or *registered European lawyer* has given an undertaking to pay the appropriate *practising certificate fee* and fails to comply with that undertaking in accordance with its terms, but in either case only after:

(i) giving written notice to the relevant *barrister* or *registered European lawyer* of the grounds on which the *practising certificate* may be revoked; and

(ii) giving the relevant *barrister* or *registered European lawyer* a reasonable opportunity to make representations.

rS74

The *Bar Standards Board*:

.1 shall revoke a *litigation extension* if the *barrister* or *registered European lawyer* has notified the *Bar Standards Board* that they no longer wish to have the *litigation extension*; and

.2 may revoke a *litigation extension*:

.a in the circumstances set out in Rule rS59; or

.b if the *barrister* or *registered European lawyer* has given an undertaking to pay the appropriate *litigation extension fee* and fails to comply with that undertaking in accordance with its terms, but in either case only after:

(i) giving written notice to the relevant *barrister* or *registered European lawyer* of the grounds on which the *litigation extension* may be revoked; and

(ii) giving the relevant *barrister* or *registered European lawyer* a reasonable opportunity to make representations.

Part 3 - C6. Applications for review Rules

rS75

If you contend that the *Bar Standards Board* has:

.1 wrongly failed or refused to issue or amend a *practising certificate*; or

.2 wrongly amended or revoked a *practising certificate*; or

.3 wrongly failed or refused to issue a *litigation extension*; or

.4 wrongly revoked a *litigation extension*,

in each case in accordance with this Section 3.C, then you may lodge an application for review using the form supplied for that purpose by the *Bar Standards Board* which can be found on its website. For the avoidance of doubt, this Section 3.C6 does not apply to any amendment or revocation of a *practising certificate* or *litigation extension* made by order of a *Disciplinary Tribunal*, *Interim Suspension* or *Disqualification Panel*, *Fitness to Practise Panel* or the High Court.

rS76

The decision of the *Bar Standards Board* shall take effect notwithstanding any application for review being submitted in accordance with Rule S75. However, the *Bar Standards Board* may, in its absolute discretion, issue a temporary *practising certificate* or *litigation extension* to a *barrister* or *registered European lawyer* who has lodged an application for review.

rS77

If the review finds that the *Bar Standards Board*:

.1 has wrongly failed or refused to issue a *practising certificate*, then the *Bar Standards Board* must issue such *practising certificate* as ought to have been issued; or

.2 has wrongly failed or refused to amend a *practising certificate*, then the *Bar Standards Board* must make such amendment to the *practising certificate* as ought to have been made; or

.3 has wrongly amended a *practising certificate*, then the *Bar Standards Board* must cancel the amendment; or

.4 has wrongly revoked a *practising certificate*, then the *Bar Standards Board* must re-issue the *practising certificate*; or

.5 has wrongly failed or refused to grant a *litigation extension*, then the *Bar Standards Board* must grant such *litigation extension* as ought to have been granted; or

.6 has wrongly revoked a *litigation extension*, then the *Bar Standards Board* must re-grant the *litigation extension*.

Part 3 - D. The Registration of European Lawyers Rules Rules

rS78

If you are a *European lawyer* and wish to *practise* on a permanent basis in England and Wales under a *home professional title*, you may apply to the *Bar Standards Board* to be registered as a *registered European lawyer*.

rS79

An application for registration must be made in such form as may be prescribed by the *Bar Standards Board* and be accompanied by:

.1 a certificate, not more than three months old at the date of receipt of the application by the *Bar Standards Board*, that you are registered with the Competent Authority in a *Member State* as a lawyer qualified to *practise* in that *Member State* under a *Member State* professional title;

.2 a declaration that:

.a you have not on the grounds of misconduct or of the commission of a *criminal offence* been prohibited from practising in your *Member State* and are not currently *suspended* from so practising;

.b no *bankruptcy order* or *directors disqualification order* has been made against you and you have not entered into an individual voluntary arrangement with your creditors;

.c you are not aware of any other circumstances relevant to your fitness to *practise* under your *home professional title* in England and Wales; and

.d you are not registered with the Law Society of England and Wales, of Scotland or of Northern Ireland; and

.3 the prescribed fee.

rS80

Provided that it is satisfied that the application complies with the requirements of Rule rS79, the *Bar Standards Board* will:

.1 register you as a *registered European lawyer*; and

.2 so inform you and the competent authority in your *Member State* which has issued the certificate referred to in Rule rS79.1.

rS81

The *Bar Standards Board* will:

.1 remove a *registered European lawyer* from the register:

.a pursuant to a sentence of a *Disciplinary Tribunal*; or

.b if the *registered European lawyer* ceases to be a *European lawyer*;

.2 suspend a *registered European lawyer* from the register:

.a pursuant to a sentence of either a *Disciplinary Tribunal* or an *Interim Suspension Panel*; or

.b if the *registered European lawyer's* authorisation in their *home State* to pursue professional activities under their *home professional title* is *suspended*;

and in each case, notify the *European lawyer's home professional body* :

.c of their removal or suspension from the register; and

.d of any criminal conviction or *bankruptcy order* of which it becomes aware against a *registered European lawyer*.

Part 3 - E. Entity Application and Authorisation Rules

Part 3 - E1. Eligibility for authorisation to practise as a BSB entity Rules

rS82

In this Section 3.E, "you" and "your" refer to the *partnership*, *LLP* or *company* which is applying for, or has applied for (in accordance with this Section 3.E) authorisation or (if a licensable body) a licence to practise as a *BSB entity*, and references in these Rules to "authorisation to practise" mean the grant by the *Bar Standards Board* of an authorisation or a licence (as the case may be) under this Section 3.E (distinguishing between the two only where the context so requires).

rS83

To be eligible for authorisation to *practise* as a *BSB entity*, you:

.1 must have arrangements in place designed to ensure at all times that any obligations imposed from time to time on the *BSB entity*, its *managers*, *owners* or employees by or under the *Bar Standards Board's* regulatory arrangements, including its rules and disciplinary arrangements, are complied with and confirm that the *BSB entity* and all *owners* and *managers* expressly consent to be bound by the *Bar Standards Board's* regulatory arrangements (including disciplinary arrangements);

.2 must have arrangements in place designed to ensure at all times that any other statutory obligations imposed on the *BSB entity*, its *managers*, *owners* or employees, in relation to the activities it carries on, are complied with;

.3 must confirm that, subject to the provisions of rS131, you will have in place, at all times, individuals appointed to act as a *HOLP* (who must also be a *manager*) and a *HOFA* of the *BSB entity*;

.4 must confirm that you have or will have appropriate insurance arrangements in place at all times in accordance with Rule C76 and you must be able to provide evidence of those insurance arrangements if required to do so by the *Bar Standards Board*;

.5 must confirm that, in connection with your proposed *practice*, you will not directly or indirectly hold *client money* in accordance with Rule C73 or have someone else hold *client money* on your behalf other than in those circumstances permitted by Rule C74;

.6 must confirm that no individual that has been appointed or will be appointed as a *HOLP*, *HOFA*, *manager* or employee of the *BSB entity* is disqualified from acting as such by the *Bar Standards Board* or any *Approved Regulator* pursuant to section 99 of the *LSA* or otherwise as a result of its regulatory arrangements;

.7 must confirm that you will at all times have a *practising address* in England or Wales;

.8 must confirm that:

.a if you are an *LLP*, you are incorporated and registered in England and Wales, Scotland or Northern Ireland under the Limited Liability Partnerships Act 2000;

.b if you are a *Company*, you are:

.i incorporated and registered in England and Wales, Scotland or Northern Ireland under Parts 1 and 2 of the Companies Act 2006; or

.ii incorporated in an *Establishment Directive* state and registered as an overseas company under Part 34 of the Companies Act 2006; or

.iii incorporated and registered in an *Establishment Directive* state as a societas Europaea

.9 must confirm that at least one *manager* or employee is an *authorised individual* in respect of each *reserved legal activity* which you wish to provide;

.10 must confirm that you will pay annual fees as and when they become due.

rS84

In addition to the requirements set out at Rule rS83:

.1 to be eligible for authorisation to *practise* as a *BSB entity*:

.a all of the *managers* of the *partnership*, *LLP* or *company* (as the case may be) must be *BSB authorised individuals* or *authorised (non-BSB) individuals*; and

.b all of the owners (whether or not the ownership interest is material) of the *partnership*, *LLP* or *company* (as the case may be) must be *BSB authorised individuals* or *authorised (non-BSB) individuals*;

.2 to be licensed to *practise* as a *BSB licensed body*:

.a the body must be a *licensable body*, as defined by section 72 of the *LSA* but must also meet the eligibility requirements set out at Rule rS83; and

.b all of the non-authorised owners in the *partnership*, *LLP* or *company* (as the case may be) must be approved by the *Bar Standards Board* as being able to hold such interest taking into account the relevant *suitability criteria*.

rS85

In the event that you meet the eligibility criteria set out in Rule rS83, you may submit an application in accordance with Section 3.E2 and the *Bar Standards Board* will review that application in accordance with Section 3.E3 and 3.E4 to determine whether or not to authorise you or to grant you a licence (as appropriate) to *practise* as a *BSB entity*. In the event that the *Bar Standards Board* determines that you should be authorised or licensed (as

appropriate) to practise as a *BSB entity* then it may either:

rS86

Authorise you to *practise* as a *BSB entity* in the event that you also meet the eligibility criteria set out in Rule rS84.1 and you have applied to be authorised as such in your relevant application form; or

.1 license you to *practise* as a *BSB licensed body*, in the event that you also meet the eligibility criteria set out in Rule rS84.2 and you have applied to be authorised as such in your relevant application form.

rS87

Such authorisation or licence (as appropriate) will entitle you to:

.1 to exercise a *right of audience* before every *court* in relation to all proceedings;

.2 to carry on:

.a *reserved instrument activities*;

.b *probate activities*;

.c the *administration of oaths*;

.3 to do *immigration work*; and

.4 if you have been granted a *litigation extension*, to *conduct litigation*.

Guidance to Rules S82-S85 Guidance

gS13

Single person entities are permitted under these arrangements. Therefore, a *BSB entity* may (subject to any structural requirements imposed by general law for the particular type of entity) comprise just one barrister who is both the owner and manager of that entity.

gS14

These are mandatory eligibility requirements. The *Bar Standards Board* has a discretion to take other factors into account in deciding whether an *applicant body* is one which it would be appropriate for it to regulate (see Section 3.E3 and 3.E4 below).

Part 3 - E2. Applications for authorisation (Rules S88-S89) Rules

Application to be authorised or licensed as a BSB entity

rS88

To apply for authorisation to *practise* as a *BSB entity* you must:

.1 complete the application form supplied by the *Bar Standards Board* and submit it to the *Bar Standards Board*; and

.2 submit such other information, documents and references in support of the application as may be required by the application form or by the *Bar Standards Board* from time to time; and

.3 pay the *application fee* in the amount determined in accordance with Rule rS94 and the *authorisation or licence fee* for the first year.

Application for a litigation extension

rS89

To apply for a *litigation extension* you must:

.1 make this clear on your application form submitted in accordance with rS88 (where appropriate) or otherwise submit the relevant application form

made available by the *Bar Standards Board* on its website for this purpose; and

.2 pay (or undertake to pay in a manner prescribed by the Bar Standards Board) the *application fee* (if any) and the relevant *litigation extension fee* (if any) in the amount determined in accordance with Rule rS94; and

.3 provide such other information to the *Bar Standards Board* as it may require in order to satisfy itself that:

.a you have the relevant administrative systems in place to be able to provide *legal services* direct to *clients* and to administer the *conduct of litigation*; and

.b you have a sufficient number of *persons* who are authorised to *conduct litigation* and to provide guidance to any *managers* or employees that may be involved in assisting in the *conduct of litigation* who are not themselves authorised and that you have an adequate number of qualified *persons* to provide guidance to any persons authorised to *conduct litigation* who are of less than three years' standing.

Guidance to Rules S88-S89 Guidance

gS15

In the event that your application is rejected, the *authorisation fee* and/or *litigation fee* (as appropriate) will be reimbursed to you but the *application fee(s)* shall be retained by the Bar Standards Board.

gS16

A qualified *person* referred to in Rule rS89.3 shall be defined in accordance with Rule S22.3.

Part 3 - E2. Applications for authorisation (Rules S90-S94) Rules

Approval applications for any new HOLPs, HOFAs, owners and/or managers

rS90

If, following authorisation or the grant of a licence (as appropriate), a *BSB entity* wishes to appoint a new *HOLP, HOFA, owner* or *manager*, the *BSB entity* must:

.1 notify the *Bar Standards Board* of such a proposed appointment before it is made; and

.2 make an application to the *Bar Standards Board* for approval of the new *HOLP, HOFA, owner* or *manager* (as appropriate); and

.3 ensure that the new *HOLP, HOFA, owner* or *manager* (as appropriate) has expressly consented to be bound by the *Bar Standards Board's* regulatory arrangements (including disciplinary arrangements); and

.4 pay any fees set by the *Bar Standards Board* in respect of such approval applications.

Application Process

rS91

An application for authorisation and/or a *litigation extension* is only made once the *Bar Standards Board* has received the application form in full, together with the appropriate fees, all the information required in support of the application and confirmation from you in the form of a declaration that the information contained in, or submitted in support of, the application is full and accurate.

rS92

On receipt of the application, the *Bar Standards Board* may require, from you or from a third party, such additional information, documents or references as it considers appropriate to the consideration of your application.

rS93

You are responsible for the contents of your application and any information submitted to the *Bar Standards Board* by you, or on your behalf, and you must not submit (or cause or permit to be submitted on your behalf) information to the *Bar Standards Board* which you do not believe is full and accurate.

rS94

The *application fee* and the *litigation extension fee* shall be the amount or amounts prescribed by the *Bar Standards Board* from time to time. The *authorisation fee* and *litigation fee* shall also be payable and shall be the amount or amounts prescribed by the *Bar Standards Board* from time to time.

Guidance to Rules S91-S93 Guidance

gS17

Application forms and guidance notes for completion can be found on the *Bar Standard Board's* website.

gS18

Once you have submitted an application, if you fail to disclose to the *Bar Standards Board* any information of which you later become aware and which you would have been required to supply if it had been known by you at the time of the original application the Bar Standards Board may refuse your application in accordance with rS101.5.

gS19

Details of the relevant *application fee*, *litigation extension fee*, *authorisation fee*, *licence fee* and *litigation fee* can be found on the *Bar Standards Board's* website.

Part 3 - E3. Decision process Rules

rS95

Subject to Rules rS96 and rS97, the *Bar Standards Board* must make a decision in respect of each valid and complete application within the *decision period*.

rS96

In the event that the *Bar Standards Board* is not able to reach a decision within the *decision period*, it must notify you and must confirm to you the latest date by which you will have received a response to your application from the *Bar Standards Board*.

rS97

The *Bar Standards Board* may issue more than one notice to extend the *decision period* except that:

.1 any notice to extend must always be issued before the decision period expires on the first occasion, and before any such extended *decision period* expires on any second and subsequent occasions; and

.2 no notice to extend can result in the total *decision period* exceeding more than 9 months.

rS98

During its consideration of your application form, the *Bar Standards Board* may identify further information or documentation which it needs in order to be able to reach its decision. If this is the case, you must provide such additional information or documentation as soon as possible after you receive the relevant request from the *Bar Standards Board*. Any delay in providing this information shall further entitle the *Bar Standards Board* to issue an extension notice in accordance with Rule rS96 and rS97 (as the case may be) or to treat the application as having been withdrawn.

Part 3 - E4. Issues to be considered by the Bar Standards Board (Rules S99-S100) Rules

Applications for authorisation or the grant of a licence

rS99

In circumstances where the mandatory conditions in Rules rS83 and rS84 have been met, the *Bar Standards Board* must then consider whether to

exercise its discretion to grant the authorisation or licence (as appropriate). In exercising this discretion, the *Bar Standards Board* will consider whether the entity is one which it would be appropriate for the *Bar Standards Board* to regulate, taking into account its analysis of the risks posed by you, the *regulatory objectives* of the *LSA* and the Entity Regulation Policy Statement of the *Bar Standards Board* as published from time to time.

rS100

In circumstances where the mandatory conditions set out at Rules S83 and S84 have not been met, the *Bar Standards Board* must refuse to grant the authorisation or licence (as appropriate).

Guidance to Rules S99-S100 Guidance

gS20

In exercising its discretion whether to grant the authorisation or licence the *Bar Standards Board* will have regard to its current Entity Regulation Policy Statement.

Part 3 - E4. Issues to be considered by the Bar Standards Board (Rule S101) Rules

rS101

Where the *Bar Standards Board* concludes that you are an entity which it is appropriate for it to regulate the *Bar Standards Board* may nonetheless in its discretion refuse your application for authorisation if:

.1 it is not satisfied that your *managers* and *owners* are suitable as a group to operate or control a *practice* providing services regulated by the *Bar Standards Board*;

.2 if it is not satisfied that your proposed *HOLP* and *HOFA* meet the relevant *suitability criteria*;

.3 it is not satisfied that your management or governance arrangements are adequate to safeguard the *regulatory objectives* of the *LSA* or the policy objectives of the *Bar Standards Board* as set out in the Entity Regulation Policy Statement;

.4 it is not satisfied that, if the authorisation is granted, you will comply with the *Bar Standards Board's* regulatory arrangements including this *Handbook* and any conditions imposed on the authorisation;

.5 you have provided inaccurate or misleading information in your application or in response to any requests by the *Bar Standards Board* for information;

.6 you have failed to notify the *Bar Standards Board* of any changes in the information provided in the application;

.7 removed;

.8 for any other reason, the *Bar Standards Board* considers that it would be inappropriate for the *Bar Standards Board* to grant authorisation to you, having regard to its analysis of the risk posed by you, the regulatory objectives of the *LSA* or the Entity Regulation Policy Statement of the Bar Standards Board.

Guidance to Rule S101 Guidance

gS21

In circumstances where the *Bar Standards Board* rejects your application on the basis of Rule rS101, you will have the opportunity to make the necessary adjustments to your composition and to re-apply to become a *BSB entity*.

Part 3 - E4. Issues to be considered by the Bar Standards Board (Rules S102-S103) Rules

Applications for authorisation to conduct litigation

rS102

If the *Bar Standards Board* is unable to satisfy itself that the *BSB entity* meets the requirements set out in Rule rS89, it can refuse to grant the litigation extension.

Approval applications for any new HOLPs, HOFAs, owners and/or managers

rS103

The *Bar Standards Board* must consider any approval applications for any new *HOLPs, HOFAs, owners* and/or *managers* made in accordance with Rule rS90 and must determine any application by deciding whether the relevant individual meets the *suitability criteria* which apply relevant to such a proposed appointment.

Part 3 - E5. Suitability criteria in respect of HOLPs, HOFAs, owners and managers Rules

rS104

The *Bar Standards Board* must conclude that an individual does not meet the suitability criteria to undertake the role of a *HOLP* if:

.1 they are not an *authorised individual*;

.2 they are disqualified from acting as a *HOLP* by the *Bar Standards Board* or an *Approved Regulator* or *licensing authority* pursuant to section 99 of the *LSA* or otherwise as a result of its regulatory arrangements; or

.3 It determines that the individual is not able effectively to carry out the duties imposed on a HOLP by section 91 of the LSA.

rS105

The *Bar Standards Board* may conclude that an individual does not meet the suitability criteria to undertake the role of a *HOLP* if any of the circumstances listed in Rule rS110 apply to the individual designated as the *HOLP*.

rS106

The *Bar Standards Board* must conclude that an individual does not meet the suitability criteria for acting as a *HOFA* if:

.1 they are disqualified from acting as a *HOFA* by the *Bar Standards Board* or by an *Approved Regulator* or *licensing authority* pursuant to section 99 of the *LSA* or otherwise as a result of its regulatory arrangements; or

.2 the *Bar Standards Board* determines that they are not able effectively to carry out the duties imposed on a *HOFA* by section 92 of the *LSA*.

rS107

The *Bar Standards Board* may conclude that an individual does not meet the suitability criteria for acting as a *HOFA* if any of the circumstances listed in Rule rS110 apply to them.

rS108

If an *owner* is also a *non-authorised individual*, the *Bar Standards Board* must approve them as an *owner*. The *Bar Standards Board* shall approve a *non-authorised individual* to be an *owner* of a *BSB licensed body* if:

.1 their holding of an ownership interest does not compromise the *regulatory objectives*; and

.2 their holding of an ownership interest does not compromise compliance with the duties imposed pursuant to section 176 of the *LSA* by the *licensed body* or by any authorised individuals who are to be employees or *managers* of that *licensed body*; and

.3 they otherwise meet the *suitability criteria* to hold that ownership interest taking into account:

(a) their probity and financial position;

(b) whether they are disqualified pursuant to section 100(1) of *LSA* or included in the list maintained by the *Legal Services Board* pursuant to paragraph 51 of Schedule 13 of the *LSA*; and

(c) their *associates*; and

(d) the *suitability criteria* in Rule rS110 which apply to *managers* and employees.

rS109

If a *manager* is a *non-authorised individual*, the *Bar Standards Board* must approve them as a *manager*. The *Bar Standards Board* must approve a *non-authorised individual* to be a *manager* of a *BSB licensed body* if they meet the *suitability criteria* to hold that interest taking into account:

.1 their probity;

.2 whether they are disqualified pursuant to section 100(1) of the *LSA* or included in the list maintained by the *Legal Services Board* pursuant to paragraph 51 of Schedule 13 of the *LSA*; and

.3 the *suitability criteria* in Rule rS110 which apply to *managers* and employees.

rS110

The *Bar Standards Board* may reject an application if it is not satisfied that:

.1 an individual identified in an application for authorisation or the grant of a licence as a proposed *owner, manager, HOLP or HOFA* of the relevant *applicant body*; or

.2 any individual identified as a replacement owner, manager, *HOLP* or *HOFA*,

meets the *suitability criteria* to act as an *owner, manager, HOLP* or *HOFA* of a *BSB entity*. Reasons why the *Bar Standards Board* may conclude that an individual does not meet the *suitability criteria* include where an individual:

.3 has been committed to prison in civil or criminal proceedings (unless the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (SI 1975/1023) applies, this is subject to any conviction being unspent under the Rehabilitation of Offenders Act 1974 (as amended));

.4 has been disqualified from being a *director*;

.5 has been removed from the office of charity trustee or trustee for a charity by an order under section 72(1)(d) of the Charities Act 1993;

.6 is an undischarged bankrupt;

.7 has been adjudged bankrupt and discharged;

.8 has entered into an individual voluntary arrangement or a *partnership* voluntary arrangement under the Insolvency Act 1986;

.9 has been a *manager* of a *regulated entity* or a *BSB entity* which has entered into a voluntary arrangement under the Insolvency Act 1986;

.10 has been a *director* of a *company* or a *member* of an *LLP* (as defined by section 4 of the Limited Liability Partnerships Act 2000) which has been the subject of a winding up order, an administration order or administrative receivership; or has entered into a voluntary arrangement under the Insolvency Act 1986; or has been otherwise wound up or put into administration in circumstances of insolvency;

.11 lacks capacity (within the meaning of the Mental Capacity Act 2005) and powers under sections 15 to 20 or section 48 of that Act are exercisable in relation to that individual;

.12 is the subject of an outstanding judgment or judgments involving the payment of money;

.13 is currently charged with an *indictable offence*, or has been convicted of an *indictable offence*, any offence of dishonesty, or any offence under the Financial Services and Markets Act 2000, the Immigration and Asylum Act 1999 or the Compensation Act 2006 (unless the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (SI 1975/1023) applies, this is subject to the Rehabilitation of Offenders Act 1974 (as amended));

.14 has been disqualified from being appointed to act as a *HOLP* or a *HOFA* or from being a *manager* or employed by an *authorised or licensed body* (as appropriate) by the *Bar Standards Board* or another *Approved Regulator* or *licensing authority* pursuant to its or their powers under section 99 of the *LSA* or otherwise as a result of its regulatory arrangements;

.15 has been the subject in another jurisdiction of circumstances equivalent to those listed in Rules rS110.1 to rS110.14;

.16 has an investigation or disciplinary proceedings pending against them and/or has professional conduct findings against them either under the disciplinary scheme for *barristers* or otherwise; or

.17 has been involved in other conduct which calls into question their honesty, integrity, or respect for the law;

.18 has not consented to be bound by the regulatory arrangements (including disciplinary arrangements) of the *Bar Standards Board*.

Guidance to Rule S110 Guidance

gS21.1

For the avoidance of doubt rS110 does not oblige you to disclose cautions or criminal convictions that are "spent" under the Rehabilitation of Offenders Act 1974 unless the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (SI 1975/1023) applies. The latter entitles the BSB to ask for disclosure of unprotected cautions or criminal convictions that are "spent" in relation to *HOLPs* and *HOFAs* of *licensed bodies* when seeking authorisation and owners who require approval under Schedule 13 to the LSA.

Part 3 - E6. Notification of the authorisation decision Rules

rS111

The *Bar Standards Board* will notify you of its decision in writing within the *decision period* or by such later date as may have been notified to the *applicant body* in accordance with Rules rS96 or rS97. In the event that the *Bar Standards Board* decides to refuse to grant the application, it must give the reasons for such refusal.

Part 3 - E7. Terms of authorisation Rules

rS112

Any authorisation given by the *Bar Standards Board* to a *BSB entity*, and the terms of any licence granted by the *Bar Standards Board* to a *BSB licensed body* in accordance with this Section 3.E must specify:

.1 the activities which are *reserved legal activities* and which the *BSB entity* is authorised to carry on by virtue of the authorisation or the licence (as the case may be); and

.2 any conditions subject to which the authorisation or the licence (as the case may be) is given (which may include those in Rule rS114).

rS113

Authorisations and licences must, in all cases, be given on the conditions that:

.1 any obligation which may from time to time be imposed on you (or your *managers*, employees, or *owners*) by the *Bar Standards Board* is complied with; and

.2 any other obligation imposed on you (or your *managers*, employees or *owners*) by or under the *LSA* or any other enactment is complied with.

.3 you (and your *managers*, employees, and *owners*) consent to be bound by the regulatory arrangements (including the disciplinary arrangements) of the *Bar Standards Board*; and

.4 if the conditions outlined at rS113.5 apply, the *Bar Standards Board* may without notice:

.a modify an authorisation granted under rS116;

.b revoke an authorisation under rS117;

.c require specific co-operation with the *Bar Standards Board* as provided for in rC64 and rC70;

.d take such action as may be necessary in the public or *clients'* interests and in the interests of the regulatory objectives; and

.e recover from the *BSB entity* any reasonable costs that were necessarily incurred in the exercise of its regulatory functions.

.5 The conditions referred to in rS113.4 are that:

.a one or more of the terms of the *BSB entity's* authorisation have not been complied with;

.b a person has been appointed receiver or manager of the property of the *BSB entity*;

.c a relevant insolvency event has occurred in relation to the *BSB entity*;

.d the *Bar Standards Board* has reason to suspect dishonesty on the part of any *manager* or employee of the *BSB entity* in connection with either that *BSB entity's* business or the business of another body of which the person was a manager or employee, or the *practice* or former *practice* of the *manager* or employee;

.e the *Bar Standards Board* is satisfied that it is necessary to exercise any of the powers listed in rS113.4 in relation to the *BSB entity* to protect the interests of *clients* (or former or potential *clients*) of the *BSB entity*.

rS114

In addition to the provisions in Rule rS113, an authorisation or a licence may be given subject to such other terms as the *Bar Standards Board* considers appropriate including terms as to:

.1 the *non-reserved activities* which you may or may not carry on; and/or

.2 in the case of *licensed bodies*:

(a) the nature of any interest held by a non-authorised *owner* provided always that the *Bar Standards Board* complies with its obligations under paragraph 17 of Schedule 13 to the *LSA*; and/or

(b) any limitations on the shareholdings or voting controls which may be held by non-authorised *owners* in accordance with paragraph 33 of Schedule 13 to the *LSA*.

Part 3 - E8. Duration of the authorisation/licence granted Rules

rS115

Except where indicated otherwise in the authorisation or licence, any authorisation or licence granted in accordance with this Section 3.E will be of unlimited duration except that the authorisation or licence:

.1 the authorisation or licence shall cease to have effect on the occurrence of any of the following:

(a) if you have your authorisation/licence withdrawn in accordance with Rule rS117; or

(b) if you obtain authorisation/licence from an *Approved Regulator* or *licensing authority*;

.2 the authorisation or licence may cease to have effect on the occurrence of any of the following:

(a) if you fail to provide the relevant monitoring information or fail to pay any relevant fees in circumstances where the *Bar Standards Board* has notified you (i) that such information or payment is required within a particular time; and (ii) that failure to provide such information or payment within that time may result in the withdrawal of your authorisation or licence in accordance with this Rule rS115; or

(b) if you fail to replace your *HOLP/HOFA* in accordance with the requirements of this *Handbook*.

.3 The licence of a partnership or other unincorporated body ("the existing body") may continue where the existing body ceases to exist and another body succeeds to the whole or substantially the whole of its business subject to the following in rS115.3(a)-(b):

(a) you have notified the *Bar Standards Board* of such a change within 28 days;

(b) if there is no remaining *partner* who was a *partner* before the existing body ceased to exist the licence shall cease to have effect from the date the existing body ceased to exist.

Part 3 - E9. Modification of an authorisation/licence Rules

rS116

In addition to any powers which the *Bar Standards Board* may have in accordance with Part 5, the *Bar Standards Board* may modify the terms of an authorisation or licence granted by it:

.1 if you apply to the *Bar Standards Board* for the terms of such authorisation or licence (as the case may be) to be modified; or

.2 if it is satisfied that any of the information contained in the relevant application form was inaccurate or incomplete or has changed; or

.3 if such modification is required in accordance with the provisions of this *Handbook*; or

.4 where the *Bar Standards Board* reasonably considers that such modification is appropriate and in accordance with the *regulatory objectives* under the *LSA* or the policy objectives of the *Bar Standards Board*; or

.5 where the conditions in rS113.5 are met,

but, in the circumstances set out in Rules rS116.2 to rS116.4 above, shall only be entitled to do so after:

.a giving notice to you in writing of the modifications which the *Bar Standards Board* is intending to make to your authorisation or licence (as the case may be); and

.b giving you a reasonable opportunity to make representations about such proposed modifications.

Part 3 - E10. Revocation or suspension of an authorisation/licence Rules

rS117

In addition to any powers which the Bar Standards Board may have in accordance with Part 5, the *Bar Standards Board* may:

.1 revoke an authorisation or licence granted by it:

(a) subject to Section 3.F, in the event that you no longer comply with the mandatory requirements set out in Rules rS83 and rS84; or

(b) if your circumstances have changed in relation to the issues considered by the *Bar Standards Board* in Section 3.E4; or

(c) if revocation otherwise appears appropriate taking into account the *regulatory objectives* of the *Bar Standards Board*; or

(d) where the conditions in rS113.5 are met.

.2 suspend an authorisation or licence granted by it to give it an opportunity to investigate whether or not your authorisation or licence should be revoked in accordance with Rule rS117 (for the avoidance of doubt a *BSB entity* whose authorisation has been suspended remains a *BSB regulated person*),

but (except for when the conditions in rS113.5 are met) in either case only after:

(i) giving written notice to the relevant *BSB entity* of the grounds on which the authorisation or licence may be revoked; and

(ii) giving the relevant *BSB entity* a reasonable opportunity to make representations.

Part 3 - E11. Applications for review Rules

rS118

If you consider that the *Bar Standards Board* has (other than pursuant to [Section 5]):

.1 wrongly refused an application for authorisation or licence; or

.2 wrongly imposed a term or condition on an authorisation or licence; or

.3 wrongly modified the terms of your authorisation or licence; or

.4 wrongly refused to modify the terms of your authorisation or licence; or

.5 wrongly revoked or *suspended* your authorisation or licence; or

.6 wrongly done any of these things in relation to a litigation extension to your authorisation or licence; or

.7 failed to provide to you notice of a decision in accordance with this Section 3.E, then you may lodge an application for review of that decision using the form supplied for that purpose by the *Bar Standards Board.* Such application for review will only have been made once the *Bar Standards Board* has received the relevant fee in respect of such application for review.

rS119

Any individual:

.1 designated to act as a *HOLP* or a *HOFA*; or

.2 identified as a non-authorised *owner* or *manager* of the *applicant body*,

who considers that the *Bar Standards Board* has wrongly concluded that they do not meet the *suitability criteria* which apply to their proposed position in the entity, may lodge an application for a review of that decision using the form supplied for that purpose by the *Bar Standards Board.* Alternatively, you may lodge an application for review on their behalf whether or not they have asked you to. In either case, such an application for a review will only have been made once the *Bar Standards Board* has received the relevant fee for it.

rS120

Any application for a review of the decision must be made within 28 days from the date when the decision is notified to you.

rS121

The decision of the *Bar Standards Board* will take effect notwithstanding the making of any application for a review in accordance with Rule rS118 or rS119. However, the *Bar Standards Board* may, in its absolute discretion, issue a temporary authorisation, licence or litigation extension to a *BSB entity* which has lodged an application for a review in accordance with this Section 3.E11.

rS122

If the review finds that the *Bar Standards Board*:

.1 has wrongly failed or refused to grant an authorisation or licence; or

.2 has wrongly imposed a term or condition on an authorisation or licence;

then in each case the *Bar Standards Board* must issue such authorisation or licence as ought to have been issued.

rS123

If the review finds that the *Bar Standards Board*:

.1 finds that the *Bar Standards Board* has wrongly modified an authorisation or licence; or

.2 finds that the *Bar Standards Board* has wrongly refused to modify an authorisation or licence,

then in each case the Bar Standards Board shall make such modification to the authorisation or licence as ought to have been made.

rS124

If the review finds that the *Bar Standards Board* has wrongly revoked or *suspended* an authorisation or licence, then the *Bar Standards Board* shall re-issue such authorisation or licence.

.1 If the review finds that the *Bar Standards Board* has wrongly done any of the things described in rS122 or–rS123 in relation to your *litigation extension*, then the *Bar Standards Board* shall grant such *litigation extension* as ought to have been granted.

rS125

If the review finds that the *Bar Standards Board* has wrongly concluded that an individual does not meet the *suitability criteria* relevant to their proposed position, the *Bar Standards Board* shall amend its decision and confirm that they do meet the suitability criteria which apply to their proposed position.

rS126

If, after such a review, you or the relevant individual(s) (as the case may be) do not agree with the decision you or the relevant individual(s) may appeal to the *First Tier Tribunal* against the decision.

rS127

Any appeal to the *First Tier Tribunal* against a decision of the BSB must be lodged within 28 days from the date that the decision is notified to you.

rS127A

Where a BSB decision is appealed to the *First Tier Tribunal*, the *First Tier Tribunal* may suspend the effect of that decision until the conclusion of the appeal.

Part 3 - E12. Register Rules

rS128

The *Bar Standards Board* must keep a public register containing the names and places of practice of all *BSB entities* (together with details of the *reserved legal activities* which such *BSB entities* are able to undertake) as well as details of any bodies which have in the past been granted authorisation or obtained a licence from the *Bar Standards Board* but where such licence and/or authorisation is no longer current.

rS129

If an authorisation or licence is, at any time, suspended or made subject to conditions, this must be noted on the register of *BSB entities* by the Bar Standards Board.

Part 3 - F. Continuing Compliance with the Authorisation and Licensing Requirements Rules

Part 3 - F1. Non-compliance with the mandatory conditions Rules

rS130

If, at any time, and for whatever reason, you fail to meet the mandatory conditions in Rules rS83 and rS84 which apply to the type of *BSB entity* which you are, then you must notify the *Bar Standards Board* of your failure to comply with the mandatory conditions within seven days of your failure to comply and, at the same time, you must submit your proposals for rectifying that non-compliance which, for the avoidance of doubt, must include your proposed timetable for rectifying them. If the *Bar Standards Board* considers that your proposals for rectifying them are not sufficient, the *Bar Standards Board* may issue a notice suspending or revoking your authorisation or licence (as appropriate) in accordance with Section 3.E10.

Guidance to Rule S130 Guidance

gS22

Examples of non-compliance include:

.1 where your last remaining *authorised person*:

.a dies; or

.b abandons, retires or resigns from the *practice*; or

.2 where you are a *BSB entity* (other than a BSB licensed body) a *non-authorised individual* is appointed as a *manager* of or otherwise acquires an ownership interest in such a practice;

.3 where you cease to have available at least one employee who is authorised to carry on a particular reserved activity which you are authorised to provide. Examples of situations where an individual should be considered to be unavailable to a *BSB entity* include where:

.a they are committed to prison;

.b they are unable to attend to the *practice* because of incapacity caused by illness, accident or age;

.c they become and continue to lack capacity under Part 1 of the Mental Capacity Act 2005;

.d they are made subject to a condition on their *practising certificate* or registration which would be breached if they continue to be an *owner* and/or *manager* of the body; or

.e they are no longer authorised to perform the particular *reserved legal activity*.

.4 you cease to have a *HOLP* or a *HOFA* appointed;

.5 your *HOLP, HOFA*, any *manager* or *owner* ceases to meet the relevant *suitability criteria*; or

.6 where you are a *licensed body*, your last remaining *owner* and/or *manager* who is a *non-authorised individual* dies or otherwise leaves the *practice*.

gS23

Examples of proposals that you may submit in order to rectify such non-compliance include:

.1 In the case of Guidance gS22.1, that you are seeking to appoint a different *authorised person* to be an *owner* and/or a *manager* of a *BSB entity*;

.2 In the case of Guidance gS22.2, confirmation that you will take the necessary steps to rectify your status, whether by submitting an application to the *Bar Standards Board* for authorisation to *practise* as a *licensed body* and/or for approval of the *non-authorised individual* as a *manager* or by ensuring that the *non-authorised person* divest themselves of their interest as soon as is reasonably practicable, or by seeking a licence from another *licensing authority*, as the case may be [but note Guidance gS24];

.3 in the case of Guidance gS22.4, that you are seeking to appoint a replacement *HOLP* or *HOFA* (as appropriate) in accordance with the relevant procedure in Rule sS90;

.4 in the case of Guidance gS22.5, that you are taking the necessary steps to exclude the relevant individual from the *practice* and, where necessary, you are taking steps to replace them; and

.5 in the case of Guidance gS22.6, you confirm whether or not you are likely to appoint a replacement *non-authorised individual* or, if not, whether you will be seeking authorisation from the *Bar Standards Board* to practise as a *BSB authorised body*.

gS24

In respect of Guidance gS23.2, it may be the case that a *non-authorised individual* obtains an ownership interest in a *BSB entity* following the death of a *barrister* or a *non-authorised person*. Similarly, a *non-authorised person* who has not been approved pursuant to the *suitability criteria* may acquire an ownership interest in a *licensed body*. In these cases, it may be that the *BSB entity* will not need to apply for authorisation to *practise* as a *licensed body* or for approval of such *non-authorised individual* (as appropriate) if the *BSB entity* instead satisfies the *Bar Standards Board* that it is taking steps to ensure that such *non-authorised individual* divest themselves of their interest as soon as is reasonably practicable (for example, on completion of the relevant probate).

Part 3 - F2. Temporary emergency approvals for HOLPs and HOFAs Rules

rS131

If a *BSB entity* ceases to have a *HOLP* or *HOFA* whose designation has been approved by the *Bar Standards Board*, the *BSB entity* must immediately and in any event within seven days:

.1 notify the *Bar Standards Board*;

.2 designate another *manager* or employee to replace its previous *HOLP* or *HOFA*, as appropriate; and

.3 make an application to the *Bar Standards Board* for temporary approval of the new *HOLP* or *HOFA*, as appropriate.

rS132

The *Bar Standards Board* may grant a temporary approval under this Section 3.F2 if on the face of the application and any other information immediately before the *Bar Standards Board*, there is no evidence suggesting that the new *HOLP* or *HOFA* is not suitable to carry out the duties imposed on them under this *Handbook*.

rS133

If granted temporary approval under Rule rS132 for its designation of a new *HOLP* or *HOFA*, the *BSB entity* must:

.1 designate a permanent *HOLP* or *HOFA*, as appropriate; and

.2 submit a substantive application for approval of that designation in accordance with Rule rS90,

before the expiry of the temporary approval or any extension of that approval by the *Bar Standards Board*, otherwise the *Bar Standards Board* may be entitled to suspend or revoke the authorisation or licence in accordance with Section 3.E10.