



## **Legal Services Board – decision notice issued under Part 3 of Schedule 4 to the Legal Services Act 2007**

### **The ILEX Professional Standards (IPS) rule change application for approval to introduce additional certification rules for the award of Fellowship of the Chartered Institute of Legal Executives (CILEx)**

The Legal Services Board (LSB) has granted an application from the IPS who sought approval to changes to the certification rules for the award of Fellowship of the CILEx.

This decision notice sets out the basis for the LSB granting the application and the decision taken, including a brief description of the changes.

#### **Introduction**

1. The LSB is required by Part 3 of Schedule 4 to the Legal Services Act 2007 (the Act) to review and grant or refuse applications by approved regulators to make alterations to their regulatory arrangements. The CILEx is an approved regulator and the IPS is the regulatory arm to which the CILEx has delegated its regulatory functions.
2. Paragraph 25 of Schedule 4 to the Act explains that the LSB may only refuse an application setting out a proposed change to the regulatory arrangements if it is satisfied that by granting the application one or more of the criteria specified in sub paragraph 25(3) (and listed in the footnote below<sup>1</sup>) will be met. For example, the LSB's granting of the application to alter the regulatory arrangements must not be prejudicial to the regulatory objectives overall. Accordingly, if the LSB is not satisfied that one or more of the criteria for refusal are met, then it must approve the application in whole, or the parts of it that can be approved.
3. As provided for by paragraphs 20(1) and 23(3) of Schedule 4 to the Act, the LSB has made rules<sup>2</sup> about how the application to alter the regulatory arrangements must be made including the contents of that application. The rules highlight the applicant's obligations under section 28 of the Act to have regard to the Better Regulation Principles. The rules also require that the applicant provides information about the nature and effect of each proposed change and of appropriate consultation undertaken. Sub paragraph

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<sup>1</sup> The Board may refuse the application only if it is satisfied that—(a) granting the application would be prejudicial to the regulatory objectives, (b) granting the application would be contrary to any provision made by or by virtue of the Act or any other enactment or would result in any of the designation requirements ceasing to be satisfied in relation to the approved regulator, (c) granting the application would be contrary to the public interest, (d) the alteration would enable the approved regulator to authorise persons to carry on activities which are reserved legal activities in relation to which it is not a relevant approved regulator, (e) the alteration would enable the approved regulator to license persons under Part 5 to carry on activities which are reserved legal activities in relation to which it is not a licensing authority, or (f) the alteration has been or is likely to be made otherwise than in accordance with the procedures (whether statutory or otherwise) which apply in relation to the making of the alteration.

<sup>2</sup> [Rules for Rule Change Applications – Version 2 \(November 2010\)](#)

25(3)(f) of Schedule 4 to the Act requires that each proposed alteration has been made or is likely to be made in accordance with the procedures (whether statutory or otherwise) which apply in relation to the making of the alteration. This therefore includes the LSB's rules.

4. The chronology for the LSB's handling of this application can be found towards the end of this decision notice.

### **Proposed alterations**

5. The proposed alterations encompass the following changes:
  - Additional certification rules for the award of Fellowship of CILEx and the application process for applications made under these rules. The additional rules are valid for a period of 12 months and only apply to members of the CILEx who were designated as Associate members prior to 1 January 1986.

### **Decision**

6. From 1 January 1986 until September 2009 CILEX ceased awarding their Associate membership grade. For those Associates awarded the Associate grade before 1 January 1986, a special dispensation allowed them to continue to use that designation. This group now totals 85 CILEX members.
7. This application only affects those 85 members of CILEx who, given the depth of their experience, will be exempt from the successful completion of the Level 6 examinations needed in order to obtain Fellowship. Instead, they will need to provide a portfolio of evidence which demonstrates their knowledge and understanding in relation to a series of learning outcomes which are matched against the CILEx Level 6 examinations. The qualifying employment requirement remains.
8. In making its decision, the LSB considered how IPS will ensure the knowledge those 85 members need to demonstrate is consistent with the Level 6 examinations they will be able to gain an exemption from.
9. IPS has confirmed that it is satisfied that the portfolios of evidence these members will need to complete will demonstrate knowledge consistent with the Level 6 examinations. Evidence required to establish achievement of the learning outcomes has been drawn from the unit specifications for the CILEx Level 6 examinations. In addition, IPS will use examiners responsible for marking the CILEx Level 6 examinations to assess the portfolios of evidence to further ensure consistency with the examinations.

### *Conclusion*

10. The LSB is satisfied that, having considered the IPS's application against the criteria in paragraph 25(3) of Schedule 4 to the Act, there is no reason to refuse this application; accordingly, the LSB grants this application.

11. Annex A to this decision notice contains the relevant additional certification rules for Associates qualified prior to 1 January 1986 to obtain Fellowship of the CILEx.

### **Chronology**

- The LSB confirmed receipt of an application from the IPS on 28 February 2013.
- The 28 day initial decision period for considering the application ends on 28 March 2013.
- This Decision Notice is being issued to the IPS on 21 March 2013 and will be published on our website on 22 March 2013.

**Chris Kenny, Chief Executive**  
**Acting under delegated authority granted by the Board of the Legal Services Board**  
**21 March 2013**

## **Annex A**

### **ASSOCIATE TO FELLOWSHIP CERTIFICATION RULES**

#### **DEFINITIONS**

1. In these Rules, except where otherwise indicated:

"Associate member of CILEx in good standing" means a person enrolled as an Associate before 1 January 1986 whose subscriptions to CILEx are fully paid, in respect of whose conduct there is no complaint outstanding, and against whom there is no disciplinary record which in the view of the Admissions and Licensing Committee affects their suitability for Fellowship;

"Certification Rules" means the Associate to Fellowship Certification Rules;

"External Assessor" means a person appointed by IPS to carry out the roles and functions identified for them in these Rules;

"Fellow" means a Chartered Legal Executive;

"Investigation, Disciplinary and Appeals Rules" means the rules of IPS which are in place from time to time and which govern the complaints handling and disciplinary procedures of IPS;

"IPS" means ILEX Professional Standards Ltd;

"The Admissions and Licensing Committee" means the Committee established under the Rights of Audience Certification Rules to carry out the roles and functions identified for it in these Rules;

"The Institute" or "CILEx" means The Chartered Institute of Legal Executives;

"The Officer" means an IPS officer with responsibility for the Associates to Fellowship qualification scheme.

Words importing the male gender include the female gender and vice versa.

#### **APPLICATION FOR EXEMPTION**

2. The application procedure for exemption set out in these rules will be valid for a period of 12 months from a date determined by IPS which shall be not more than 3 months after the date of approval of these rules by the Legal Services Board.
3. An Associate of CILEx who obtained the Associate grade of membership before 1 January 1986 and who is in good standing may apply to IPS to be granted Fellowship of CILEx through the application procedure for exemption.

4. An Associate member who seeks to apply for Fellowship under the exemption procedure must:
  - produce a portfolio which provides evidence of their knowledge and understanding of both law and practice in the Associate's specialist area of practice in accordance with the portfolio guidelines
  - produce a portfolio of evidence to demonstrate understanding of the professional skills required at Level 6 in accordance with the portfolio guidelines
  - pay the application fee which will be set by IPS.
  - supply a satisfactory certificate of fitness
5. The portfolios of evidence provided in support of the application for exemption, in accordance with the portfolio guidelines, will be assessed by an external assessor.
6. The external assessor will determine whether the portfolios are satisfactory and meet the criteria set out in the portfolio guidelines.
7. Where the external assessor determines that the portfolios meet the criteria in the portfolio guidelines, the Officer will consider the full application. The Officer will decide whether the application for exemption can be approved. Where it can be approved, the Officer will approve the application for Fellowship.
8. Where the Officer has any doubt as to whether the application can be approved, they will refer it to the Admissions and Licensing Committee for further consideration.
9. An application can be approved by an Officer where:
  - The external assessor has confirmed that the portfolio of evidence provided to meet the requirements set out in the portfolio guidelines has met those requirements
  - A satisfactory certificate of endorsement has been obtained, attesting to the applicant's knowledge of their specialist area of practice, their experience in this area of practice and offering an informed opinion as to the applicant's suitability to be granted Fellowship of CILEx
  - The applicant has provided evidence demonstrating they have met the qualifying employment requirements
  - The applicant is in good standing
10. Where the external assessor decides that the portfolio is not satisfactory and/or does not meet the criteria set out in the portfolio guidelines he will give reasons for his decision. The Officer will inform the applicant of his decision. The applicant may either withdraw his application or make further representations and ask that the full application be referred to the Admissions and Licensing Committee.
11. The Admissions and Licensing Committee will decide whether or not an application that has been referred to it should be approved. In reaching its decision, the Committee will consider all the information provided by the applicant and may call the applicant for interview or call for information from any person or source it considers appropriate. The Committee may:

- Approve the application and grant the application Fellowship of CILEx
  - Refuse the application
12. In making any assessment or decision required by these rules the Officer and the Admissions and Licensing Committee shall have regard to the Portfolio Guidelines.
13. The Officer will notify an applicant in writing of their decision or of the decision of the Admissions and Licensing Committee. Where the application has been approved the applicant will be notified by IPS. The Certificate of Fellowship of The Chartered Institute of Legal Executives will thereafter be issued by CILEx. Where the application is unsuccessful, the notification shall set out the reasons of the Committee and any preconditions to the consideration of any subsequent application for Fellowship via this exemption procedure. The applicant may apply for reconsideration of the decision in accordance with rules 18 and 19. The applicant may appeal a decision made on reconsideration in accordance with rule 18.

#### **ADMISSIONS AND LICENSING COMMITTEE**

14. Applications shall be considered by Admissions and Licensing Committee, established under the Rights of Audience Certification Rules.
15. The Admissions and Licensing Committee shall under this exemption procedure:
- apply and monitor CILEx's Associate to Fellowship Certification Rules;
  - consider and determine applications made by Associates referred to it by the Officer for Fellowship under the exemption procedure.
16. The Officers will report all decisions made by them to the Admissions and Licensing Committee.
17. Wherever the Officer is unable to make a decision or takes the view that the matter requires Committee consideration they may refer the matter to the Admissions and Licensing Committee.
18. A member affected by any decision which the Admissions and Licensing Committee makes pursuant to its powers under these Rules may apply for reconsideration of that decision. Any such member must lodge an application for reconsideration at the IPS offices at Kempston Manor within 20 working days of receiving written notification of the decision. The application must include written reasons why it should be reconsidered. The member shall have a right to be heard by the Committee when it reconsiders his application.
19. Where an application is reconsidered by the Admissions and Licensing Committee it shall have all the powers available that were available to it at the original consideration

of the application. An appeal may be made against the decision of the Admissions and Licensing Committee upon reconsideration. Appeals will be considered by an Appeal Panel comprising a professional member and two lay members drawn from the panel of lay and professional members appointed to serve on IPS' Disciplinary and Appeal bodies. The Appeal Panel will have available to it all the powers available to the Admissions and Licensing Committee at the original consideration of the application.

20. The Admissions and Licensing Committee shall report to the IPS Board on the operation of the Associates to Fellows exemption procedure as part of its Annual Report.
21. The external assessors appointed in accordance with these Rules shall be invited to attend meetings of the Admissions and Licensing Committee when applications for exemption under these procedures are being considered. Where necessary the Committee may seek advice on matters under its consideration from other persons or sources.

## **EXTERNAL ASSESSORS**

22. IPS shall appoint external assessors to advise the Admissions and Licensing Committee and IPS on issues relating to the required knowledge and understanding of law and practice in each of the specialist areas and understanding of the professional skills.
23. When making such appointments IPS shall take into account the following:
  - That the person appointed is a law graduate or has qualifications in law of a comparable level;
  - That the person appointed is qualified to assess knowledge and understanding relevant to the area of specialist work in which they are appointed;
  - That the person appointed has experience of teaching and assessment of law and legal practice, at degree or post graduate level.
24. The external assessors will provide advice to the Admissions and Licensing Committee and IPS in respect of the demonstrated knowledge and understanding of applicants applying for Fellowship via this exemption route.
25. The Admissions and Licensing Committee and the Officer shall consider any advice given by the external assessors, but shall not be bound by such advice.
26. The external assessors shall decide whether a portfolio submitted with an application for Fellowship via the exemption route meets the criteria set out in the portfolio guidelines.

27. The external assessors shall receive notice of meetings of the Admissions and Licensing Committee when applications under the exemption procedure are being considered and may attend such meetings in their advisory capacity.
  
28. IPS shall have the power to pay fees to the external assessors and shall, from time to time, determine the amount and basis of payment of such fees.