

# **Application for the approval of amendments to the SRA Practice Framework Rules 2011 and the SRA Authorisation Rules for Legal Services Bodies and Licensable Bodies 2011 in relation to immigration work**

## **Proposed Alteration**

1. We propose that the SRA Practice Framework Rules 2011 (PFR) and the SRA Authorisation Rules for Legal Services Bodies and Licensable Bodies 2011 (Authorisation Rules) are amended to reflect the fact that SRA Licensed Bodies are authorised by the SRA to provide immigration advice and immigration services for the purposes of section 84(2)(ba) of the Immigration and Asylum Act 1999 (IAA).
2. The proposed amendments, set out in the **Annex**, were made by the SRA Board on 29 February 2012, subject to the approval of the Legal Services Board.

## **Nature and effect of the existing provisions of the PFR and the Authorisation Rules**

3. Rule 8.6 of the PFR provides that a licensed body is authorised by the SRA to undertake the reserved legal activities which are specified in the authorisation granted to the body under Rule 6 of the SRA Authorisation Rules. The Rule does not make any reference to immigration work.
4. Rule 7.1(b) of the Authorisation Rules provides that the authorisation of a body under the Authorisation Rules entitles a licensed body to undertake the reserved legal activities specified in the licence. The Rule does not make any reference to immigration work.

## **Nature and effect of the amendments to the PFR and the Authorisation Rules**

5. Rule 8.6 of the PFR and Rule 7.1(b) of the Authorisation Rules have been amended by the addition of the words “and *immigration work*” which is defined in the SRA Handbook Glossary as “the provision of immigration advice and immigration services, as defined in section 82 of the IAA”.
6. The effect of these amendments is that all SRA licensed bodies will be authorised by the SRA, in its capacity as a designated qualifying regulator, to provide immigration advice and immigration services subject, of course, to any conditions imposed on the licence of a licensed body.

## **Rationale for amending the PFR and the Authorisation Rules.**

7. The Law Society is a designated qualifying regulator under section 86A of the IAA and therefore the SRA is able to authorise persons to provide immigration advice and immigration services for the purposes of section 84(2)(ba) of the IAA.
8. The PFR (Rule 8.5) and the Authorisation Rules (Rule 7.1(a)) make it clear that recognised bodies are authorised by the SRA to undertake immigration services and immigration advice but the Rules did not include equivalent provisions for licensed bodies. The amendments provide that all licensed bodies will be authorised to undertake such work which is consistent with the position of traditional law firms. This is also in line with the SRA’s overall policy to try to achieve the greatest degree of harmonisation possible in the treatment of all types of law firms.
9. The amendments are particularly important for bodies which are currently authorised by the Office of Immigration Services Commissioner (OISC) and are applying to become

authorised by the SRA. The amendments make it clear that such bodies will be authorised by the SRA to undertake immigration work. It follows from this that they will not require authorisation from OISC in relation to immigration work undertaken by the licensed body.

## **Statement in respect of the Regulatory Objectives**

### **Protecting and promoting the public interest**

10. The amendments will support this regulatory objective as the proper regulation of immigration work is in the public interest.

### **Supporting the constitutional principle of the rule of law**

11. The amendments will support this regulatory objective as licensed bodies will be able to undertake immigration work, and such work relates directly to upholding the constitutional principle of the rule of law.

### **Improving access to justice**

12. The amendments will improve access to justice as they will increase the range of firms that are able to provide immigration services and immigration advice.

### **Protecting and promoting the interests of consumers**

13. The amendments will support this regulatory objective as the SRA will be able to authorise and regulate immigration work undertaken by licensed bodies. The proper regulation of such activities supports this regulatory objective.

### **Promoting competition in the provision of services**

14. The amendments promote competition in the provision of legal services as they allow licensed bodies to undertake immigration work.

### **Encouraging an independent, strong, diverse and effective legal profession**

15. The amendments support this regulatory objective by allowing licensed bodies to undertake immigration work and consequently opening up the legal services market in relation to this area of work.

### **Increasing public understanding of the citizen's legal rights and duties**

16. The amendments will increase access to immigration advice and therefore support this regulatory objective.

### **Promoting and maintaining adherence to the professional principles**

17. The amendments do not impact on this regulatory objective as licensed bodies are already required to adhere to the professional principles.

## **Statement in respect of the Better Regulation Principles**

### **Proportionality**

18. The amendments are a proportionate response to the question of whether licensed bodies should be authorised to undertake immigration work.

### **Accountability**

19. All firms will be held accountable for the quality of the legal activities for which they are authorised.

### **Consistency**

20. The amendments are consistent with the approach for traditional firms and support the SRA's policy to achieve the greatest degree of harmonisation possible in the treatment of all types of law firms.

### **Transparency**

21. The amendments will ensure that licensed bodies understand the activities that they are authorised by the SRA to undertake.

### **Targeted**

22. The amendments are targeted at licensed bodies as traditional firms are already authorised to undertake immigration work.

### **Statement in relation to desired outcomes**

23. The desired outcomes of the amendments are:

- licensed bodies will be able to undertake immigration work;
- a consistent level of consumer protection in relation to immigration work across SRA regulated firms; and
- a competitive legal services market with proportionate regulation.

24. These outcomes will be measured in the following ways:

- monitoring the opening up of the legal services market; and
- through our supervisory activities, gathering information about the quantity and quality of immigration work undertaken by SRA regulated firms.

### **Statement in relation to impact on other Approved Regulators**

25. The SRA has not identified any impact of these amendments on other approved regulators.

### **Implementation timetable**

March 2012	Application for approval of amendments submitted to LSB
1 April 2012 or the date of approval by the Legal Services Board, whichever is the later.	Amendments will come into effect.

## **Stakeholder engagement**

26. The SRA has not consulted on these amendments as they are consistent with the SRA's policy to achieve the greatest degree of harmonisation possible in the treatment of all types of law firms. The SRA had informal discussions with the OISC in 2011 and the OISC are aware that where a firm currently regulated by the OISC is licensed by the SRA, the activities of the licensed body, including its immigration work, would be regulated by the SRA.

