



Summary of Decision
The purpose of this summary sheet is to provide a high level and accessible overview of the Legal Services Board's ("LSB") decision. Readers are recommended to read the formal decision notice below for further details. This summary is not and should not be taken as a formal part of the LSB's decision notice under the Legal Services Act 2007 ("the Act") The LSB's decision is to grant in full the application from CILEx Regulation Limited ("CRL") for approval of alterations to its regulatory arrangements to establish the CILEx Regulation Temporary Rules for recognition of lawyers qualified in the EEA and the CILEx Regulation Temporary Guidance for recognition of lawyers qualified in Switzerland. The new rules provide a clear path for qualified lawyers in the EU/EEA and Switzerland to apply to be authorised as Chartered Legal Executives or CILEX Practitioners. Following assessment of CRL's application, the LSB has concluded that the changes do not meet the conditions for refusal under paragraph 25(3) of Schedule 4 to the Act. The decision notice explains our assessment of the main issues that we considered in reaching our decision.

Decision notice

CILEX Regulation Limited's application for approval of alteration to its regulatory arrangements to create new arrangements for applications for recognition of lawyers qualified in the EU/EEA and Switzerland

1. The Legal Services Board (“**LSB**”) has granted an application from CILEx Regulation Limited (“**CRL**”) for approval of amendments to its regulatory arrangements to create new arrangements for applications for recognition of lawyers qualified in the EU/EEA and Switzerland.
2. 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 Chartered Institute of Legal Executives (CILEX) is an approved regulator and CRL is the regulatory body to which CILEX has delegated its regulatory functions.
3. This decision notice sets out the decision taken, including a description of the changes. The statutory framework for applications to the LSB for approval of changes to regulatory arrangements can be found on the LSB website¹.

Chronology

- The LSB confirmed receipt of an application from CRL on 27 January 2022.
- The 28-day initial decision period for considering the application ends on 23 February 2022.
- On 17 February 2022 the LSB issued an extension notice which extended the decision period to 26 April 2022.
- This decision notice is effective from 23 February 2022.
- The decision notice will be published on the LSB's website by 25 February 2022.

Background

4. The application explains at paragraph 2 that the proposed rules and guidance implement the provisions of The European Union (Recognition of Professional Qualifications) Regulations 2015 (“2015 Regulations”) as amended on 31 December 2020 by the Recognition of Professional Qualifications (Amendment etc) (EU Exit) Regulations 2019 (“2019 Regulations”).
5. At paragraphs 3 and 4 of the application CRL explains that as the delegated regulatory body for CILEX it was required to accept applications from qualified EU, EEA and Swiss nationals under the 2015 Regulations. Those obligations continued under the 2019 Regulations for EU/EEA professionals and under the 2015 Regulations for Swiss professionals (as maintained until 31 December 2024 by the UK-Swiss Citizens' Rights Agreement 2018).

¹ <https://legalservicesboard.org.uk/our-work/statutory-decision-making/alterations-to-regulatory-arrangements/statutory-framework-for-applications-to-the-lsb-for-approval-of-changes-to-regulatory-arrangements>

6. Paragraph 6 of the application confirms that CRL has never received an application for recognition under the 2015 Regulations or 2019 Regulations. The proposed rules are intended to provide a formal process should any applications be received in the future and to provide a starting point for any amendments that may be required should the Professional Qualifications Bill² currently before Parliament is enacted. Therefore, CILEX has titled the rules and guidance as temporary.
7. The guidance includes a sunset clause confirming it will cease to have effect on 31 December 2024. This reflects the terms of the UK-Swiss Citizens' Rights Agreement 2019.

Summary of proposed changes

Key changes

8. Paragraph 7 of the application proposes a formal policy and rules to provide a detailed process for qualified lawyers in the EU/EEA to use should they wish to apply to become a Chartered Legal Executive or CILEX Practitioner and formal guidance to provide a process for qualified lawyers in Switzerland to use should they wish to apply to become a Chartered Legal Executive or CILEX Practitioner.
9. The proposed rules and guidance set out that they are intended to implement the relevant Regulations. They also provide detail of the process for making applications for recognition to CRL.

CILEx Regulation Temporary Rules for recognition of lawyers qualified in the EEA

10. Proposed Rule 4 sets out:
 - the assessment process
 - confirmation that a fee will be charged that will be prescribed by CRL from time to time
 - the information that will be requested from the applicant
 - information on timeframes and when updates will be provided to applicants
 - what CRL will consider when assessing the application.
11. Proposed Rule 5 sets out the steps CRL will take in the event it considers it needs to request information and evidence from an EEA competent authority.
12. Proposed Rule 6 contains details on the decision that CRL will make on applications. This includes a timescale of 4 months from receipt of a complete application and confirmation that reasons for decisions will be provided in writing along with information confirming a right for applicants to appeal.
13. Proposed Rule 8 confirms information sharing obligations that CRL has along with confirmation that CRL will publish and maintain a register of successful applicants.

² <https://bills.parliament.uk/bills/2865>

14. The full text of the approved rules is annexed to this decision notice.
15. Alongside the proposed Rules, CRL has provided a draft of its proposed policy to accompany the rules. We have considered the policy alongside the rules and welcome the additional context provided.

CILEx Regulation Temporary Guidance for recognition of lawyers qualified in Switzerland

16. Proposed Paragraph 2 provides details on steps to be taken to apply to provide services in England and Wales on a temporary or occasional basis and proposed Rule 3 provides details for applications to provide services on a permanent basis.
17. Proposed Paragraph 4 confirms the conditions to be met for CRL to grant partial access to perform professional activities.
18. Proposed Paragraph 6 sets out the route to appeal decisions made by CRL under the guidance document.
19. Proposed Paragraph 7 confirms how CRL will interact with and share information with competent authorities in other relevant European States.
20. The full text of the approved guidance is annexed to this decision notice.

Key issues considered in the assessment of the application

21. In carrying out our assessment of the current application, the LSB has considered the following issues and taken account of information provided by CRL.

Application Fee

22. During our assessment we asked CRL to explain what fee would be charged to applicants and how the fee would be set and reviewed in the future.
23. CRL confirmed that it does not intend to charge fees for the applications themselves, but it will require successful applicants to pay the relevant annual practising fees (pro-rata for anyone authorised during the year).
24. Given that the rules provide for a fee to be charged and to be set by CRL from time to time we expect CRL to notify the LSB of any fee it intends to charge in the future and to explain how the fee has been set and when it is intended to be reviewed.

Temporary Guidance for recognition of lawyers qualified in Switzerland

25. The application provides for a policy and rules for applications from qualified lawyers in the EU/EEA but indicates that applications from qualified lawyers in Switzerland will be governed by a separate guidance document.

26. Our assessment of the guidance document (annex 3 to the application) is that while it implements the provisions of relevant EU regulations, the relevant obligations are not set out anywhere else in CRL's regulatory arrangements and therefore the guidance document amounts to a regulatory arrangement requiring LSB approval.
27. We asked CRL why the document was titled as guidance rather than rules. CRL replied confirming that it was CRL's intent that the Guidance be assessed by the LSB as a regulatory arrangement.

References to United Kingdom

28. The Temporary Guidance for recognition of lawyers qualified in Switzerland included references to providing services in the United Kingdom. We asked CRL to either amend the documents to consistently refer to England and Wales or to explain the need for references to the United Kingdom.
29. CRL explained that the references to the United Kingdom were for consistency with the 2015 Regulations. However, given that successful applicants will only be authorised for work in England and Wales, CRL has provided an amended version of the Guidance for approval with references to the United Kingdom replaced with references to England and Wales.

Retrospective effect

30. The Rules (at rule 1.2) and Guidance (at paragraph 1.7) both state they take effect from 11pm on 31 December 2020. This date reflects the end of the transition period.
31. While neither the Rules or Guidance were in effect from 31 December 2020, we are satisfied that in practice there is no impact from this date being listed as no applications have been received under the 2015 Regulations or the 2019 Regulations. The new regulatory arrangements are intended to close a regulatory gap.

Transparency

32. CRL's intention in introducing these new arrangements is to provide a clear, consistent, and transparent approach to mutual recognition. The introduction of these arrangements is a positive step that will correct a gap in CRL's current regulatory arrangements.
33. CRL has committed to creating a specific webpage to host all relevant information relating to mutual recognition of professional qualifications.

Evaluation and monitoring

34. Paragraph 41 of the application confirms that CRL will ensure that it continues to comply with the requirements to notify relevant bodies of applications received through this process.

35. We expect CRL to keep the LSB updated through relationship management on any use of the new rules and guidance. Additionally, we expect CRL to ensure that any alterations required because of new legislation are made promptly.

Decision

36. The LSB has considered the application against the criteria in paragraph 25(3) of Schedule 4 to the Act. It considers that there is no reason to refuse this application, and accordingly, the application is granted.

Matthew Hill, Chief Executive

Acting under delegated authority granted by the Board of the Legal Services Board

23 February 2022

Annex A – Regulatory arrangements approved by LSB



**CILEx Regulation Temporary Rules for
recognition of lawyers qualified in the EEA**

Purpose

These Rules govern the process by which CILEx Regulation will consider an application for recognition of an EEA professional qualification as being equivalent to the Chartered Legal Executive/ CILEX Practitioner qualification.

A person who makes a successful application under these Rules will, despite not having completed the Chartered Legal Executive/ CILEX Practitioner knowledge qualifications and subject to satisfactory assessment of experience, competence and prior conduct requirements, be entitled to apply for a practising certificate to practise as a Chartered Legal Executive or CILEX Practitioner in England and Wales.

Definitions

In these rules, the following definitions apply:

“Admissions and Licensing Committee” means the Committee established by CILEx Regulation to deal with qualification and admission matters;

“Appeals Panel” means the Panel established to hear appeals against decisions made by the Admissions and Licensing Committee following a rehearing;

“Applicant” means a person who makes an Application under these Rules;

“Applicant in good standing” means a person in respect of whose conduct there is no complaint or misconduct matter outstanding, and against whom there is no disciplinary record which, in the view of CILEx Regulation, affects their suitability to be a Chartered Legal Executive or CILEX Practitioner;

“Application” means an application made under these Rules for recognition of a Professional Qualification as being comparable to the Chartered Legal Executive/ CILEX Practitioner knowledge qualifications in level, content and scope;

“Authorised person” means a person so described in the Legal Services Act 2007. An authorised person is defined by the Act as “a person who is authorised to carry on the relevant activity by a relevant approved regulator in relation to the relevant activity”;

“Chartered Legal Executive” means a CILEX member authorised by CILEx Regulation to conduct one or more reserved activities (also known as a Fellow of CILEX);

“CILEX Practitioner” means a person authorised to conduct Probate practice or Conveyancing practice as defined in these rules, but not authorised as a Chartered Legal Executive/Fellow of CILEX;

“CILEx Regulation” means CILEx Regulation Ltd;

“Fellow” means a person who has met the requirements of CILEx Regulation (also known as a Chartered Legal Executive) and has paid all subscriptions and other fees to CILEX or has made arrangement for payment;

“Practising Certificate” means a certificate issued annually allowing a person to practise as an authorised Chartered Legal Executive/ CILEX Practitioner and carry on reserved legal activities;

“Practising Rules” means the CILEx Regulation rules and requirements governing the authorisation and supervision of Chartered Legal Executives/ CILEX Practitioners and the issue and revocation of Practising Certificates, as they apply at the time an Application is made;

“Practitioner Directory” means the directory of Chartered Legal Executives/ CILEX Practitioners who hold a current Practising Certificate;

“Professional Qualification” means a qualification attested by a diploma, certificate or other evidence issued by an authority in the UK or in an EEA state certifying successful completion of professional training obtained mainly in the UK or one or more EEA states;

“Regulated legal activity” means a) a reserved legal activity; b) immigration advice or immigration services;

“Reserved legal activity” has the same meaning as in the Act;

“The Act” means the Legal Services Act 2007;

“The Officer” means a person with responsibility for the Authorisation Rules.

Delegations

Responsibility for this authorisation scheme is delegated to CILEx Regulation by CILEX.

RULE 1:

Applicability of these Rules

1.1 These Rules implement the provisions of the 2015 Regulations, which have been amended by the Recognition of Professional Qualifications (Amendment etc) (EU Exit) Regulations 2019 to account for the UK's exit from the European Union (EU) on 31 January 2020 and the end of the associated transition period on 31 December 2020.

1.2 These Rules take effect from 11pm (UK time) on 31 December 2020.

1.3 A person must hold a Professional Qualification to be eligible to make an Application.

1.4 Third country qualifications (that is, non-EEA qualifications) will not be considered under these Rules. However, an Applicant may be a citizen of any country.

RULE 2:

Recognition of professional qualifications

2.1 CILEX is the approved regulator of Chartered Legal Executives/ CILEX Practitioners in England and Wales (regulation of which is delegated to CILEx Regulation) under the Legal Services Act 2007. It is a competent authority for the purposes of the 2015 Regulations.

2.2 In accordance with the CILEX Bye Laws and the CILEx Regulation Practitioner Rules, no person shall be entitled to practise as a Chartered Legal Executive/ CILEX Practitioner in England and Wales unless they (amongst other things) have qualified as a Chartered Legal Executive/ CILEX Practitioner in accordance with the Practitioner Authorisation Rules. The Practitioner Authorisation Rules provide for qualification as a Chartered Legal Executive/ CILEX Practitioner by completion of an approved qualification in accordance with the Training Provider policy and handbook.

2.3 These Rules allow an Applicant to make an Application to CILEx Regulation for recognition of a Professional Qualification as being comparable to the Chartered Legal Executive/ CILEX Practitioner qualifications in level, content and scope, and thus sufficient to meet the requirements of the Practitioner Authorisation Rules. These qualifications may be provided by a CILEx Regulation approved qualifications' provider or through the submission of an exemption application, governed by the Exemptions Policy.

2.4 Upon a successful Application, an Applicant will become eligible to apply for a Practising Certificate, following which their name will appear on the Practitioner Directory.

2.5 A Chartered Legal Executive/ CILEX Practitioner who holds a Practising Certificate must comply with the Regulatory Arrangements.

RULE 3:

Point of single contact

3.1 CILEx Regulation will act as the point of single contact for the Chartered Legal Executives/ CILEX Practitioners professions, in accordance with the description of that role in the 2015 Regulations.

3.2 CILEx Regulation will make available all relevant information in relation to the Chartered Legal Executives/ CILEX Practitioners professions, the Chartered Legal Executives/ CILEX Practitioners Qualifications and the requirements, procedures and formalities for making an Application via a dedicated page on its website.

3.3 In the event an Applicant requires further information or assistance in making an application, CILEx Regulation will provide such information or assistance. It will do so in collaboration with the UK's national information centre for professional qualifications where appropriate. For this purpose, CILEx Regulation can be contacted using the details on the contact page of its website.

3.4 CILEx Regulation will use all reasonable endeavours to respond to a request for information or assistance from an Applicant or prospective Applicant within five working days of receipt of the request by CILEx Regulation.

RULE 4:

The assessment process

4.1 An Application must be made to CILEx Regulation using the electronic form provided on the CILEx Regulation website. Where a prospective Applicant is unable to use that form due to a disability, CILEx Regulation will work with the Applicant to identify appropriate reasonable adjustments to facilitate making an Application.

4.2 An Applicant must provide the information requested in the electronic form and pay the application fee as prescribed by CILEx Regulation from time to time. The requested information will include at least the following in relation to the Applicant:

- (a) a copy of evidence of their Professional Qualification, such as a diploma or certificate;
- (b) a copy of any documents associated with their Professional Qualification, such as documents formally recognising their training or experience;
- (c) information and evidence to enable CILEx Regulation to determine the level, content and scope of their Professional Qualification, including any training and experience elements;
- (d) information relating to their fitness to practise, professional standing and financial standing
- (e) a copy of the applicant's insurance cover (if applicable); and
- (f) where appropriate, evidence that the applicant has an appropriate fluency in English. Language checks may be required where there is serious and concrete doubt about the applicant's language knowledge in respect of the professional activities the applicant is intending to pursue.

4.3 Information and evidence must be provided in the English or Welsh language. Where original documents are not in English or Welsh, an official translation must be provided.

4.4 CILEx Regulation will acknowledge receipt of an Application in writing within one month of receipt. If an Application is considered to be incomplete in any respect, CILEx Regulation will notify the Applicant of this when acknowledging receipt and invite the Applicant to submit further information in order to complete the Application.

4.5 Once the Application is complete, CILEx Regulation will consider the Application as soon as reasonably practicable and will advise the Applicant in writing of the likely timeframe for determining the Application, based on CILEx Regulation's initial assessment of the Application's complexity. In all cases, a decision will be made no later than four months from receipt of a complete Application.

4.6 CILEx Regulation will assess the level, content and scope of the Applicant's Professional Qualification against the level, content and scope of the CILEx Regulation education standards knowledge requirements to determine whether they are comparable. In making this assessment, CILEx Regulation will consider at least the following factors:

- (a) Content: Has the training that the Applicant received covered substantially similar matters (including knowledge, skills and competencies), or achieved substantially similar learning outcomes, to the CILEx Regulation education standards?
- (b) Scope: Does the Applicant's Professional Qualification relate to the carrying out of activities of a substantially similar kind to the reserved legal activities that Chartered Legal Executives/ CILEX Practitioners are authorised to carry out?
- (c) Scope: Do the CILEx Regulation education standards involve training in areas that do not form part of the Applicant's Professional Qualification?
- (d) Level: Is the academic level of the Applicant's Professional Qualification equivalent to that of the requirements set out in the CILEx Regulation education standards?

4.7 In relation to the supervised practice element of the Chartered Legal Executives/ CILEX Practitioners Qualifications, CILEx Regulation will:

- (a) recognise professional traineeships that have been carried out to a comparable standard in an EEA state; and
- (b) take account of traineeships that have been carried out to a comparable standard in a third country, where the professional traineeship has been undertaken over a period of not less than three years in total (not necessarily consecutively) and has been supervised by one or more legal practitioners authorised to practise in England and Wales or in the country where the traineeship was carried out.

4.8 CILEx Regulation may request additional information, documents or evidence from the Applicant at any time during the process of considering an Application.

RULE 5:

Justified doubt

5.1 CILEx Regulation may, in the event of justified doubt, request from an EEA competent authority at any time during the process of considering an Application one or more of the following:

(a) confirmation of the authenticity of the evidence of a Professional Qualification awarded in that EEA state;

(b) where evidence of a Professional Qualification includes training received in a different country to that in which the Professional Qualification was awarded, verification of matters relating to that training as set out in Regulation 39(2) of the 2015 Regulations;

(c) confirmation that the Applicant is not suspended or prohibited from the pursuit of the profession as a result of serious professional misconduct or conviction of criminal offences relating to the pursuit of any of the Applicant's professional activities.

5.2 If the relevant EEA competent authority does not provide the requested information before expiry of the time for notifying the Applicant of the outcome of the Application, CILEx Regulation may refuse the Application.

5.3 CILEx Regulation may request certified copies of any documents provided by the Applicant in support of their Application, or confirmation by others means of the authenticity of such documents, in the event of justified doubt or as otherwise necessary. *If the applicant does not provide any certified copies requested before expiry of the time limit for the competent authority to notify the applicant of its decision [four months], the competent authority may refuse the application*

RULE 6:

Outcome of an Application

6.1 The outcome of an Application will be a decision that either:

(a) the Applicant's Professional Qualification is comparable to the Chartered Legal Executives/ CILEX Practitioners Qualifications, in which case CILEx Regulation will be satisfied that the Applicant meets the authorisation requirements; or

(b) the Applicant's Professional Qualification is not comparable to the Chartered Legal Executives/ CILEX Practitioners Qualifications, in which case CILEx Regulation will not be satisfied that the Applicant meets the authorisation requirements.

6.2 CILEx Regulation will notify an Applicant in writing of its decision within four months of receipt of a complete Application.

6.3 CILEx Regulation will set out the reasons for its decision in writing and will advise the Applicant of their right to appeal.

6.4 In accordance with the 2015 Regulations, failure by CILEx Regulation to make a decision within four months of receiving a complete Application will be deemed to be a decision that the Applicant's Professional Qualification is not comparable to the Chartered Legal Executives/ CILEX Practitioners Qualifications.

6.5 Applicants may appeal a decision (including a deemed decision under Rule 6.4) on a matter of fact or law (or both) to the County Court within four months of being notified of the decision, or at a later date with the permission of the County Court. The County Court may, for the purposes of determining the appeal:

(a) authorise the Applicant to practise as a Chartered Legal Executive/ CILEX Practitioner and impose any conditions on practising that may be imposed by CILEx Regulation; or

(b) refer the matter to CILEx Regulation with such directions as the County Court sees fit.

RULE 7:

Title

7.1 There are no designatory letters for the CILEX Practitioner Qualification and there is no statutory restriction on use of the CILEX Practitioner title, save that an unauthorised person must not hold themselves out as being a regulated CILEX Practitioner authorised to carry out reserved legal activities or otherwise mislead consumers. There are designatory letters for the Chartered Legal Executive Qualification (FCILEX) and an unauthorised person must not hold themselves out as being a regulated Chartered Legal Executive authorised to carry out reserved legal activities or otherwise mislead consumers.

7.2 A successful Applicant may use their home state professional title or designatory letters in addition to the title of Chartered Legal Executive/ CILEX Practitioner, however any title or designatory letters must be used in a way that does not mislead consumers and should indicate the country in which the Professional Qualification was attained.

RULE 8:

Sharing information

8.1 Applicants should be aware that CILEx Regulation has certain obligations under the 2015 Regulations to share information and statistics relating to Applications.

8.2 CILEx Regulation will collate information and statistics relating to Applications received and decisions taken. It will provide the information and statistics to the UK government upon request.

8.3 CILEx Regulation will maintain and publish a register of successful Applicants.

8.4 CILEx Regulation will co-operate fully with the UK's national information centre for professional qualifications and provide all relevant information about individual Applications to that centre on request (subject to data protection legislation as defined by section 3(9) of the Data Protection Act 2018).

8.5 CILEx Regulation may share information about criminal sanctions and disciplinary action with competent authorities and other relevant government bodies in EEA states, and with the European Commission, in accordance with the current law on data protection in England and Wales.

8.6 In the event CILEx Regulation is in receipt of information about criminal sanctions or disciplinary action from a competent authority in an EEA state or from the European Commission, CILEx Regulation will (insofar as required by the 2015 Regulations):

- (a) examine the veracity of the circumstances;
- (b) decide on the nature and scope of the investigations which are required and carry them out accordingly; and
- (c) inform that competent authority of the conclusions which it has drawn from the information available.

RULE 9:

General

9.1 In the event of any irreconcilable inconsistency between these Rules and the 2015 Regulations, or in the event that the 2015 Regulations make provision for a matter on which these Rules are silent, the 2015 Regulations will apply.

9.2 Costs incurred by an Applicant under these Rules will be met by the Applicant.



CILEx Regulation Temporary Guidance for recognition of lawyers qualified in Switzerland

Purpose

This Guidance governs the process by which CILEx Regulation will consider an application for recognition of a Swiss professional qualification as being equivalent to the Chartered Legal Executive/ CILEX Practitioner qualification.

A person who makes a successful application under this Guidance will, despite not having completed the Chartered Legal Executive/ CILEX Practitioner knowledge qualifications and subject to satisfactory assessment of experience, competence and prior conduct requirements, be entitled to apply for a practising certificate to practise as a Chartered Legal Executive or CILEX Practitioner in England and Wales.

Definitions

In this Guidance, the following definitions apply:

“Applicant” means a person who is making an application under this Guidance (except for applications made under Paragraphs 2 and 3);

“Chartered Legal Executive” means a CILEX member authorised by CILEx Regulation to conduct one or more reserved activities (also known as a Fellow of CILEX);

“CILEx Regulation” means CILEx Regulation Ltd;

“Fellow” means a person who has met the requirements of CILEx Regulation (also known as a Chartered Legal Executive) and has paid all subscriptions and other fees to CILEX or has made arrangement for payment;

“Home State” means the state in which the Applicant is established;

“Regulated legal activity” means a) a reserved legal activity; b) immigration advice or immigration services;

“Regulations” means The European Union (Recognition of Professional Qualifications) Regulations 2015;

“Reserved legal activity” has the same meaning as in the Act;

“Services” means carrying out the practice of a Chartered Legal Executive;

“Temporary Register” means the register held by CILEx Regulation of Swiss CILEX Practitioners whose declarations to provide services as a Chartered Legal Executive/ CILEX Practitioner on a temporary or occasional basis have been approved by CILEx Regulation in accordance with the Regulations;

“The Act” means the Legal Services Act 2007.

Delegations

Responsibility for this authorisation scheme is delegated to CILEx Regulation by CILEX.

1. INTRODUCTION

- 1.1. This Guidance implements the provisions of the Regulations.
- 1.2. The Regulations will apply to any relevant issue upon which this Guidance is silent.
- 1.3. Costs incurred by an Applicant under this Guidance and in complying with the Regulations will be met by the Applicant.
- 1.4. Any certificates of qualification submitted to CILEx Regulation as part of an Application under this Guidance must be original documents or certified copies.
- 1.5. An official translation of any qualification/recognition of training/recognition of experience document must be filed with the qualification document.
- 1.6. If CILEx Regulation has justified doubts about the veracity, authenticity or legality of the Applicant's establishment and good conduct or character, it may ask the competent authority of the Home State of the Applicant for information on this issue.
- 1.7. This Guidance takes effect from 11pm (UK time) on 31 December 2020.
- 1.8. This Guidance will cease to have effect at 11pm (UK time) on 31 December 2024.

2. PROVIDING SERVICES IN ENGLAND & WALES ON A TEMPORARY OR OCCASIONAL BASIS

- 2.1. For the purposes of Paragraph 2, an "Applicant" (and "Application") is defined in accordance with Regulation 8(3).
- 2.2. Applications to provide Services on a temporary or an occasional basis under Paragraph 2 should be made using the form 'Declaration to CILEx Regulation to provide the services of a Chartered Legal Executive/Fellow of CILEX in England & Wales on a temporary or an occasional basis'. The form is located on the CILEx Regulation website.
- 2.3. CILEx Regulation will assess, on a case-by-case basis, whether the Applicant's provision of professional services is on a temporary and an occasional basis, in particular in relation to its duration, frequency, regularity and continuity.
- 2.4. Where the Applicant first moves to the United Kingdom (UK), the Applicant must inform CILEx Regulation by way of a written declaration, in advance of providing any Services in England and Wales. The written declaration should be made using the form detailed in Paragraph 2.2, and must comply with Regulations 15 and 16.
- 2.5. The Applicant must provide the following documents, in accordance with Regulation 16, when submitting their written declaration:

- a) the Applicant's proof of nationality or, where the Applicant is not a national of a relevant European State, proof of the community right on which the Applicant relies;
 - b) an attestation certifying that the Applicant is legally established in another relevant European State for the purpose of pursuing the activities concerned and that the Applicant is not prohibited from practising, even temporarily, at the moment of delivering the attestation;
 - c) evidence of professional qualifications;
 - d) for cases referred to in Regulation 8(3)(e), any means of proof that the Applicant has pursued the activity concerned for at least one year during the previous ten years; and
 - e) an attestation confirming the absence of temporary or final suspensions from exercising the profession or of criminal convictions. The attestation must include offences which have been 'spent' under the Rehabilitation of Offenders Act 1974 or equivalent legislation in the Home State.
- 2.6. CILEx Regulation may also require the Applicant to produce any of the documents in Paragraph 2.5 where there has been a material change in the situation substantiated by the documents since they were first provided.
- 2.7. If the Applicant makes a successful declaration in accordance with Regulations 15 and 16, the Applicant will be automatically temporarily registered with CILEx Regulation, and will be:
- a) subject to all the CILEx Rules and Regulations relating to the provision of Services in England and Wales, including (but not limited to) the CILEx Code of Conduct and the CILEx Enforcement Rules; and
 - b) authorised to provide Services.
- 2.8. The Applicant must renew their declaration at the expiry of each full year from the approval of the initial written declaration, if the Applicant intends to provide Services on a temporary or an occasional basis in England and Wales during that year. An application to renew a declaration must be received by CILEx Regulation no later than 28 days before the expiry of the existing declaration.
- 2.9. Where the Applicant fails to renew their declaration in accordance with Paragraph 2.8, CILEx Regulation may remove the Applicant's name from the Temporary Register. Any further sanction imposed for the failure to renew will be subject to Regulation 24.
- 2.10. When providing Services in England and Wales, the Applicant shall comply with Regulation 18 in regard to using the relevant professional title under which Services are provided.

- 2.11. The Applicant must provide the recipient of any Services with the following:
- a) details of the professional association with which the Applicant is registered; and
 - b) details of professional indemnity insurance cover in relation to the Services.
- 2.12. The Applicant is required to notify CILEx Regulation immediately if they no longer intend to provide Services in England and Wales. CILEx Regulation will then immediately remove the Applicant from the Temporary Register.
- 2.13. An Applicant will no longer be entitled to provide Services in England and Wales, and their entry on the Temporary Register will be terminated if the Applicant:
- a) becomes established in the profession of a Chartered Legal Executive in England and Wales; or
 - b) is subject to a decision of the competent or judicial authority in their Home State, which has the effect that the Applicant is no longer lawfully established and/or is prohibited (even temporarily) from practising that profession in their Home State.

3. PROVIDING SERVICES IN ENGLAND AND WALES ON A PERMANENT BASIS

- 3.1. For the purposes of Paragraph 3, an “Applicant” (and “Application”) is defined in accordance with Regulation 8(4).
- 3.2. The form entitled “Application to CILEx Regulation to establish as a Chartered Legal Executive in England and Wales on a permanent basis” can be found on the CILEx Regulation website and should be used for Applications under Paragraph 3.
- 3.3. CILEx Regulation will acknowledge the Application within one month of receipt, and will inform the Applicant if any document is missing.
- 3.4. CILEx Regulation will consider the Application as soon as is reasonably practicable, and must notify the Applicant of its decision, together with reasons, in accordance with the timescales specified in Regulation 42(2).
- 3.5. CILEx Regulation may, before authorising the Applicant to practise as a Chartered Legal Executive in England and Wales, require the Applicant to take and pass an aptitude test in accordance with Regulations 31, 32, 33 and 34.
- 3.6. An aptitude test means a test of the Applicant’s professional knowledge, skills and competencies carried out or recognised by CILEx Regulation with the aim of assessing the ability of the Applicant to pursue the profession of Chartered Legal Executive in England and Wales. The aptitude test will be prepared in accordance with Regulation 31.

- 3.7. CILEx Regulation will assess the need for, and the detail of any aptitude test, on a case-by-case basis in accordance with Regulation 32.
- 3.8. Should CILEx Regulation determine that an aptitude test is necessary, it shall inform the Applicant, in accordance with Regulation 33, of:
- a) the level of professional qualification required in England and Wales and the level of qualification held by the Applicant in accordance with Regulation 27;
 - b) the substantial differences in the knowledge, skills and competencies essential to pursuing the Chartered Legal Executive profession, when comparing the Applicant's training with the duration or content of training required in England and Wales; and
 - c) the reasons why the substantial differences cannot be compensated by the knowledge, skills and competence acquired in the course of professional experience or lifelong learning formally validated by a relevant body.
- 3.9. The Applicant will be permitted to take an aptitude test within six months of the decision imposing an aptitude test on the Applicant.
- 3.10. When providing Services in England and Wales on a permanent basis, the Applicant must comply with Regulation 43 in regard to the title under which professional services are provided.

4. PARTIAL ACCESS

- 4.1. CILEx Regulation will grant partial access to perform certain professional activities related to provision of Services in England and Wales, on a case-by-case basis, when all the following conditions are met:
- a) the professional applicant is fully qualified to exercise in their Home State the professional activity for which partial access is sought in England and Wales;
 - b) the differences between the professional activity exercised in the Home State and the practice of a Chartered Legal Executive in England and Wales are so large that any compensation measures would amount to requiring the professional applicant to complete the full programme of education and training required in England and Wales before having access to the full practice of a Chartered Legal Executive; and
 - c) the professional activity can be objectively separated from other activities falling under the practice of a Chartered Legal Executive in England and Wales, taking into account whether the professional activity can be pursued autonomously in the professional applicant's Home State.

- 4.2. Professional applicants who are granted partial access under Paragraph 4.1 shall clearly indicate to recipients of their services the scope of their professional activities.
- 4.3. CILEx Regulation may deny partial access if such denial is justified by overriding reasons of general interest, suitable for securing the attainment of the objective pursued, and does not go beyond what is necessary to attain that objective.

5. LANGUAGE CONTROLS

- 5.1. CILEx Regulation may impose controls in accordance with Regulation 6 when seeking to ensure that a professional has knowledge of language necessary for practising the profession in England and Wales.
- 5.2. CILEx Regulation will impose controls where there is a serious and concrete doubt about the Applicant's language knowledge in respect of the professional activities the Applicant intends to pursue.
- 5.3. Any controls imposed under Paragraph 5.1 shall be carried out after the recognition of the professional qualification, and will be proportionate to the activity to be pursued.

6. APPEALS

- 6.1. An Applicant may appeal to the appropriate appeal body, on a matter of law or fact (or both), any of the CILEx Regulation decisions in respect of:
 - a) language controls (Regulation 6);
 - b) partial access (Regulation 10);
 - c) provision of services in England and Wales on a temporary basis (Regulation 13(2)); and/or
 - d) provision of services in England and Wales on a permanent basis (Regulation 42(2)).
- 6.2. The appropriate appeal body shall be the County Court.
- 6.3. In determining the appeal, the appropriate appeal body may:
 - a) give any authorisation to practise and impose any condition which CILEx Regulation could give or impose; or
 - b) remit the matter to CILEx Regulation with such directions as the appeal body sees fit.

- 6.4. The Applicant must appeal the decision within four months of the notification to the Applicant of CILEx Regulation's decision. Any appeal filed exceeding four months shall require permission from the appropriate appeal body.

7. CILEX REGULATION'S OBLIGATION TO ASSIST COMPETENT AUTHORITIES IN RELEVANT EUROPEAN STATES

- 7.1. CILEx Regulation must assist the competent authorities of other relevant European States in order to facilitate the application of the Regulations, in accordance with Regulation 5.
- 7.2. CILEx Regulation may request the authorities of an Applicant's Home State:
- a) in the event of justified doubts, to provide any information relevant to the legality of the Applicant's establishment and good conduct, as well as the absence of any disciplinary or criminal sanctions of a professional nature imposed on the Applicant; and/or
 - b) for information about the Applicant's training courses as necessary to assess substantial differences likely to be harmful to public health and safety.
- 7.3. CILEx Regulation will exchange information with competent authorities of relevant European States regarding disciplinary action or criminal sanctions taken or any other serious, specific circumstances which are likely to have consequences for provision of Services under these Regulations in accordance with Regulation 66. In doing so CILEx Regulation will observe the data protection rules set out in the GDPR, as well as Directives 95/46/EC and 2002/58/EC.