

Annex A

Draft SRA Amendment to Regulatory Arrangements (Referral Fees) Rules [2013]

Preamble

Rules dated [date of approval by the Legal Services Board]

made by the Solicitors Regulation Authority Board under sections 31, 79 and 80 of the Solicitors Act 1974, sections 9 and 9A of the Administration of Justice Act 1985, paragraphs 2 and 3 of Schedule 14 to the Courts and Legal Services Act 1990, section 83 of, and Schedule 11 to, the Legal Services Act 2007 and section 57 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012, with the approval of the Legal Services Board under paragraph 19 of Schedule 4 to the Legal Services Act 2007.

Rule 1

The SRA Code of Conduct 2011 shall be amended as follows:

- (a) in Chapter 6, at the end of O(6.3) replace “.” with “;” and insert:

“O(6.4) you are not *paid a prohibited referral fee*.”;

- (b) in Chapter 6, at the end of IB(6.2) replace “.” with “;” and insert:

“IB(6.3) having effective systems in place for assessing whether any *arrangement* complies with statutory and regulatory requirements;

IB(6.4) retaining records and management information to enable you to demonstrate that any *payments* you receive are not *prohibited referral fees*.”;

- (c) in Chapter 6, renumber IB(6.3) and IB(6.4) as IB(6.5) and IB(6.6);

- (d) in Chapter 6, under the heading “Overseas practice”, replace “The outcomes in this Chapter” with “Outcomes 6.1 to 6.3”;

- (e) in Chapter 9, at the end of O(9.7) replace “.” with “;” and insert:

“O(9.8) you do not *pay a prohibited referral fee*”;

- (f) in Chapter 9, at the end of IB(9.6) replace “.” with “;” and insert:

“IB(9.7) having effective systems in place for assessing whether any *arrangement* complies with statutory and regulatory requirements;

IB(9.8) ensuring that any *payments* you make for services, such as marketing, do not amount to the *payment of prohibited referral fees*;

IB(9.9) retaining records and management information to enable you to demonstrate that any *payments* you make are not *prohibited referral fees*.”;

- (g) in Chapter 9, renumber IB(9.7) to IB(9.9) as IB(9.10) to IB(9.12);

- (h) in Chapter 9, under the heading “In-house practice”, replace “9.7” with “9.8”; and
- (i) in Chapter 9, under the heading “Overseas practice”, replace “The outcomes in this chapter” with “Outcomes 9.1 to 9.7”.

Rule 2

The SRA Handbook Glossary 2012 shall be amended as follows:

- (a) after the definition of “**knowledge**” insert

“LASPO

means the Legal Aid, Sentencing and Punishment of Offenders Act 2012.” ;

- (b) after the definition of “**part-time**” insert

“payment

includes any form of consideration whether any benefit is received by you or by a third party (but does not include the provision of hospitality that is reasonable in the circumstances) and “pay” and “paid” shall be construed accordingly.”;

- (c) after the definition of “**professional services**” insert

“prohibited referral fee

means

- (i) a *payment* prohibited by section 56 of LASPO; or
- (ii) a *payment* made to or by you which appears to the SRA to be a referral fee for the purposes of section 57(7) of LASPO, unless you show that the *payment* was made as consideration for the provision of services or for another reason and not as a referral fee.”

Rule 3

These amendment rules shall come into force on 1 April 2013 or the date of approval by the Legal Services Board, whichever is the later.