

**THE BSB HANDBOOK****PART III – SCOPE OF PRACTICE AND AUTHORISATION RULES, ~~AUTHORISATION AND LICENSING RULES~~****CONTENTS**

- A. APPLICATION OF THESE RULES
  
- B. SCOPE OF PRACTICE RULES
  - B1 NO PRACTICE WITHOUT AUTHORISATION
  - B2 PROVISION OF RESERVED LEGAL ACTIVITIES
  - B3 SCOPE OF PRACTICE AS A SELF-EMPLOYED BARRISTER
  - ~~B4 SCOPE OF PRACTICE AS A BSB AUTHORISED BODY~~
  - ~~B5 SCOPE OF PRACTICE AS AN EMPLOYEE, OWNER OR MANAGER OF A BSB AUTHORISED BODY~~
  - B6 SCOPE OF PRACTICE AS A MANAGER OF AN AUTHORISED (NON BSB) BODY OR AS AN EMPLOYED BARRISTER (AUTHORISED NON-BSB BODY)
  - B7 SCOPE OF PRACTICE AS AN EMPLOYED BARRISTER (NON-AUTHORISED BODY)
  - B8 SCOPE OF PRACTICE OF A BARRISTER CALLED UNDER REGULATION 78
  - B9 LEGAL ADVICE CENTRES
  - B10 BARRISTERS AUTHORISED BY OTHER APPROVED REGULATORS
  
- C. THE PRACTISING CERTIFICATE RULES
  - C1 ELIGIBILITY FOR PRACTISING CERTIFICATES
  - C2 APPLICATIONS FOR PRACTISING CERTIFICATES
  - C3 PRACTISING CERTIFICATE FEES
  - C4 ISSUE OF PRACTISING CERTIFICATES
  - C5 AMENDMENT AND REVOCATION OF PRACTISING CERTIFICATES
  - C6 APPLICATIONS FOR REVIEW
  
- D. THE REGISTRATION OF EUROPEAN LAWYERS RULES
  
- ~~E. ENTITY APPLICATION AND AUTHORISATION~~

- ~~E1 — ELIGIBILITY FOR AUTHORISATION TO PRACTISE AS A BSB AUTHORISED BODY~~
  - ~~E2 — APPLICATIONS FOR AUTHORISATION~~
  - ~~E3 — DECISION PROCESS~~
  - ~~E4 — ISSUES TO BE CONSIDERED BY THE BAR STANDARDS BOARD~~
  - ~~E5 — SUITABILITY CRITERIA IN RESPECT OF HOLPS, HOFAS, NON-AUTHORISED INTEREST HOLDERS, OWNERS AND MANAGERS~~
  - ~~E6 — NOTIFICATION OF THE AUTHORISATION DECISION~~
  - ~~E7 — CONDITIONS OF AUTHORISATION~~
  - ~~E8 — DURATION OF THE AUTHORISATION/LICENCE GRANTED~~
  - ~~E9 — MODIFICATION OF AN AUTHORISATION/LICENCE~~
  - ~~E10 — REVOCATION/SUSPENSION OF AN AUTHORISATION/LICENCE~~
  - ~~E11 — APPLICATIONS FOR REVIEW~~
  - ~~E12 — REGISTER OF AUTHORISED BODIES~~
- ~~F. — ONGOING COMPLIANCE WITH THE AUTHORISATION AND LICENSING REQUIREMENTS~~
- ~~F1. — NON COMPLIANCE WITH THE MANDATORY CONDITIONS~~
  - ~~F2. — LOSS OR REMOVAL OF A MANAGER AUTHORISED TO DO A PARTICULAR RESERVED LEGAL ACTIVITY~~
  - ~~F3. — TEMPORARY EMERGENCY APPROVALS FOR HOLPS AND HOFAS~~

## A. APPLICATION

III.A1. Section III.B applies to all *BSB regulated persons* 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.

III.A2. Section III.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.

III.A3. Section III.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 III.B.

~~III.A4. Section III.E applies to all entities wishing to be regulated by the BSB and sets out the basis upon which entities may be:~~

~~4.1 — authorised to practise as either a *barrister only entity* or *legal disciplinary practice*; or~~

~~4.2 — licensed to practise as a *BSB licensed body*.~~

~~III.A5. Section III.F applies to all BSB authorised bodies. It contains the continuing compliance requirements which apply to them.~~

## B. SCOPE OF PRACTICE

### B1. No practice without authorisation

III.B1.R1. You must not carry on any *reserved legal activity* unless you are entitled to do so under the *LSA*.

#### **Guidance to Rule III.B1.R1**

III.B1.G1. 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 his *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 III permits you to carry on the *reserved legal activities* specified in your authorisation.

III.B1.R2. 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.

III.B1.R3. If:

III.B1.R3.1 you are an individual and do not have a *practising certificate*; or

~~III.B1.R3.2 you are an entity and you have not been authorised or licensed to provide *reserved legal activities* in accordance with Section III.E,~~

then:

(a) you may not practise as a *barrister* or a *registered European lawyer* ~~or as a *BSB authorised body* (as appropriate); and~~

(b) you are not authorised by the *Bar Council* to carry on any *reserved legal activity*.

III.B1.R4. For the purposes of this *Handbook*, you practise as a *barrister* or a *registered European lawyer*, ~~or a *BSB authorised body*~~ if you are supplying *legal services* and:

- III.B1.R4.1 you are an individual and you hold a *practising certificate*; or
- III.B1.R4.2 you hold yourself out as a *barrister* or a *registered European lawyer* (as appropriate) or
- ~~III.B1.R4.3 you are an entity and you have been authorised or licensed to provide reserved legal activities in accordance with Section III.E; or~~
- III.B1.R4.4 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 Council* (as the case may be).
- III.B1.R5. For the purposes of this Section III.B1 any reference to the supply of *legal services* includes an offer to supply such services.
- III.B1.R6. Rule III.B1.R4.1 above does not apply to you if you are a *pupil* in the non-practising six months of *pupillage* if and insofar as you accept a noting brief with the permission of your *pupil-supervisor* or head of *chambers* ~~or HOLP~~.
- III.B1.R7. If you are a *barrister* or *registered European lawyer* but do not hold a *practising certificate* and you supply *legal services* in the manner provided for in Rules III.B1.R8, III.B1.R9 or III.B1.R10 below, then you shall not, by reason of supplying those services:
- III.B1.R7.1 be treated for the purposes of this Section B of Part III as *practising barrister* or a *registered European lawyer*; or
- III.B1.R7.2 be subject to the rules in Part II of this *Handbook* or the rules in this Section III.B which apply to *practising barristers*.
- III.B1.R8. Rule III.B1.R7 applies to you if and insofar as:
- III.B1.R8.1 you are practising as a *foreign lawyer*; and
- III.B1.R8.2 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).

III.B1.R9. Rule III.B1.R7 applies to you if:

III.B1.R9.1 you are authorised and currently permitted to carry on reserved legal activities by another *Approved Regulator*; and

III.B1.R9.2 you hold yourself out as a *barrister* or a *registered European lawyer* (as appropriate) ~~other than as a manager or employee of a BSB authorised body~~; and

III.B1.R9.3 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*.

III.B1.R10. Rule III.B1.R7 applies to you provided that:

III.B1.R10.1 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

III.B1.R10.2 if you supply any *legal services* in England and Wales, you were called to the *Bar* before 31 July 2000; and

III.B1.R10.3 before 31 March in each year, and promptly after any change in the details previously supplied to the *Bar Council* (acting by the *Bar Standards Board*), you provide in writing to the *Bar Council* (acting by 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, an *authorised body*, the name, address, email address, telephone number and the name of the *authorised body* and its *Approved Regulator*; and

III.B1.R10.4 unless you only offer services to your *employer* or to the *authorised body* 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 *authorised body* 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 II.C5.R6 and you comply with the requirements of Section II.D5.

**B2. Provision of reserved legal activities and of legal services**

III.B2.R1. You may only carry on *reserved legal activities* or supply other *legal services* in the following capacities:

III.B2.R1.1 as a *self-employed barrister*, subject to the limitations imposed by Section III.B3;

~~III.B2.R1.2 as a *BSB authorised body*, subject to the limitations imposed by Section III.B4;~~

~~III.B2.R1.3 as a *manager of a BSB authorised body* or as an *employed barrister (BSB authorised body)*, subject to the limitations imposed by Section III.B5;~~

III.B2.R1.4 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 III.B6;

III.B2.R1.5 as an *employed barrister (non authorised body)*, subject to the limitations imposed by Section III.B7; or

III.B2.R1.6 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*.

III.B2.R2. Where you carry on *reserved legal activities* in one of the capacities set out at Rule III.B2.R1, 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.

III.B2.R3. 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 III.B2.R1 after:

III.B2.R3.1 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



III.B2.R3.2 having agreed with each *employer* or *authorised body* 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.

III.B2.R4. If you are a *pupil* who has completed or been exempted from the non-practising six months of *pupillage*, 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).

III.B2.R5. Subject to Rule III.B2.R6, if you are a *barrister* of less than three *years' standing*, you may:

III.B2.R5.1 only supply *legal services* to *the public* or exercise any *right of audience* by virtue of authorisation by the *Bar Standards Board*; or

III.B2.R5.2 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.

III.B2.R6. If you are an *employed barrister (non-authorised body)* and you are only providing *legal services*, exercising a *right of audience* or conducting litigation for those *persons* listed at Rule III.B7.R2.1 to III.B7.R2.6, 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.

III.B2.R7. In Rule III.B2.R5 and Rule III.B2.R6 above, the references to "qualified *person*" mean the following:

*Supply of legal services to the public – qualified person*

III.B2.R7.1 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 III.B2.R5 if he:

- (a) has been entitled to *practise* and has *practised* as a *barrister* (other than as a *pupil* who has not completed *pupillage* in accordance with the *Bar Training Regulations*) 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 has made such *practise* his primary occupation; and
- (c) is 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*

III.B2.R7.2 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 III.B2.R5 if he:
  - (i) has been entitled to *practise* and has *practised* as a *barrister* (other than as a *pupil* who has not completed *pupillage* in accordance with the *Bar Training Regulations*) 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) has made such *practise* his primary occupation; and
    - (2) has been entitled to exercise a *right of audience* before every *court* in relation to all proceedings; and
  - (iii) is not acting as a qualified *person* in relation to more than two other people; and
  - (iv) has 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 III.B2.R5 if he:
- (i) has 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 III.B2.R7.3(a)(i) and Rule III.B2.R7.3(a)(ii) above; and
  - (ii) is not acting as a qualified *person* in relation to more than two other people; and
  - (iii) has 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*

III.B2.R7.3 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 III.B2.R5 if he:

- (i) has been entitled to *practise* and has *practised* as a *barrister* (other than as a *pupil* who has not completed *pupillage* in accordance with the *Bar Training Regulations*) 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 has made such *practice* his primary occupation; and
  - (iii) is entitled to *conduct litigation* before every *court* in relation to all proceedings; and
  - (iv) is not acting as a qualified *person* in relation to more than two other people; and
  - (v) has 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 III.B2.R5 and Rule III.B2.R6 if he:
- (i) has 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 III.B2.R7.4(a)(i) and Rule III.B2.R7.4(a)(ii) above; and
  - (ii) is not acting as a qualified *person* in relation to more than two other people; and
  - (iii) has not been designated by the *Bar Standards Board* as unsuitable to be a qualified *person*..

**Guidance to Rules III.B2.R5 and III.B2.R7**

III.B2.G1. 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*.

### **B3. Scope of Practice as a Self-Employed Barrister**

III.B3.R1. Rules III.B3.R2 and III.B3.R3 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.

III.B3.R2. You may only supply *legal services* if you are appointed or instructed by the *court* or instructed:

III.B3.R2.1 by a professional *client* (who may be an *employee* of the *client*); or

III.B3.R2.2 by a *licensed access client*, in which case you must comply with the *licensed access rules*; or

III.B3.R2.3 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 hold yourself out as 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 hold yourself out as willing to accept *instructions* from lay *clients*.

#### **Guidance to Rule III.B3.R2**

III.B3.G1. References to professional *client* in Rule III.B3.R2.1 include *foreign lawyers* and references to *client* in Rule III.B3.R2.3 include *foreign clients*.

III.B3.G2. 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 II.C3.R11 or R12.

III.B3.R3. Subject to Rule III.B3.R4, you must not in the course of your *practice* undertake the management, administration or general conduct of a *client's* affairs.

III.B3.R4. Nothing in Rule III.B3.R3 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.

**B4. Scope of Practice as a BSB authorised body**

III.B4.R1. — Rules III.B4.R2 and III.B4.R3 apply to you where you are acting in your capacity as a *BSB authorised body*.

III.B4.R2. — You may only supply *legal services* if you are appointed or instructed by the *court* or instructed:

III.B4.R2.1 — by a professional *client* (who may be an *employee* of the *client*);

III.B4.R2.2 — by a *licensed access client*, in which case you must comply with the *licensed access rules*; or

III.B4.R2.3 — by or on behalf of any other *client*, provided that:

(a) — the individual in the *BSB authorised body* with overall responsibility in respect of the matter is either:

(i) — a *barrister* entitled to undertake public access work (in which case you must comply with the *public access rules* in relation to such matter); or

(ii) — a *person* that is authorised to *conduct litigation*; and

(b) — you have notified the *Bar Standards Board* that you hold yourself out as willing to accept *instructions* from lay *clients*.

**Guidance to Rule III.B4.R2**

III.B4.G1. — References to professional *client* in Rule III.B4.R2.1 include *foreign lawyers* and references to *client* in Rule III.B4.R2.3 include *foreign clients*.

III.B4.G2. — 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 III.B4.R2.1 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:

III.B4.G2.1 — 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;~~

~~III.B4.G2.2 — 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~~

~~III.B4.G2.3 — not appear in *court* unless a *solicitor* or other authorised litigator has been instructed to conduct the litigation.~~

~~III.B4.R3. — Subject to Rule III.B4.R4, you must not in the course of your *practice* undertake the management, administration or general conduct of a *client's* affairs.~~

~~III.B4.R4. — Nothing in Rule III.B4.R3 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.~~

B5: Scope of Practice as a Manager of a *BSB Authorised Body* or as an *Employed barrister (BSB Authorised Body)*

~~**B5. Scope of Practice as a manager of a BSB authorised body or as an employed barrister (BSB authorised body)**~~

~~III.B5.R1. Rules III.B5.R2 and III.B5.R3 below apply to you where you are acting in your capacity as a *manager of a BSB authorised body* or as an *employed barrister (BSB authorised body)*.~~

~~III.B5.R2. You may only supply *legal services* to the following *persons*:~~

~~III.B5.R2.1 the *BSB authorised body*; or~~

~~III.B5.R2.2 any *employee, director, or company secretary of the BSB authorised body*, in a matter arising out of or relating to that *person's employment*;~~

~~III.B5.R2.3 any *client* of the *BSB authorised body*;~~

~~III.B5.R2.4 if you supply *legal services* at a *Legal Advice Centre*, *clients* of the *Legal Advice Centre*; or~~

~~III.B5.R2.5 if you supply *legal services* free of charge, *members* of the *public*.~~

~~III.B5.R3. Subject to Rule III.B5.R4, you must not in the course of your *practice* undertake the management, administration or general conduct of a *client's* affairs.~~

~~III.B5.R4. Nothing in Rule III.B5.R3 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.~~

B6: Scope of Practice as a Manager of an Authorised (Non-BSB) Body or an Employed barrister (Authorised Non-BSB Body)

**B6. Scope of Practice as a manager of an authorised (non-BSB) body or as an employed barrister (authorised non-BSB body)**

III.B6.R1. Rules III.B6.R2 and III.B6.R3 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)*

III.B6.R2. You may only supply *legal services* to the following *persons*:

III.B6.R2.1 the *authorised (non-BSB) body*;

III.B6.R2.2 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*;

III.B6.R2.3 any *client* of the *authorised (non-BSB) body*;

III.B6.R2.4 if you provide *legal services* at a *Legal Advice Centre*, *clients* of the *Legal Advice Centre*; or

III.B6.R2.5 if you supply *legal services* free of charge, members of the public.

III.B6.R3. You must comply with the rules of the *Approved Regulator* or *licensing authority* of the *authorised (non-BSB) body*.

**B7. Scope of Practice as an employed barrister (non authorised body)**

III.B7.R1. Rule III.B7.R2 applies to you where you are acting in your capacity as an *employed barrister (non authorised body)*.

III.B7.R2. You may only supply *legal services* to the following *persons*:

III.B7.R2.1 your *employer*;

III.B7.R2.2 any *employee, director* or company secretary of your *employer* in a matter arising out of or relating to that *person's employment*;

III.B7.R2.3 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;

III.B7.R2.4 if you are employed by or in a Government department or agency, any Minister or Officer of the Crown;

III.B7.R2.5 if you are employed by a *trade association*, any individual member of the association;

III.B7.R2.6 if you are, or are performing the functions of, a *Justices' clerk*, the Justices whom you serve;

III.B7.R2.7 if you are employed by the *Legal Aid Agency*, members of the public;

III.B7.R2.8 if you are employed by or at a *Legal Advice Centre*, *clients* of the *Legal Advice Centre*;

III.B7.R2.9 if you supply *legal services* free of charge, members of the public; or

III.B7.R2.10 if your *employer* is a *foreign lawyer* and the *legal services* consist of foreign work, any *client* of your *employer*.

**B8. Scope of Practice of a Barrister called under Regulation 78**

III.B8.R1. If you are called to the *Bar* under IV.B7.R20 of the *Bar Training Regulations* (temporary membership of the *Bar*), you may not *practise* as a *barrister* other than to conduct the case or cases specified in the certificate referred to in IV.B7.R21.

## **B9. Legal Advice Centres**

III.B9.R1. 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*.

III.B9.R2. If you supply *legal services* at a *Legal Advice Centre* to *clients* of a *Legal Advice Centre* in accordance with Rule III.B9.R1:

III.B9.R2.1 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*;

III.B9.R2.2 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

III.B9.R2.3 you must not have any financial interest in the *Legal Advice Centre*.

### **Guidance to Rules III.B9.R1 and III.B9.R2**

III.B9.G1. You may provide *legal services* at a *Legal Advice Centre* on an unpaid basis irrespective of the capacity in which you normally work.

III.B9.G2. 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*.

III.B9.G3. 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.

**B10. Barristers Authorised by other Approved Regulators**

III.B10.R1. 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*.

## C. PRACTISING CERTIFICATE RULES

### C1. Eligibility for Practising Certificates and Litigation Extensions

III.C1.R1. In this Section 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*.

III.C1.R2. You are eligible for a *practising certificate* if:

III.C1.R2.1 you are a *barrister* or *registered European lawyer* and you are not currently *suspended* from *practice* and have not been disbarred; and

III.C1.R2.2 you meet the requirements of Rules III.C1.R3.1, III.C1.R3.2, III.C1.R3.3 or III.C1.R3.4; and

III.C1.R2.3 either [with effect from 1 April 2014]:

- (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) either the non-practising period of 6 months of pupillage or 12 months of pupillage; or
- (b) if not, you have complied with such training requirements as may be imposed by the *Bar Standards Board*.

III.C1.R3. You are eligible for:

III.C1.R3.1 a *full practising certificate* if either:

- (a) you have satisfactorily completed 12 months *pupillage*; or
- (b) you have been exempted from the requirement to complete 12 months of *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;

III.C1.R3.2 a *provisional practising certificate* if you have satisfactorily completed (or have been exempted from the requirement to complete) the non-practising period of 6 months of *pupillage* and at the time when you apply for a *practising certificate* you are registered as a *Pupil*;

III.C1.R3.3 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 III.C1.R3.1 above; or

III.C1.R3.4 a *registered European lawyer's practising certificate* if you are a *registered European lawyer*.

III.C1.R4. You are eligible for a litigation extension:

III.C1.R4.1 where you have or are due to be granted a *practising certificate* (other than a *provisional practising certificate*); and

III.C1.R4.2 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 III.B2.R7.4) 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 III.B2.R7.4) who is readily available to provide guidance to you;

III.C1.R4.3 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

III.C1.R4.4 you have the procedural knowledge to enable you to *conduct litigation* competently.

**Guidance to Rules III.C1.R4.3**

III.C1.G1. You should refer to the more detailed guidance published by the *Bar Standards Board* from time to time which can be found here [hyperlink]. This gives which 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.

C2: Applications for Practising Certificates and Litigation Extensions by Barristers and *Registered European* Lawyers

**C2. Applications for Practising Certificates and Litigation Extensions by Barristers and Registered European Lawyers**

- III.C2.R1. You may apply for a *practising certificate* by:
- III.C2.R1.1 completing the relevant application form supplied by the *Bar Council* (acting by the *Bar Standards Board*) and submitting it to the *Bar Council* (acting by the *Bar Standards Board*); and
  - III.C2.R1.2 submitting such information in support of the application as may be prescribed by the *Bar Council* (acting by the *Bar Standards Board*); and
  - III.C2.R1.3 paying (or undertaking to pay in a manner determined by the *Bar Council*) the appropriate *practising certificate fee* in the amount determined in accordance with Rule III.C2.R3 (subject to any reduction pursuant to Rule III.C2.R6).
- III.C2.R2. You may apply for a litigation extension to a *practising certificate* (other than a *provisional practising certificate*) by:
- III.C2.R2.1 completing the relevant application form supplied by the *Bar Council* (acting by the *Bar Standards Board*) and submitting it to the *Bar Council* (acting by the *Bar Standards Board*); and
  - III.C2.R2.2 confirming that you meet the relevant requirements of Rule III.C1.R4.2;
  - III.C2.R2.3 paying (or undertaking to pay in a manner determined by the *Bar Council*) the *application fee* (if any) and the *litigation extension fee*;
  - III.C2.R2.4 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 III.C1.R4.3; and
  - III.C2.R2.5 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 III.C1.R4.4.
- III.C2.R3. An application will only have been made under either Rule III.C2.R1 or III.C2.R2 once the *Bar Council* (acting by the *Bar Standards Board*) has received, in respect of the

C2: Applications for Practising Certificates and Litigation Extensions by Barristers and *Registered European* Lawyers relevant application, the application form in full, together with the *application fee* (if any), *the practising certificate fee, the litigation extension fee* (or an undertaking to pay such fees in a manner determined by the Bar Council), 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.

III.C2.R4. On receipt of the application, the *Bar Council* (acting by the *Bar Standards Board*) may require, from you or a third party (~~including, for the avoidance of doubt, any *BSB authorised body*~~), such additional information, documents or references as it considers appropriate to the consideration of your application.

III.C2.R5. You are *personally* responsible for the contents of your application and any information submitted to the *Bar Council* (acting by 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 Council* (acting by the *Bar Standards Board*) which you do not believe is full and accurate..

III.C2.R6. When applying for a *practising certificate* you may apply to the *Bar Council* 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 Council* which can be found [here](#) [hyperlink].

### **C3. Practising Certificate Fees and Litigation Extension Fees**

III.C3.R1. 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:

III.C3.R1.1 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 authorised bodies or *barristers practising with dual capacity*);

III.C3.R1.2 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*;

III.C3.R1.3 any discounts from the annual *practising certificate fee* which may be permitted by the *Bar Council* in the event of payment by specified methods;

III.C3.R1.4 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

III.C3.R1.5 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*.

III.C3.R2. The *litigation extension fee* shall be the amount or amounts prescribed by the *Bar Council* 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:

III.C3.R2.1 any reductions in the annual *litigation extension fees* which may be permitted by the *Bar Council* in the case of *litigation extensions* which are valid for only part of a *practising certificate year*;

- III.C3.R2.2 any discounts from the annual *litigation extension fee* which may be permitted by the *Bar Council* in the event of payment by specified methods;
- III.C3.R2.3 any reduction in, or rebate from, the annual *litigation extension fee* which may be permitted by the *Bar Council* on the grounds of low income, change of category, or otherwise; and
- III.C3.R2.4 any surcharge or surcharges to the annual *litigation extension fee* which may be prescribed by the *Bar Council* 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*.
- III.C3.R3. If you have given an undertaking to pay the *practising certificate fee* or the *litigation extension fee*, you must comply with that undertaking in accordance with its terms.

#### **C4. Issue of Practising Certificates and Litigation Extensions**

III.C4.R1. The *Bar Council* (acting by the *Bar Standards Board*) shall not issue a *practising certificate* to a *barrister* or *registered European lawyer*.

III.C4.R1.1 who is not eligible for a *practising certificate*, or for a *practising certificate* of the relevant type; or

III.C4.R1.2 who has not applied for a *practising certificate*; or

III.C4.R1.3 who has not paid or not otherwise undertaken to pay in a manner determined by the Bar Council, the appropriate *practising certificate fee*; or

III.C4.R1.4 who is not insured against claims for professional negligence as provided for in Rule II.C5.R3.

III.C4.R2. The *Bar Council* (acting by the *Bar Standards Board*) shall not grant a *litigation extension* to a *barrister* or *registered European lawyer*.

III.C4.R2.1 in circumstances where the Bar Council (acting by the Bar Standards Board) is not satisfied that the requirements of *litigation extension* are met; or

III.C4.R2.2 who has not applied for a *litigation extension*; or

III.C4.R2.3 who has not paid or not otherwise undertaken to pay in a manner determined by the Bar Council, the appropriate *application fee* (if any) and the *litigation extension fee*.

III.C4.R3. The *Bar Council* (acting by 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 III.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*.

III.C4.R3.1 does not hold adequate insurance in accordance with Rule II.C5.R6;

- III.C4.R3.2 has failed and continues to fail to pay the *appropriate practising certificate fee* or *litigation extension fee* when due;
- III.C4.R3.3 would be, or is, *practising* in breach of the provisions of Section III.B; or
- III.C4.R3.4 has not complied with any of the requirements of the Continuing Professional Development Regulations applicable to him.
- III.C4.R4. When the *Bar Council* (acting by the *Bar Standards Board*) issues a *practising certificate* or a *litigation extension*, it shall:
- III.C4.R4.1 inform the relevant *barrister* or *registered European lawyer* of that fact; and
- III.C4.R4.2 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 III.C4.R5 in the register on the *Bar Standards Board's* website; or
- III.C4.R4.3 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 III.C4.R10; 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*.
- III.C4.R5. A *practising certificate* must state:
- III.C4.R5.1 the name of the *barrister* or *registered European lawyer* (as the case may be);
- III.C4.R5.2 the period for which the *practising certificate* is valid;
- III.C4.R5.3 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;



- III.C4.R5.4 the capacity (or capacities) in which the *barrister or registered European lawyer* (as the case may be) practises; and
- III.C4.R5.5 whether the *barrister or registered European lawyer* (as the case may be) is registered with the *Bar Council* as a *Public Access* practitioner.
- III.C4.R6. 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*.
- III.C4.R7. A *full practising certificate* shall authorise a *barrister* to exercise a *right of audience* before every *court* in relation to all proceedings.
- III.C4.R8. A *provisional practising certificate* shall authorise a *pupil* in his second six to exercise a *right of audience* before every *court* in relation to all proceedings.
- III.C4.R9. 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 he had by reason of being a *barrister* and was entitled to exercise on 30 July 2000.
- III.C4.R10. 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*.
- III.C4.R11. Every *practising certificate* issued to a *barrister* shall authorise the *barrister*:
- III.C4.R11.1 to undertake:
- (a) *reserved instrument activities*;
  - (b) *probate activities*;
  - (c) *the administration of oaths*; and
  - (d) *immigration work*.
- III.C4.R12. 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:
- III.C4.R12.1 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 he acts 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

III.C4.R12.2 a *registered European lawyer* is not authorised to prepare for remuneration any instrument creating or transferring an interest in land unless he has a *home professional title* obtained in Denmark, the Republic of Ireland, Finland, Sweden, Iceland, Liechtenstein, Norway, the Czech Republic, Cyprus, Hungary or Slovakia.

## **C5. Amendment and Revocation of Practising Certificates and Litigation Extensions**

III.C5.R1. You must inform the *Bar Council* (acting by 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:

III.C5.R1.1 was incomplete or inaccurate when the application form was submitted;  
or

III.C5.R1.2 changes before the expiry of your *practising certificate*.

III.C5.R2. If you wish to:

III.C5.R2.1 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 authorised body~~ 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

III.C5.R2.2 cease to be authorised to *conduct litigation*,

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

(a) notify the *Bar Council* (acting by the *Bar Standards Board*) of such requested amendment to your *practising certificate*; and

(b) submit to the *Bar Council* (acting by the *Bar Standards Board*) such further information as the *Bar Council* (acting by 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

C5: Amendment and Revocation of Practising Certificates and Litigation Extensions  
annual *practising certificate fee* is less than the amount originally paid to the *Bar Council* (acting by the *Bar Standards Board*) or in circumstances where you wish to cease to be authorised to *conduct litigation*, the *Bar Council* (acting by the *Bar Standards Board*) is not under any obligation to refund any part of the annual *practising certificate fee* or *litigation extension 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.

III.C5.R3. The *Bar Council* (acting by 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:

III.C5.R3.1 giving written notice to the *barrister* or *registered European lawyer* of the grounds on which the *practising certificate* may be amended; and

III.C5.R3.2 giving the *barrister* or *registered European lawyer* a reasonable opportunity to make representations.

III.C5.R4. The *Bar Council* (acting by 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 Council* (acting by the *Bar Standards Board*) or by a *Disciplinary Tribunal*, *Interim Suspension or Disqualification Panel*, *Fitness to Practise Panel* or the *Visitors to the Inns of Court*.

III.C5.R5. The *Bar Council* (acting by the *Bar Standards Board*):

III.C5.R5.1 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 V or otherwise under section B of Part V;

- (c) if the *barrister or registered European lawyer* has notified the *Bar Council* or the *Bar Standards Board* that he no longer wishes to have a *practising certificate*; and

III.C5.R5.2 may revoke a *practising certificate*:

- (a) in the circumstances set out in Rule III.C4.R3; 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.

III.C5.R6. The *Bar Council* (acting by the *Bar Standards Board*):

III.C5.R6.1 shall revoke a *litigation extension* if the *barrister or registered European lawyer* has notified the *Bar Council* or the *Bar Standards Board* that he no longer wishes to have the *litigation extension*; and

III.C5.R6.2 may revoke a *litigation extension*:

- (a) in the circumstances set out in Rule III.C4.R3; 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:

- (iii) giving written notice to the relevant *barrister or registered European lawyer* of the grounds on which the *litigation extension* may be revoked;  
and
- (iv) giving the relevant *barrister or registered European lawyer* a reasonable opportunity to make representations.

## **C6. Applications for Review**

III.C6.R1. If you contend that the *Bar Council* (acting by the *Bar Standards Board*) has:

III.C6.R1.1 wrongly failed or refused to issue or amend a *practising certificate*; or

III.C6.R1.2 wrongly amended or revoked a *practising certificate*; or

III.C6.R1.3 wrongly failed or refused to issue a *litigation extension*; or

III.C6.R1.4 wrongly revoked a *litigation extension*,

in each case in accordance with this Section III.C, then you may lodge an application for review with the *Qualifications Committee* using the form supplied for that purpose by the *Bar Standards Board* which can be found here [hyperlink]. For the avoidance of doubt, this Section 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 *Visitors to the Inns of Court*.

III.C6.R2. The decision of the *Bar Council* (acting by the *Bar Standards Board*) shall take effect notwithstanding any application for review being submitted in accordance with Rule III.C6.R1. However, the *Bar Council* (acting by 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.

III.C6.R3. If the *Qualifications Committee* finds that the *Bar Council* (acting by the *Bar Standards Board*):

III.C6.R3.1 has wrongly failed or refused to issue a *practising certificate*, then the *Bar Council* it (acting by the *Bar Standards Board*) must issue such *practising certificate* as ought to have been issued; or

III.C6.R3.2 has wrongly failed or refused to amend a *practising certificate*, then the *Bar Council* (acting by the *Bar Standards Board*) must make such amendment to the *practising certificate* as ought to have been made; or

III.C6.R3.3 has wrongly amended a *practising certificate*, then the *Bar Council* (acting by the *Bar Standards Board*) must cancel the amendment; or

III.C6.R3.4 has wrongly revoked a *practising certificate*, then the *Bar Council* (acting by the *Bar Standards Board*) must re-issue the *practising certificate*; or

III.C6.R3.5 has wrongly failed or refused to grant a *litigation extension*, then the *Bar Council* (acting by the *Bar Standards Board*) must grant such *litigation extension* as ought to have been granted; or

III.C6.R3.6 has wrongly revoked a *litigation extension*, then the *Bar Council* (acting by the *Bar Standards Board*) must re-grant the *litigation extension*.



## D. THE REGISTRATION OF EUROPEAN LAWYERS RULES

III.D.R1. 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*.

III.D.R2. An application for registration must be made in such form as may be prescribed by the *Bar Standards Board* and be accompanied by:

III.D.R2.1 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;

III.D.R2.2 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

III.D.R2.3 the prescribed fee.

III.D.R3. Provided that it is satisfied that the application complies with the requirements of Rule III.D.R2, the *Bar Standards Board* will:

III.D.R3.1 register you as a *registered European lawyer*, and

III.D.R3.2 so inform you and the competent authority in your *Member State* which has issued the certificate referred to in Rule III.D.R2.1.

III.D.R4. The *Bar Standards Board* will:

III.D.R4.1 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*;

III.D.R4.2 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 his *home State* to pursue professional activities under his *home professional title* is *suspended*; and

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

- (c) of his 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*.

**E. ENTITY APPLICATION AND AUTHORISATION**

**E1. Eligibility for Authorisation to Practise as a BSB authorised body**

III.E1.R1. In this Section III.E, "you" and "your" refer to the *partnership, LLP or company* which is applying for, or has applied for (in accordance with this Section III.E), authorisation or (if a *licensable body*) a licence to *practise as a BSB authorised body*, and references in these Rules to "authorisation to *practise*" mean the grant by the *Bar Council as Approved Regulator or licensing authority* of an authorisation or a licence (as the case may be) under this Section III.E (distinguishing between the two only where the context so requires).

III.E1.R2. To be eligible for authorisation to *practise as a BSB authorised body*, you:

III.E1.R2.1 must confirm that 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 authorised body*;

III.E1.R2.2 must confirm that you have or will have appropriate insurance arrangements in place in accordance with Rule II.C5.R6 and you must be able to provide evidence of those insurance arrangements if required to do so by the *Bar Standards Board*;

III.E1.R2.3 must confirm that, in connection with your proposed *practice*, you will not directly or indirectly hold *client money* in accordance with Rule II.C5.R1 or have someone else hold *client money* on your behalf other than in those circumstances permitted by Rule II.C5.R2;

III.E1.R2.4 must confirm that no individual that has been appointed or will be appointed as a *HOLP, HOFA, manager or employee* of the *BSB authorised body* has been 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;

III.E1.R2.5 must confirm that you will at all times have a *practising address* in England or Wales;

III.E1.R2.6 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*;~~

~~III.E1.R2.7 without prejudice to Rule III.E1.R3, you have or will have at all times at least one *practising barrister* who is both a *manager* and an *owner*; and~~

~~III.E1.R2.8 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;~~

~~III.E1.R2.9 must confirm that any *owner* will also be a *manager*; and~~

~~III.E1.R2.10 must confirm that you will not be providing any services other than *legal activities*, subject to any minor or incidental examples of other activities which are carried on in the course of supplying the main service and do not materially detract from the focus being *legal activities*; and~~

~~III.E1.R2.11 must confirm that you will pay annual fees as and when they become due.~~

~~III.E1.R3. In addition to the requirements set out at Rule III.E1.R2:~~

~~III.E1.R3.1 to be eligible for authorisation to *practise as a barrister only entity*:~~

~~(a) all of the *managers* of the *partnership*, *LLP* or *company* (as the case may be) must be *practising barristers*; 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 practising barristers;~~

~~III.E1.R3.2 to be eligible for authorisation to practise as a legal disciplinary practice:~~

~~(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;~~

~~III.E1.R3.3 to be eligible 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 III.E1.R2; 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.~~

~~III.E1.R4. In the event that you meet the eligibility criteria set out in Rules III.E1.R2, you may submit an application in accordance with Section III.E2 and the Bar Standards Board will review that application in accordance with Section III.E3 to determine whether or not to authorise you or to grant you a licence (as appropriate) to practise as a BSB authorised body. In the event that the Bar Standards Board determines that you should be authorised or licensed (as appropriate) to practise as a BSB authorised body then it may either:~~

~~III.E1.R4.1 authorise you to practise as a barrister only entity or a legal disciplinary practice in the event that you also meet the eligibility criteria set out in Rules III.E1.R3.1 or III.E1.R3.2 respectively and you have applied to be authorised as such in your relevant application form; or~~

~~III.E1.R4.2 — license you to practise as a *BSB licensed body*, in the event that you meet the eligibility criteria set out in Rule III.E1.R3.3 and you have applied to be authorised as such in your relevant application form.~~

~~III.E1.R5. — Such authorisation or licence (as appropriate) will entitle you to:~~

~~III.E1.R5.1 — to exercise a *right of audience* before every court in relation to all proceedings;~~

~~III.E1.R5.2 — to carry on:~~

~~(a) — *reserved instrument activities*;~~

~~(b) — *probate activities*;~~

~~(c) — *the administration of oaths*;~~

~~III.E1.R5.3 — to do *immigration work*; and~~

~~III.E1.R5.4 — if you have been granted a *litigation extension*, to conduct litigation.~~

**Guidance on Rules III.E1.R1 to III.E1.R5**

~~III.E1.G1. — Single *person* entities are permitted under these arrangements. Therefore, a *barrister only 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.~~

~~III.E1.G2. — 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 III.E3 below).~~

## **E2. Applications for Authorisation**

### *Application to be authorised or licensed as a BSB authorised body*

III.E2.R1. To apply for authorisation to *practise as a BSB authorised body*, you must:

III.E2.R1.1 complete the application form supplied by the *Bar Standards Board* and submit it to the *Bar Standards Board*; and

III.E2.R1.2 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

III.E2.R1.3 pay the *application fee* in the amount determined in accordance with Rule III.E2.R7 and the *authorisation fee* for the first year.

### *Application for a litigation extension*

III.E2.R2. To apply for a *litigation extension* you must:

III.E2.R2.1 make this clear on your application form submitted in accordance with III.E2.R1 (where appropriate) or otherwise submit the relevant application form made available by the *Bar Standard Board* on its website for this purpose; and

III.E2.R2.2 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* in the amount determined in accordance with Rule III.E2.R7; and

III.E2.R2.3 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 on Rules III.E2.R1 and III.E2.R2**

III.E2.G1. — ~~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.~~

III.E2.G2. — ~~a qualified person referred to in Rule III.E2.R2.3 shall be defined in accordance with Rule III.B2.R7.1~~

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

III.E2.R3. — ~~If, following authorisation or the grant of a licence (as appropriate), a BSB authorised body wishes to appoint a new HOLP, HOFA, owner or manager, the BSB authorised body must:~~

III.E2.R3.1 — ~~notify the Bar Standards Board of such a proposed appointment before it is made; and~~

III.E2.R3.2 — ~~make an application to the Bar Standards Board for approval of the new HOLP, HOFA, owner or manager (as appropriate); and~~

III.E2.R3.3 — ~~pay any fees set by the Bar Standards Board in respect of such approval applications.~~

*Application Process*

III.E2.R4. — ~~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.~~

III.E2.R5. — ~~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.~~



~~III.E2.R6. — 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..~~

~~III.E2.R7. — 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 on Rules III.E2.R4 to III.E2.R7***

~~III.E2.G3. — Application forms and guidance notes for completion can be found on the *Bar Standard Board's* website.~~

~~III.E2.G4. — Once you have submitted an application, you must 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.~~

~~III.E2.G5. — Details of the relevant *application fee*, *litigation extension fee*, *authorisation fee* and *litigation fee* can be found on the *Bar Standards Board's* website.~~

### **E3. Decision Process**

~~III.E3.R1. Subject to Rules III.E3.R2 and III.E3.R3, the *Bar Standards Board* must make a decision in respect of each valid and complete application within the *decision period*.~~

~~III.E3.R2. In the event that the *Bar Standards Board* is not able to reach a decision within the *decision period*, it must notify you of such delay and must confirm to you the latest date by which you will have received a response to your application from the *Bar Standards Board*.~~

~~III.E3.R3. The *Bar Standards Board* may issue more than one notice to extend the *decision period* except that:~~

~~III.E3.R3.1 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~~

~~III.E3.R3.2 no notice to extend can result in the total *decision period* exceeding more than 9 months.~~

~~III.E3.R4. 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 III.E3.R2 and III.E3.R3 (as the case may be) or to treat the application as having been withdrawn.~~

#### **E4. Issues to be Considered by the Bar Standards Board**

##### *Applications for authorisation or the grant of a licence*

~~III.E4.R1. In circumstances where the mandatory conditions in Rules III.E1.R2 and III.E1.R3 have been met, the Bar Standards Board must then consider whether to grant the authorisation or licence (as appropriate). In exercising this discretion, the Bar Standards Board must 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 policy objectives of the Bar Standards Board as published from time to time.~~

~~III.E4.R2. In circumstances where the mandatory conditions set out at Rules III.E1.R2 and III.E1.R3 have not been met, the Bar Standards Board must refuse to grant the authorisation or licence (as appropriate).~~

##### **Guidance**

~~III.E4.G1. The Bar Standards Board is a specialist regulator focussing primarily on the regulation of legal advisory, advocacy and litigation services. The Bar Standards Board wishes to ensure that it is an appropriate regulator of your proposed practice, and so, as part of its review of your application, it will assess the nature of the risks posed by you and will consider whether it is appropriate or not for it to regulate you, taking into account the kind of the services which you are intending to provide, and the Bar Standards Board's policy objectives. Factors that the Bar Standards Board must take into account when assessing those risks include:~~

~~III.E4.G1.1 the services which you intend to provide and the nature and extent of any non-reserved activities;~~

~~III.E4.G1.2 the proposed proportion of managers to employees;~~

~~III.E4.G1.3 the proposed proportion of authorised individuals to non-authorised individuals; [see Sarah's latest email]~~

~~III.E4.G1.4 the extent to which your managers have been and/or are going to be actively involved in advocacy and/or litigation services or related advice;~~

~~III.E4.G1.5 — whether any *persons* with an ownership interest (whether material or not) are not individuals;~~

~~III.E4.G1.6 — whether any *managers* are not individuals;~~

~~III.E4.G1.7 — whether you are intending to provide high-volume, standardised legal transactional services direct to lay *clients* and, if so, whether this is likely to constitute a substantial or significant proportion of your *practice*; and~~

~~III.E4.G1.8 — the *practice* systems which you have or are intending to put in place to manage such services.~~

~~III.E4.G2. — The following factors, when present, would indicate that it may be appropriate for the *Bar Standards Board* to regulate you:~~

~~III.E4.G2.1 — if all of your owners and all of your *managers* are individuals;~~

~~III.E4.G2.2 — if 50% or more of your *owners* and 50% or more of your *managers* are entitled to exercise *rights of audience* in the Higher Courts;~~

~~III.E4.G2.3 — if a substantial part of the services to be provided are specialist legal advisory, advocacy and/or litigation services;~~

~~III.E4.G2.4 — if you are not intending to provide high-volume, standardised legal transactional services;~~

~~III.E4.G2.5 — if 75% or more of your *owners* and 75% or more of your *managers* are *authorised individuals*;~~

~~III.E4.G2.6 — if a substantial proportion of your *employees* are going to be *authorised individuals*; and~~

~~III.E4.G2.7 — if each *manager* supervises only a small number of *employees*.~~

~~III.E4.G3. — The following factors, when present, would indicate that it may not be appropriate for the *Bar Standards Board* to regulate you:~~

~~III.E4.G3.1 — If not all of your owners and *managers* are individuals;~~

~~III.E4.G3.2 — if fewer than 50% of your *owners* and fewer than 50% of your *managers*~~

are entitled to exercise *rights of audience* in the Higher Courts;

III.E4.G3.3 — if the provision of specialist legal advisory, advocacy and/or litigation services is not a significant proportion of your proposed *practice*;

III.E4.G3.4 — if a substantial part of the services to be provided are high-volume, standardised legal transactional services direct to lay *clients*;

III.E4.G3.5 — if fewer than 75% of your owners and 75% of your *managers* are *authorised individuals*; and

III.E4.G3.6 — if a substantial proportion of your *employees* will be *non-authorised individuals*.

III.E4.G4. — If you meet all of the requirements of Guidance III.E4.G2 above you may still be refused authorisation if the *Bar Standards Board's* analysis of the risks posed by you indicate that it may not be appropriate for the *Bar Standards Board* to regulate you. Similarly, if you have similar characteristics to those described in Guidance III.E4.G3 you may still be granted authorisation by the *Bar Standards Board* if the *Bar Standards Board* is satisfied that the risks posed by your organisation can be managed effectively, and considers that it would be consistent with the *regulatory objectives* of the *LSA* and the policy objectives of the *Bar Standards Board* to grant such authorisation to you.

III.E4.R3. — Where the *Bar Standards Board* concludes that you are an entity which it is appropriate for it to regulate in accordance with Rule III.E4.R1 and Guidance III.E4.G1 to III.E4.G4, the *Bar Standards Board* may still refuse your application for authorisation if:

III.E4.R3.1 — it is not satisfied that your *managers* and *owners* meet the relevant *suitability criteria* which apply to *managers* and *owners* of *BSB authorised bodies*;

III.E4.R3.2 — 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*;

III.E4.R3.3 — if it is not satisfied that your proposed *HOLP* and *HOFA* meet the relevant *suitability criteria*;

~~III.E4.R3.4 — 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*;~~

~~III.E4.R3.5 — 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;~~

~~III.E4.R3.6 — you have provided inaccurate or misleading information in your application or in response to any requests by the *Bar Standards Board* for information;~~

~~III.E4.R3.7 — you have failed to notify the *Bar Standards Board* of any changes in the information provided in the application;~~

~~III.E4.R3.8 — you have applied for authorisation to become a *barrister only entity* or a *legal disciplinary practice* and the *Bar Standards Board* has concluded that it may require the intervention powers allocated to it in respect of *licensed bodies* under the *LSA* in respect of you; or~~

~~III.E4.R3.9 — for any other reason, the *Bar Standards Board* considers that it would be against the *regulatory objectives* of the *LSA* or the policy objectives of the *Bar Standards Board* to grant authorisation to you.~~

**Guidance to Rule III.E4.R3**

~~III.E4.G5. — In circumstances where the *Bar Standards Board* rejects your application on the basis of Rule III.E4.R3, you will have the opportunity to make the necessary adjustments to your composition and to re-apply to become a *BSB authorised body* or a *BSB licensed body* (as appropriate).~~

*Applications for authorisation to conduct litigation*

~~III.E4.R4. — If the *Bar Standards Board* is unable to satisfy itself that the *BSB authorised body* meets the requirements set out in Rule III.E2.R2, it can refuse to grant the litigation extension.~~

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

~~III.E4.R5. The *Bar Standards Board* must consider any approval applications for any new *HOLPs, HOFAs, owners and/or managers* made in accordance with Rule III.E2.R3 and must determine any application by deciding whether the relevant individual meets the *suitability criteria* which apply relevant to such a proposed appointment.~~

**E5. Suitability Criteria in respect of HOLPs, HOFAs, owners and managers**

~~III.E5.R1. The Bar Standards Board must conclude that an individual is not a fit and proper person to undertake the role of a HOLP if:~~

~~III.E5.R1.1 he is not an authorised individual; or~~

~~III.E5.R1.2 he is disqualified from acting as a HOLP by the Bar Standards Board or an Approved Regulator pursuant to section 99 of the LSA or otherwise as a result of its regulatory arrangements.~~

~~III.E5.R2. The Bar Standards Board must conclude that an individual is not a fit and proper person to undertake the role of a HOLP if:~~

~~III.E5.R2.1 any of the circumstances listed in Rule III.E5.R7 apply to the person designated as the HOLP; or~~

~~III.E5.R2.2 the Bar Standards Board considers that the person is not able effectively to carry out the duties imposed on a HOLP by section 91 of the LSA.~~

~~III.E5.R3. The Bar Standards Board must conclude that an individual is not a fit and proper person to act as a HOFA if he is disqualified from acting as a HOFA by the Bar Standards Board or by an Approved Regulator pursuant to section 99 of the LSA or otherwise as a result of its regulatory arrangements.~~

~~III.E5.R4. The Bar Standards Board may conclude that an individual is not a fit and proper person to act as a HOFA if:~~

~~III.E5.R4.1 any of the circumstances listed in Rule III.E5.R7 apply to him; or~~

~~III.E5.R4.2 the Bar Standards Board considers that he is not able effectively to carry out the duties imposed on a HOFA by section 92 of the LSA.~~

~~III.E5.R5. If an owner is also a non-authorised individual, the Bar Standards Board must approve him as an owner. The Bar Standards Board shall approve a non-authorised individual to be an owner of BSB licensed body if:~~

~~III.E5.R5.1 he is also a manager and approved as such; and~~



~~III.E5.R5.2 — his holding of an ownership interest does not compromise the *regulatory objectives*; and~~

~~III.E5.R5.3 — his 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~~

~~III.E5.R5.4 — he is otherwise a fit and proper person to hold that ownership interest taking into account:~~

~~(a) — his probity and financial position;~~

~~(b) — whether he is 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) — his *associates*; and~~

~~(d) — the *suitability criteria* in Rule III.E5.R7 which apply to *managers* and *employees*.~~

~~III.E5.R6. — If a *manager* is a *non-authorised individual*, the *Bar Standards Board* must approve him as a *manager*. The *Bar Standards Board* must approve a *non-authorised individual* to be a *manager* of a *BSB licensed body* if he is a fit and proper person to hold that interest taking into account:~~

~~(a) — His probity;~~

~~(b) — whether he is 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~~

~~(c) — the *suitability criteria* in Rule III.E5.R7 which apply to *managers* and *employees*.~~

~~III.E5.R7. — The *Bar Standards Board* may reject an application if it is not satisfied that:~~

~~III.E5.R7.1 — 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~~

~~III.E5.R7.2 — any individual identified as a replacement *owner, manager, HOLP or HOFA*,~~

~~is a fit and proper *person* to act as an *owner, manager, HOLP or HOFA* of a *BSB authorised body*. Reasons why the *Bar Standards Board* may conclude that an individual is not a fit and proper *person* include where:~~

~~III.E5.R7.3 — has been committed to prison in civil or criminal proceedings;~~

~~III.E5.R7.4 — has been disqualified from being a *director*;~~

~~III.E5.R7.5 — 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;~~

~~III.E5.R7.6 — is an undischarged bankrupt;~~

~~III.E5.R7.7 — has been adjudged bankrupt and discharged;~~

~~III.E5.R7.8 — has entered into an individual voluntary arrangement or a *partnership* voluntary arrangement under the Insolvency Act 1986;~~

~~III.E5.R7.9 — has been a *manager* of an *authorised body* or a *BSB authorised body* which has entered into a voluntary arrangement under the Insolvency Act 1986;~~

~~III.E5.R7.10 — has been a *director* of a *company* or a *member* of an *LLP* 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;~~

~~III.E5.R7.11 — 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;~~

~~III.E5.R7.12 is the subject of an outstanding judgment or judgments involving the payment of money;~~

~~III.E5.R7.13 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;~~

~~III.E5.R7.14 has been disqualified from being appointed to act as a *HOLP* or a *HOFA* or from being a *manager* or employed by a *licensed body* (as appropriate) by the *Bar Standards Board* or another *Approved Regulator* pursuant to its or their powers under section 99 of the *LSA* or otherwise as a result of its regulatory arrangements;~~

~~III.E5.R7.15 has been the subject in another jurisdiction of circumstances equivalent to those listed in Rules III.E5.R7.1 to III.E5.R7.14;~~

~~III.E5.R7.16 has significant professional conduct actions against them; or~~

~~III.E5.R7.17 has been involved in other conduct which calls into question his or her honesty, integrity, or respect for the law.~~

**E6. Notification of the Authorisation Decision**

~~III.E6.R1. 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 III.E3.R2 or III.E3.R3. In the event that the *Bar Standards Board* decides to refuse to grant the application, it must give the reasons for such refusal.~~

## **E7. Terms of Authorisation**

~~III.E7.R1. Any authorisation given by the Bar Standards Board to a barrister only entity or to a legal disciplinary practice, and the terms of any licence granted by the Bar Standards Board to a BSB licensed body in accordance with this Section III.E must specify:~~

~~III.E7.R1.1 the activities which are reserved legal activities and which the BSB authorised body is authorised to carry on by virtue of the authorisation or the licence (as the case may be); and~~

~~III.E7.R1.2 any conditions subject to which the authorisation or the licence (as the case may be) is given (which may include those in Rule III.E7.R3).~~

~~III.E7.R2. Authorisations and licences must, in all cases, be given on the conditions that:~~

~~III.E7.R2.1 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~~

~~III.E7.R2.2 any other obligation imposed on you (or your managers, employees or owners) by or under the LSA or any other enactment is complied with.~~

~~III.E7.R3. In addition to the provisions in Rule III.E7.R2, an authorisation or a licence may be given subject to such other terms as the Bar Standards Board considers appropriate including terms as to:~~

~~III.E7.R3.1 the non-reserved activities which you may or may not carry on; and/or~~

~~III.E7.R3.2 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.~~

**E8. Duration of the Authorisation/Licence granted**

~~III.E8.R1. Except where indicated otherwise in the authorisation or licence, any authorisation or licence granted in accordance with this Section III.E will be of unlimited duration except that the authorisation or licence:~~

~~III.E8.R1.1 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 III.E10.R1; or~~

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

~~III.E8.R1.2 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 being withdrawn in accordance with this Rule III.E8.R1; or~~

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

**E9. — Modification of an authorisation/licence**

~~III.E9.R1. — In addition to any powers which the Bar Standards Board may have in accordance with Part V, the Bar Standards Board may modify the terms of an authorisation or licence granted by it:~~

~~III.E9.R1.1 — 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~~

~~III.E9.R1.2 — if it is satisfied that any of the information contained in the relevant application form was inaccurate or incomplete or has changed; or~~

~~III.E9.R1.3 — if such modification is required in accordance with the provisions of this Handbook; or~~

~~III.E9.R1.4 — 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;~~

~~but, in the circumstances set out in Rules III.E9.R1.2 to III.E9.R1.4 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.~~

**E10. Revocation or suspension of an authorisation/licence**

~~III.E10.R1. In addition to any powers which the Bar Standards Board may have in accordance with Part V, the Bar Standards Board may:~~

~~III.E10.R1.1 revoke an authorisation or licence granted by it:~~

- ~~(a) subject to Section III.F, in the event that you no longer comply with the mandatory requirements set out in Rules III.E1.R2 and III.E1.R3; or~~
- ~~(b) if your circumstances have changed in relation to the issues considered by the Bar Standards Board in Section III.E4; or~~
- ~~(c) if revocation otherwise appears appropriate taking into account the regulatory objectives of the Bar Standards Board; or~~

~~III.E10.R1.2 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 III.E10.R1,~~

~~but in either case only after:~~

- ~~(i) giving written notice to the relevant BSB authorised body of the grounds on which the authorisation or licence may be revoked; and~~
- ~~(ii) giving the relevant BSB authorised body a reasonable opportunity to make representations.~~



**E11. Applications for Review**

~~III.E11.R1. — If you consider that the *Bar Standards Board* has (other than pursuant to [Section V]):~~

~~III.E11.R1.1 — wrongly refused an application for authorisation or licence; or~~

~~III.E11.R1.2 — wrongly imposed a term or condition on an authorisation or licence; or~~

~~III.E11.R1.3 — wrongly modified the terms of your authorisation or licence; or~~

~~III.E11.R1.4 — wrongly refused to modify the terms of your authorisation or licence; or~~

~~III.E11.R1.5 — wrongly revoked or *suspended* your authorisation or licence; or~~

~~III.E11.R1.6 — wrongly done any of these things in relation to a litigation extension to your authorisation or licence; or~~

~~III.E11.R1.7 — failed to provide to you notice of a decision in accordance with this Section III.E,~~

~~then you may lodge an application for review of that decision with the *Qualifications Committee* 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.~~

~~III.E11.R2. — Any individual:~~

~~III.E11.R2.1 — designated to act as a *HOLP* or a *HOFA*; or~~

~~III.E11.R2.2 — identified as a non-authorised *owner* or *manager* of the *applicant body*,~~

~~who considers that the *Bar Standards Board* has wrongly concluded that he does not meet the *suitability criteria* which apply to his proposed position in the entity, may lodge an application for a review of that decision with the *Qualifications Committee* using the form supplied for that purpose by the *Bar Standards Board*. Alternatively, you may lodge an application for review on his behalf whether or not he has 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.~~

~~III.E11.R3. Any application for a review of the decision must be made within 28 days from the date when the decision is notified to you.~~

~~III.E11.R4. The decision of the *Bar Standards Board* will take effect notwithstanding the making of any application for a review accordance with Rule III.E11.R1 or Rule III.E11.R2. However, the *Bar Standards Board* may, in its absolute discretion, issue a temporary authorisation, licence or litigation extension to a *BSB authorised body* which has lodged an application for a review in accordance with this Section III.E11.~~

~~III.E11.R5. If the *Qualifications Committee* finds that the *Bar Standards Board* has wrongly failed or refused to grant an authorisation or licence, then the *Bar Standards Board* shall issue such authorisation or licence as ought to have been issued.~~

~~III.E11.R6. If the *Qualifications Committee* finds that the *Bar Standards Board* has wrongly imposed a term or condition on an authorisation or licence, then the *Bar Standards Board* shall issue such authorisation or licence as ought to have been issued.~~

~~III.E11.R7. If the *Qualifications Committee* finds that the *Bar Standards Board* has wrongly modified an authorisation or licence, then the *Bar Standards Board* shall make such modification to the authorisation or licence as ought to have been made.~~

~~III.E11.R8. If the *Qualifications Committee* finds that the *Bar Standards Board* has wrongly refused to modify an authorisation or licence, then the *Bar Standards Board* shall make such modification to the authorisation or licence as ought to have been made.~~

~~III.E11.R9. If the *Qualifications Committee* 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.~~

~~III.E11.R10. If the *Qualifications Committee* finds that the *Bar Standards Board* has wrongly done any of these things in relation to your *litigation extension*, then the *Bar Council* (acting by the *Bar Standards Board*) shall grant such *litigation extension* as ought to have been granted.~~

~~III.E11.R11. If the *Qualifications Committee* finds that the *Bar Standards Board* has wrongly concluded that an individual does not meet the *suitability criteria* relevant to his proposed position, the *Bar Standards Board* shall amend its decision and confirm that he does meet the *suitability criteria* which apply to his proposed position.~~

~~III.E11.R12. If, after such a review, you or the relevant individual(s) (as the case may be) do not agree with the decision of the Qualification Committee you or the relevant individual(s) may appeal to the *First Tier Tribunal*<sup>1</sup> against the *Qualification Committee's* decision.~~

~~III.E11.R13. Any appeal to the First-tier Tribunal against a decision of the Qualification Committee must be lodged within 28 days from the date that the decision is notified to you.~~

**Guidance to Rule III.E11**

~~III.E11.G1. [Guidance to be inserted setting out when the BSB may issue a temporary authorisation in accordance with III.E11.R4.]~~

---

<sup>1</sup> This will require secondary legislation and confirmation that the First Tier Tribunal's jurisdiction could be expanded to conclude such appeals in the case of *barrister* only entities and legal disciplinary practices.

**E12. Register**

~~III.E12.R1. The *Bar Standards Board* must keep a public register containing the names and places of practice of all *BSB authorised bodies* (together with details of the reserved legal activities which such *BSB authorised bodies* 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.~~

~~III.E12.R2. If an authorisation or licence is, at any time, *suspended* or made subject to conditions, this must be noted on the register of *BSB authorised bodies* by the *Bar Standards Board*.~~

## ~~F CONTINUING COMPLIANCE WITH THE AUTHORISATION AND LICENSING REQUIREMENTS~~

### ~~F1. Non-compliance with the mandatory conditions~~

~~III.F1.R1. If, at any time, and for whatever reason, you fail to meet the mandatory conditions in Rules III.E1.R2 and III.E1.R3 which apply to the type of *BSB authorised body* 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 *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 III.E10.~~

#### **Guidance**

~~III.F1.G1. Examples of non-compliance include:~~

~~III.F1.G1.1 where your last remaining *barrister*:~~

~~(a) dies; or~~

~~(b) abandons, retires or resigns from the *practice*; or~~

~~III.F1.G1.2 where you are a *barrister only entity* or a *legal disciplinary practice*, a *non-authorised individual* is appointed as a *manager* of or otherwise acquires an ownership interest in such a *practice*, or where you are a *licensable body* and a *non-authorised individual* who is not a *manager* becomes an *owner* (for example on inheriting the interest from a *manager* who dies);~~

~~III.F1.G1.3 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 authorised body* include where:~~

~~(a) he is committed to prison;~~

~~(b) — he is unable to attend to the *practice* because of incapacity caused by illness, accident or age;~~

~~(c) — he becomes and continues to who lack capacity under Part 1 of the Mental Capacity Act 2005;~~

~~(d) — he is made subject to a condition on his *practising certificate* or registration which would be breached if he continues to be an *owner* and/or *manager* of the body; or~~

~~(e) — he is no longer authorised to perform the particular *reserved legal activity*.~~

~~III.F1.G1.4 — you cease to have a *HOLP* or a *HOFA* appointed;~~

~~III.F1.G1.5 — your *HOLP*, *HOFA*, any *manager* or *owner* ceases to meet the relevant *suitability criteria*; or~~

~~III.F1.G1.6 — 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*.~~

~~III.F1.G2. — Examples of proposals that you may submit in order to rectify such non-compliance include:~~

~~III.F1.G2.1 — In the case of Guidance III.F1.G1.1, that you are seeking to appoint a different *practising barrister* to be an *owner* and/or a *manager* of a *BSB authorised body*;~~

~~III.F1.G2.2 — In the case of Guidance III.F1.G1.2, 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* divests himself of his interest as soon as is reasonably practicable, or by seeking a licence from another *licensing authority*, as the case may be [but note Guidance III.F1.G3];~~

~~III.F1.G2.3 — in the case of Guidance III.F1.G1.4, that you are seeking to appoint a replacement *HOLP* or *HOFA* (as appropriate) in accordance with the relevant~~

~~procedure in Rule III.E2.R3;~~

~~III.F1.G2.4 — in the case of Guidance III.F1.G1.5, that you are taking the necessary steps to exclude the *relevant person* from the *practice* and, where necessary, you are taking steps to replace him; and~~

~~III.F1.G2.5 — in the case of Guidance III.F1.G1.6, 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 *barrister only entity* or a *legal disciplinary practice* (as appropriate).~~

~~III.F1.G3. — In respect of Guidance III.F1.G2.2, it may be the case that a *non-authorised individual* obtains an ownership interest in a *BSB authorised body* 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 in a interest *licensed body*. In these cases, it may be that the *BSB authorised body* 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 authorised body* instead satisfies the *Bar Standards Board* that it is taking steps to ensure that such *non-authorised individual* divests himself of his interest as soon as is reasonably practicable (for example, on completion of the relevant probate).—~~

**F2. Temporary emergency approvals for HOLPs and HOFAs**

~~III.F2.R1. If a BSB authorised body ceases to have a HOLP or HOFA whose designation has been approved by the Bar Standards Board, the BSB authorised body must immediately and in any event within seven days:~~

~~III.F2.R1.1 notify the Bar Standards Board;~~

~~III.F2.R1.2 designate another manager or employee to replace its previous HOLP or HOFA, as appropriate; and~~

~~III.F2.R1.3 make an application to the Bar Standards Board for temporary approval of the new HOLP or HOFA, as appropriate.~~

~~III.F2.R2. The Bar Standards Board may grant a temporary approval under this Section III.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.~~

~~III.F2.R3. If granted temporary approval under Rule III.F2.R2 for its designation of a new HOLP or HOFA, the authorised body must:~~

~~III.F2.R1.4 designate a permanent HOLP or HOFA, as appropriate; and~~

~~III.F2.R1.5 submit a substantive application for approval of that designation in accordance with Rule III.E2.R3,~~

~~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 III.E10.~~

---