

Application for Alterations to Regulatory Arrangements

Under Part 3 of Schedule 4 to the Legal Services Act 2007

Application by ACCA

27 April 2022

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1. EXECUTIVE SUMMARY

About ACCA

- 1.1 **ACCA** (the Association of Chartered Certified Accountants) is the global body for professional accountants.
- 1.2 We're a thriving global community of **233,000** members and **536,000** future members based in **178** countries and regions, who work across a wide range of sectors and industries. We uphold the highest professional and ethical values.
- 1.3 We offer everyone everywhere the opportunity to experience a rewarding career in accountancy, finance and management. Our qualifications and learning opportunities develop strategic business leaders, forward-thinking professionals with the financial, business and digital expertise essential for the creation of sustainable organisations and flourishing societies.
- 1.4 Since 1904, being a force for public good has been embedded in our purpose. We believe that accountancy is a cornerstone profession of society and is vital in helping economies, organisations and individuals to grow and prosper. It does this by creating robust trusted financial and business management, combating corruption, ensuring organisations are managed ethically, driving sustainability, and providing rewarding career opportunities.
- 1.5 And through our cutting-edge research, we lead the profession by answering today's questions and preparing for the future. We're a not-for-profit organisation. Find out more at accaglobal.com

Statement of application

- 1.6 ACCA is applying to the Legal Services Board (**LSB**) under Part 3 of Schedule 4 to the Legal Services Act 2007 (**the Act**) for approval of alterations to its regulatory arrangements for probate, in order to give effect to our withdrawal from probate regulation and address concerns raised by the LSB about regulatory gaps.

Structure of the application

- 1.7 Our application is made in accordance with the LSB's information proforma, which summarises the requirements for applications under the Part E of the [Application to Alter Regulatory Arrangements Rules 2021](#).

- 1.8 The application summarises why ACCA is making the application and provides full details of the proposed alterations to the regulatory arrangements, including the rationale for the changes, implementation, and impact on other regulated persons/approved regulators. It details the impact of the proposals on the regulatory objectives and better regulation principles, and it also assesses the impact of the alterations on affected authorised persons, consumers and the public interest. It explains the consultation and engagement process undertaken when developing the proposals leading to the alterations. Finally, it outlines the steps ACCA has taken to (i) remedy the requirements in the [Decision Notice](#) issued by the LSB on 17 January 2022 and obtain assurances from affected authorised persons; and (ii) address instances of non-compliance with the Legal Activities Regulations 2018 (**LAR**).
- 1.9 Terms and abbreviations used in this document appear in **bold** when they are first used. The Glossary in Chapter 11 explains the meanings of frequently used terms and abbreviations.

2. SUMMARY AND OVERVIEW

- 2.1 ACCA has established regulatory arrangements for probate activities and the Legal Activities Regulations 2018 (**LAR**) are contained within the ACCA Rulebook within the UK annex to the Chartered Certified Accountants' Global Practising Regulations 2003 (**GPR**).
- 2.2 On 22 October 2021, ACCA applied to the LSB to cancel its designation as an approved regulator. As part of the application, ACCA also sought approval from the LSB to revoke its regulatory arrangements for probate activities and make consequential changes, effective 1 January 2022. ACCA ceased to authorise its members for non-contentious probate work on 31 December 2021.
- 2.3 In the [Decision Notice](#) issued on 17 January 2022, the LSB refused the application on the basis that granting ACCA's application to alter its regulatory arrangements at that time would be prejudicial to the regulatory objectives and contrary to the public interest. LSB was of the view that ACCA had not been able to provide the assurance to the LSB that persons ACCA had authorised to carry on the reserved legal activity of probate activities had either ceased to do so or had transferred to another approved regulator. Therefore, the LSB was of the view that ACCA had not completed what it set out as the necessary steps in order to effectively cease regulating authorised persons.
- 2.4 ACCA has taken all necessary steps to address the issues raised by the LSB and we are now in a position to re-apply for approval of the proposed changes to our regulatory arrangements. In Chapter 10 we provide Additional Information on the steps we have taken to remedy the situation and how we have gained assurance

that this has been completed. We also explain the steps we have taken to address instances of potential non-compliance with the LAR that were identified by CILEx Regulation (**CRL**) during the transfer of regulation.

- 2.5 ACCA withdrew from probate regulation and ceased to regulate individuals and firms for non-contentious probate, effective 31 December 2021. Therefore, we are applying for approval of alterations to our regulatory arrangements for probate, in order to give effect to our withdrawal from probate regulation and address concerns raised by the LSB about regulatory gaps. We are proposing to implement the changes to the GPR, Annex 1, effective 1 July 2022.
- 2.6 Please note that where relevant information has previously been provided to the LSB we refer to the relevant documentation within our application. A copy of ACCA's Application for Cancellation of Designation (Amended 1 December 2021) is attached at **Appendix 1**.

3. REGULATORY OBJECTIVES AND BETTER REGULATION PRINCIPLES

- 3.1 ACCA has considered how the alterations to its regulatory arrangements will impact on the achievement of the regulatory objectives and we have ensured our regulatory obligations are carried out with due regard to the principles of better regulation. We have also provided a detailed assessment of how the CRL pathway supports the regulatory objectives.
- 3.2 Please refer to ACCA's Application for Cancellation of Designation (Amended 1 December 2021):

Regulatory objectives (paragraphs 2.41 to 2.62).

4. ALTERATIONS TO REGULATORY ARRANGEMENTS

- 4.1 ACCA is proposing to implement the following changes to the GPR, Annex 1 and Appendix 4.

Regulation	Reason for proposed change
GPR, Annex 1, regulation 2	Remove or amend definitions relating to legal activities
GPR, Annex 1, regulation 4(2)(b)	Amend the restrictions on individuals and firms carrying on reserved legal activities and address regulatory gaps

GPR, Annex 1, regulation 5(3)	Remove the qualification requirements to carry on a reserved legal activity
GPR, Annex 1, Appendix 4	Remove the Legal Activities Regulations 2018

- 4.2 The table of tracked changes to the GPR, Annex 1 and Appendix 4 is provided in **Appendix 2**.

Rationale, intent, purpose, and effect of proposed alterations

- 4.3 In 2019, ACCA reviewed its approach to probate regulation in England and Wales in order to assess how best to support our members in practice and provide the greatest opportunity for our small- and medium-sized practices who wish to undertake legal services, whilst managing the risks posed by changes in the regulatory landscape in this area.
- 4.4 The results and recommendations from the probate review were considered by ACCA Council on 19 September 2019 and Council approved
- ACCA providing a pathway for eligible members to achieve probate (and other reserved legal activities) authorisation from CRL;
- and
- ACCA relinquishing its approved regulator (**AR**) status for probate in England and Wales and to ACCA fully exiting legal services regulation.
- 4.5 Following Council's decision and the development of a pathway with CRL, ACCA applied to the LSB to cancel its designation as an AR for the reserved legal activity of probate (non-contentious) on 22 October 2021.
- 4.6 ACCA ceased to accept new applications for probate authorisation from 22 October 2021. Individuals and firms seeking probate authorisation from this date onwards were invited to make an application to CRL. All authorisations by ACCA to undertake non-contentious probate work ceased on 31 December 2021 and ACCA withdrew from probate regulation on this date. This application for approval of alterations to our regulatory arrangements for probate is intended to give effect to ACCA's withdrawal from legal services regulation and address concerns raised by the LSB about regulatory gaps.
- 4.7 Please refer to ACCA's Application for Cancellation of Designation (Amended 1 December 2021):

Section 2 Cancellation of Designation as an Approved Regulator (paragraphs 2.1 to 2.31) which sets out the rationale for ACCA's de-designation as an AR, and the intent, purpose, and effect of the proposed alterations.

Gap or defect in existing regulatory arrangements

- 4.8 The alterations are not intended to remedy a gap or defect in ACCA's existing regulatory arrangements for probate.

Implementation

- 4.9 ACCA is proposing to implement the changes to the GPR, Annex 1, effective 1 July 2022. However, we recognise that the implementation date is dependent on LSB's time limits for the consideration of applications for alterations to regulatory arrangements. The changes will be published on ACCA's website at www.accaglobal.com/Rulebook and communicated to ACCA students and members.

Impact on other regulated persons/approved regulators

- 4.10 ACCA has assessed the impact of the alterations to its regulatory arrangements on other ARs and appropriate regulators. We have also reflected on the potential for regulatory conflict with other regulatory regimes and how such conflict would be addressed.
- 4.11 Please refer to ACCA's Application for Cancellation of Designation (Amended 1 December 2021):

Impact assessments (paragraphs 2.63 to 2.69)

Resolution of regulatory conflict with other regulatory regimes (paragraphs 3.21 to 3.23).

5. CONSULTATION AND ENGAGEMENT

- 5.1 ACCA undertook a consultation and engagement process when developing the proposals leading to the alterations of its regulatory arrangements for probate. Feedback from this process informed the development of the route for the regulation of ACCA probate practitioners with CRL.

- 5.2 Please refer to ACCA's Application for Cancellation of Designation (Amended 1 December 2021):

Stakeholder Engagement (paragraphs 2.32 to 2.40).

6. IMPACT ASSESSMENT

- 6.1 ACCA has assessed the impact of the alterations to its regulatory arrangements on affected authorised persons, consumers, and the public interest. We have also considered the impact on the equality, diversity and inclusion of our regulated population.

- 6.2 Please refer to ACCA's Application for Cancellation of Designation (Amended 1 December 2021):

Impact Assessments (paragraphs 2.63 to 2.69)

Protecting and promoting the public interest (paragraphs 2.43 to 2.44).

7. EVALUATION AND MONITORING

- 7.1 ACCA has no authorised persons and therefore no evaluation and monitoring are required to be undertaken to assess the impact of the alterations once they have been implemented.

8. DRAFT GUIDE OR POLICY TO SUPPORT IMPLEMENTATION

- 8.1 ACCA has no authorised persons and therefore no draft guides or policies are required to support the implementation of the alterations.

9. ADDITIONAL INFORMATION

Decision Notice requirements

- 9.1 In the [Decision Notice](#) issued by the LSB on 17 January 2022, the LSB refused ACCA's application to alter its regulatory arrangements because it considered ACCA had not been able to provide assurance to the LSB that persons we had authorised to carry on the reserved legal activity of probate activities had either ceased to do so or had transferred to another approved regulator.
- 9.2 At that time, ACCA did not have active agreement or commitment from a significant

number of ACCA probate practitioners and firms, whose authorisation by ACCA expired on 31 December 2021, and had not been authorised by an alternative approved regulator, that they had ceased providing probate services.

- 9.3 ACCA had also not been able to evidence that it had undertaken any supervision and monitoring to confirm that those who should have ceased practising probate activities on 31 December 2021, had done so. Further, the websites of a number of individuals and firms appeared to indicate that they were still providing probate services.
- 9.4 Overall, the LSB determined that there remained an unacceptable risk that probate services would be provided by those ACCA probate practitioners and firms who had not been authorised by CRL or another regulator, and would continue to practise probate activities unauthorised.
- 9.5 ACCA has now remedied the LSB's requirements in the Decision Notice. We have obtained active agreement from ACCA probate practitioners in the ceased / deemed ceased categories that they have ceased providing probate services. We have also undertaken supervision and monitoring to confirm that those authorised persons who should have ceased practising probate activities on 31 December 2021 have done so.
- 9.6 The table below summarises the actions taken:

Date	Action
18 January 2022	Guidance on ceasing probate activities, continuing obligations and consequences of practising unregulated published on Cessation of probate activities webpage on ACCA website
19 January 2022	Probate cessation letters issued to all 99 affected authorised persons
19 January 2022	Confirmations requested from 66 ¹ affected authorised persons in cease categories to obtain active agreement to cease probate activities, prioritising high risk categories
2 February 2022	Websites of 66 affected authorised persons in cease categories checked for compliance. 18 were found to be non-compliant.
3 February 2022	Outbound calls to non-responders in cease categories, including those with non-compliant websites

¹ ICAEW advised one member was approved, as at 1 January 2022, but subsequently confirmed ICAEW authorisation effective 24 January 2022. As a result, there is one additional authorised individual and firm that was treated as Cease as at 31 December 2021.

4 February 2022	Follow-up emails to affected authorised persons in cease categories with non-compliant websites
7 February 2022	Follow-up emails to non-responders in cease categories
9 February 2022	Non-compliant websites in cease categories checked for compliance
Not applicable	Referral of non-responders and authorised persons with non-compliant websites to Professional Conduct

9.7 ACCA sent out cessation letters to all **99** of our probate practitioners. The letters formally acknowledged ACCA's withdrawal from legal services regulation and the cessation of ACCA authorisation for non-contentious probate work on 31 December 2021. We also drew attention to certain arrangements and continuing obligations under the GPR. Specifically, we required them to:

- Remove the authorisation statement "*Authorised to undertake non-contentious probate activities by the Association of Chartered Certified Accountants*" from their business stationery and website.
- Remove any information relating to probate services from their website.
- Inform their clients in writing that they are no longer authorised to undertake non-contentious probate activities with ACCA and update their letters of engagement.

9.8 In particular, the cessation letters to **66** members who had been categorised as ceased / deemed to have ceased (these are members whose applications for non-contentious probate were in progress as at 31 December 2021) asked them to confirm that they had ceased to carry out probate activities and would not undertake (or hold themselves out as being able to undertake) probate activities until they had obtained the appropriate authorisation from another approved regulator. We have received responses from all 66 members. All respondents in this category have confirmed that they understood that they are unable to undertake non-contentious probate activities without the appropriate authorisation.

9.9 ACCA also undertook a review of the websites of the 66 members in the ceased / deemed ceased category and identified **18** whose websites referred to probate services and / or authorisation by ACCA for non-contentious probate. We wrote to these individuals and firms and required them to confirm that references to probate services and references to authorisation for non-contentious probate by ACCA were removed without delay. We have received undertakings from all 18 members that they will remove such references and to confirm to us once complete. All 18 members have now updated their websites.

9.10 The table below summarises the outcomes for the 66 members in the ceased / deemed to have ceased categories:

	Confirmation received	Website compliant
Cease – Option	14	3
Cease – CRL No Application	6	4
Cease – CRL Application in Progress	45	11
Cease – ICAEW Application in Progress	1	0
	66	18

- 9.11 We hope that the additional steps ACCA has taken give LSB the assurance that the risk of non-contentious probate services being provided by ACCA members without authorisation has been reduced to an acceptable level, and that the interests of consumers and the public interest are adequately protected and promoted.

Non-compliance with Legal Activities Regulations 2018

- 9.12 During the transfer of regulation, CRL identified three firms authorised for probate by ACCA that may have breached the eligibility requirements of the LAR. The three cases of potential non-compliance were referred by ACCA's Authorisations team to Professional Conduct for consideration. The position of the ACCA members within two of the firms has now been regularised. In relation to these firms, given that the breaches were historic and have been addressed, Professional Conduct considered it was not a proportionate use of ACCA's resources to investigate as ACCA no longer authorised or regulated the firms for the activities in question. The outcomes of the referrals to Professional Conduct were subsequently communicated to CRL. The third case remains open for investigation.

10. CONTACT DETAILS

- 10.1 Further information in respect of this application may be obtained by contacting:

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11. GLOSSARY OF TERMS AND ABBREVIATIONS

11.1 In this application, unless the context otherwise requires:

ACCA	the Association of Chartered Certified Accountants
the Act	the Legal Services Act 2007
affected authorised person	an authorised person who is regulated by ACCA for non-contentious probate
AR	approved regulator; has the meaning given in section 20(2) of the Act
authorised person	has the meaning given in section 18 of the Act
CRL	CILEx Regulation; the independent regulatory body for CILEX, regulating Chartered Legal Executives, CILEx Practitioners, Chartered Legal Executive Advocates, Associate Prosecutors and other CILEX members
GPR	the Chartered Certified Accountants' Global Practising Regulations 2013
LAR	the Legal Activities Regulations 2018
LSB	the Legal Services Board
reserved legal activity	has the meaning given in section 12 of and Schedule 2 to the Act.

12. APPENDICES

12.1 The following enclosures form part of this application:

Appendix	
1	ACCA's Application for Cancellation of Designation (Amended 1 December 2021)
2	2 02 GPR, Annex 1 and Appendix 4 (effective 01.07.22) – Table of Changes