



**April 2022**

**APPLICATION TO THE LEGAL SERVICES BOARD TO AMEND RULES RELATING TO  
THE GRANTING OF PRACTICE RIGHTS CERTIFICATES TO CHARTERED LEGAL  
EXECUTIVES**

**CILEx REGULATION LIMITED**

Room 301, Endeavour House, Wrest Park, Silsoe, Bedford MK45 4HS

T: +44 (0)1234 845770 | F: +44 (0)1234 840989

E: [info@cilexregulation.org.uk](mailto:info@cilexregulation.org.uk) | [www.cilexregulation.org.uk](http://www.cilexregulation.org.uk)

**PROFESSIONAL STANDARDS FOR SPECIALIST LAWYERS**



Registered in England No. 6712409  
VAT Registered No. 904 4448 34

## A. Summary and overview

1. This is an application to amend existing regulatory arrangements relating to the grant of Practice Rights Certificates to chartered legal executives.
2. The Legal Services Board approved the proposed alternative route for chartered legal executives to obtain independent practice rights on 13 October 2020. Since then, CILEx Regulation has undertaken a tender process to select a training and assessment provider, followed by a successful pilot of the proposed alternative route with the chosen provider.
3. In accordance with the [Legal Services Board's decision notice](#) dated 13 October 2020, the amendment proposed in this application is to remove the sunrise clause (rule 39) from the CILEx Regulation Practice Rights Certificate for Chartered Legal Executives Rules so that the proposed alternative route can be made available to all chartered legal executives.
4. This application also considers the points raised by the Legal Services Board in the first application relating to the introduction of the alternative route for chartered legal executives to obtain practice rights, as follows:
  - i. "In relation to this application, we have an expectation that CRL will develop additional public facing guidance to ensure the routes from Fellowship to obtaining practice rights are clearly and coherently explained".
    - CILEx Regulation has created website resources and a link to these has been provided at Section G, paragraph 73 of this application.
    - CILEx Regulation will contact chartered legal executives directly to explain the routes available for obtaining practice rights. Further information has been provided at Section C, paragraph 42 of this application.
  - ii. "We expect to consider the risks associated with this potential conflict of interest in more detail when CRL approaches the LSB for further approval once a training provider has been appointed and the training and assessment process has been developed".
    - CILEx Regulation has reviewed the risks associated with conflicts of interest and this is discussed in more detail at Section C, paragraphs 15-18 of this application.
  - iii. "We expect to further scrutinise the detail of the training and assessment once plans are finalised when CRL approaches the LSB for further approval".
    - The University of Law has provided a full report of the pilot including the training and assessment. This is provided at Annex 3 of this application.
  - iv. "We expect CRL to consider whether it remains appropriate to retain both routes to obtaining practice rights".

- CILEx Regulation has committed to monitoring the impact of the proposed alternative route and will consider the viability of retaining both routes after 2 years of the alternative route being implemented. Further information can be found at Section F, paragraphs 65-72 of this application.

## B. Regulatory objectives and better regulation principles

### a. Regulatory objectives

5. The following table sets out how the amended rules impact on the Regulatory Objectives:

|     | <b>Regulatory Objective</b>                  | <b>Impact</b> | <b>Explanation</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|-----|----------------------------------------------|---------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| RO1 | Protecting and promoting the public interest | Promotes      | <ul style="list-style-type: none"><li>• By having multiple routes to qualification there is the potential for some confusion as to standards of competence for chartered legal executives who hold practice rights. This has been mitigated by ensuring that all routes are based on the common education standards. In addition, CILEx Regulation will provide guidance of the routes to qualification to the public and the consumer via our website and by updating the information on Legal Choices. CILEx Regulation has also committed to undertaking a review after two years to determine whether to keep both routes to practice rights open.</li><li>• The proposed alternative assessment mechanism will only be available to chartered legal executives. To be authorised as a chartered legal executive, individuals are required to complete a rigorous and robust education qualification framework which ensures competence at the point of qualification.</li><li>• By introducing greater choice and flexibility for obtaining practice rights for chartered legal executives, we expect to see greater diversity in the legal profession. This will provide higher numbers of chartered legal executives qualified to provide reserved activities independently, which is in the public interest.</li><li>• Public confidence is maintained as authorisation of individuals with additional practice rights will remain with CILEx Regulation.</li><li>• Public confidence is maintained because the training course and</li></ul> |

|     |                                                             |          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|-----|-------------------------------------------------------------|----------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|     |                                                             |          | assessment will be delivered only by a provider authorised by CILEx Regulation (and which will be subject to CILEx Regulation quality assurance through annual reporting).                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| RO2 | Supporting the constitutional principles of the rule of law | Neutral  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| RO3 | Improving access to justice                                 | Promotes | <ul style="list-style-type: none"> <li>• An increase in chartered legal executives with additional practice rights will provide greater choice for consumers and improved access to justice.</li> <li>• The possibility of a more diverse profession will improve access to justice.</li> <li>• The requirements for independent objective assessment will assure a chartered legal executive's knowledge and skills to an appropriate standard in the practice area and provides a more focused regulation.</li> <li>• Flexibility in the current model for granting practice rights reflects developments in other regulated professions.</li> </ul>                                                                                                                                                 |
| RO4 | Protecting and promoting the interests of consumers         | Promotes | <ul style="list-style-type: none"> <li>• As with RO1, there is the potential for some confusion in having multiple routes to qualification as to standards of competence for chartered legal executives who hold practice rights. This has been mitigated by ensuring that all routes are based on the common education standards. In addition, CILEx Regulation will provide guidance of the routes to qualification to the public and the consumer via our website and by updating the information on Legal Choices. CILEx Regulation has also committed to undertaking a review after two years to determine whether to keep both routes to practice rights open.</li> <li>• A lack of separation between training and assessment if both functions are carried out by the same provider</li> </ul> |

|     |                                                          |          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|-----|----------------------------------------------------------|----------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|     |                                                          |          | <p>could be considered as a potential risk. However, CILEx Regulation has ensured that there is sufficient separation between the trainers and assessors and that access to assessment materials is restricted from those delivering the training. In addition, objective assessment by a single provider will ensure the application of a consistent standard when assessing competence.</p> <ul style="list-style-type: none"> <li>• CILEx Regulation has considered whether there would be any risk in accrediting an external provider to deliver the training and competency assessment for the proposed alternative route. It has found that appropriate mechanisms are in place for standardisation and review of assessment/candidate performance, and this will be provided to CILEx Regulation through annual reporting. The relationship is contractual, and the provider has signed up to delivery for the next three years.</li> <li>• In addition to assessing technical legal knowledge and skills, the proposed alternative route also enables the assessment of professional skills, including ethical judgements, consumer awareness and client care.</li> </ul> |
| RO5 | Promoting competition in the provision of legal services | Promotes | <ul style="list-style-type: none"> <li>• An increase in chartered legal executives with specialist practice rights will provide greater choice for consumers<sup>i</sup></li> <li>• The fees for the proposed alternative route are higher than those set for the existing portfolio-based route however, the proposed alternative route will allow chartered legal executives to save time by simply completing an assessment with The University of Law and it also offers the opportunity to apply for additional practice rights in new areas of practice. On balance, CILEx Regulation believes that the higher fees for the proposed alternative</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |

|     |                                                                            |          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|-----|----------------------------------------------------------------------------|----------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|     |                                                                            |          | <p>route still represent value for money. If chartered legal executives feel that the fees for the proposed alternative route are too high, then they can choose to apply for additional practice rights through the existing portfolio-based route.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| RO6 | Encouraging an independent, strong, diverse and effective legal profession | Promotes | <ul style="list-style-type: none"> <li>As stated in RO5, the fees for the proposed alternative route are higher than those set for the existing portfolio-based route however, the proposed alternative route will allow chartered legal executives to save time by simply completing an assessment with The University of Law and it also offers the opportunity to apply for additional practice rights in new areas of practice. On balance, CILEx Regulation believes that the higher fees for the proposed alternative route still represent value for money. If chartered legal executives feel that the fees for the proposed alternative route are too high, then they can choose to apply for additional practice rights through the existing portfolio-based route. There is also the option for chartered legal executives suffering hardship to make an application to the CILEX Foundation for financial support. Therefore, CILEx Regulation does not consider that the fees differential for the proposed alternative route will have a negative impact on this regulatory objective.</li> <li>Opportunities to analyse, interpret and publish data on achievement and progression, including in relation to key demographics. This will enable CILEx Regulation to ensure that the route to authorisation for individual practice rights is fair and accessible to protected groups. There is some evidence that this will be the case in the equality impact assessment which has been included within this application.</li> <li>Choice in how to acquire specialist practice rights may encourage more</li> </ul> |

|     |                                                                                            |          |                                                                                                                                                                                                                                                                                                                          |
|-----|--------------------------------------------------------------------------------------------|----------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|     |                                                                                            |          | applicants from protected groups to apply for practice rights.                                                                                                                                                                                                                                                           |
| RO7 | Increasing public understanding of the citizens' legal rights and duties                   | Neutral  |                                                                                                                                                                                                                                                                                                                          |
| RO8 | Promoting and maintaining adherence (by authorised persons) to the professional principles | Promotes | <ul style="list-style-type: none"> <li>The rights granted under the Practice Rights Certificate for Chartered Legal Executives rules will be available only to chartered legal executives.</li> <li>Holders of practice rights under these rules will be subject to CILEx Regulation and the Code of Conduct.</li> </ul> |

**b. Better regulation principles**

6. The proposed alternative route meets the principles of Better Regulation as follows:

| Principle     | Explanation                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|---------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Transparent   | <ul style="list-style-type: none"> <li>Provides a balance between the scrutiny of an individual applicant through the application form and an objective assessment of competence.</li> <li>Published assessment blueprint will provide transparency as to assessed knowledge and skills.</li> <li>Data collection provides opportunities to analyse, interpret and publish data on achievement and progression, including in relation to key demographics.</li> <li>Costs payable to both routes for obtaining practice rights will be published on the CILEx Regulation website.</li> </ul> |
| Accountable   | <ul style="list-style-type: none"> <li>Control of who is granted practice rights will remain with the regulator.</li> <li>Assessment provider must be authorised by CILEx Regulation and be subject to its quality assurance through annual reporting.</li> </ul>                                                                                                                                                                                                                                                                                                                            |
| Proportionate | <ul style="list-style-type: none"> <li>Focus is on competence at the point of authorisation.</li> <li>Rights only granted to individuals who have met the rigorous and robust requirements to be authorised as a chartered legal executive, in addition to the assessment in the specified area of practice.</li> </ul>                                                                                                                                                                                                                                                                      |

|            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Consistent | <ul style="list-style-type: none"> <li>• Use of a single training and assessment provider will ensure a consistent standard when assessing competence.</li> <li>• The training and assessment provider will moderate assessments and review performance of questions to ensure standard of competence is maintained throughout different assessment windows. This work will be overseen by CILEx Regulation.</li> </ul>                                                                                 |
| Targeted   | <ul style="list-style-type: none"> <li>• The rights granted under the Practice Rights Certificate for Chartered Legal Executives rules will be available only to chartered legal executives.</li> <li>• In addition to assessing technical legal knowledge and skills, the proposed alternative route also enables the assessment of professional skills, including ethical judgements, consumer awareness and client care.</li> <li>• Focus is on competence at the point of authorisation.</li> </ul> |

## C. Alterations

### a. Details of each proposed alteration

7. CILEx Regulation proposes to amend the Practice Rights Certificate for Chartered Legal Executives Rules as follows:
  - i. Remove the sunrise clause (rule 39) which states that the rules will come into force once a training provider has been appointed and the training and assessment process and costs have been developed and approved by the Legal Services Board.
8. CILEx Regulation has appointed The University of Law as the training and assessment provider for the alternative route for chartered legal executives to obtain practice rights. This application is intended to provide additional information regarding the training and assessment and the costs associated for the Legal Services Board's consideration.
9. The proposed amendment has been made in tracked changes at **Annex 1a**.
10. The new Practice Rights Certificate for Chartered Legal Executives Rules are at **Annex 1b**.

### b. Rationale, intent, purpose and effect of proposed alterations

#### Rationale

##### *Remove duplication from the authorisation process*

11. While there is an existing route to authorisation as a CILEX Practitioner, many chartered legal executives have been deterred from making an application owing to duplication of the requirements to achieve chartered legal executive status, i.e., a portfolio-based application. As such, the rationale for introducing an alternative route for chartered legal executives to obtain independent practice rights was partly in response to feedback received from chartered legal executives regarding the existing route.
12. Chartered legal executives are already considered to be authorised persons within the Legal Services Act 2007. The proposed alternative route gives credit to the work required to achieve initial authorisation while recognising the need for an additional assessment in a specific area of practice prior to additional authorisation in the specialist area of practice.

##### *Similar assessment methods used by other approved regulators*

13. Other regulators such as the SRA and ICAEW are recognising additional rights which fit with a more dynamic professional landscape, and which provides consumer choice and consumer safety. For example, the Probate Practice Rights qualification awarded through ICAEW which was authorised by the LSB in 2014 is achieved through attendance on a short course, passing an assessment and the completion of a simple application form. No specified period of probate practice experience is required.

### *Improving diversity in the legal services market*

14. CILEx Regulation would like to increase the number of CILEX Practitioners who are authorised for reserved and regulated legal activities. By doing so, more chartered legal executives will be able to hold senior positions in firms or apply for regulation of their own legal entity which will diversify the legal services market.

### *Single training and assessment provider*

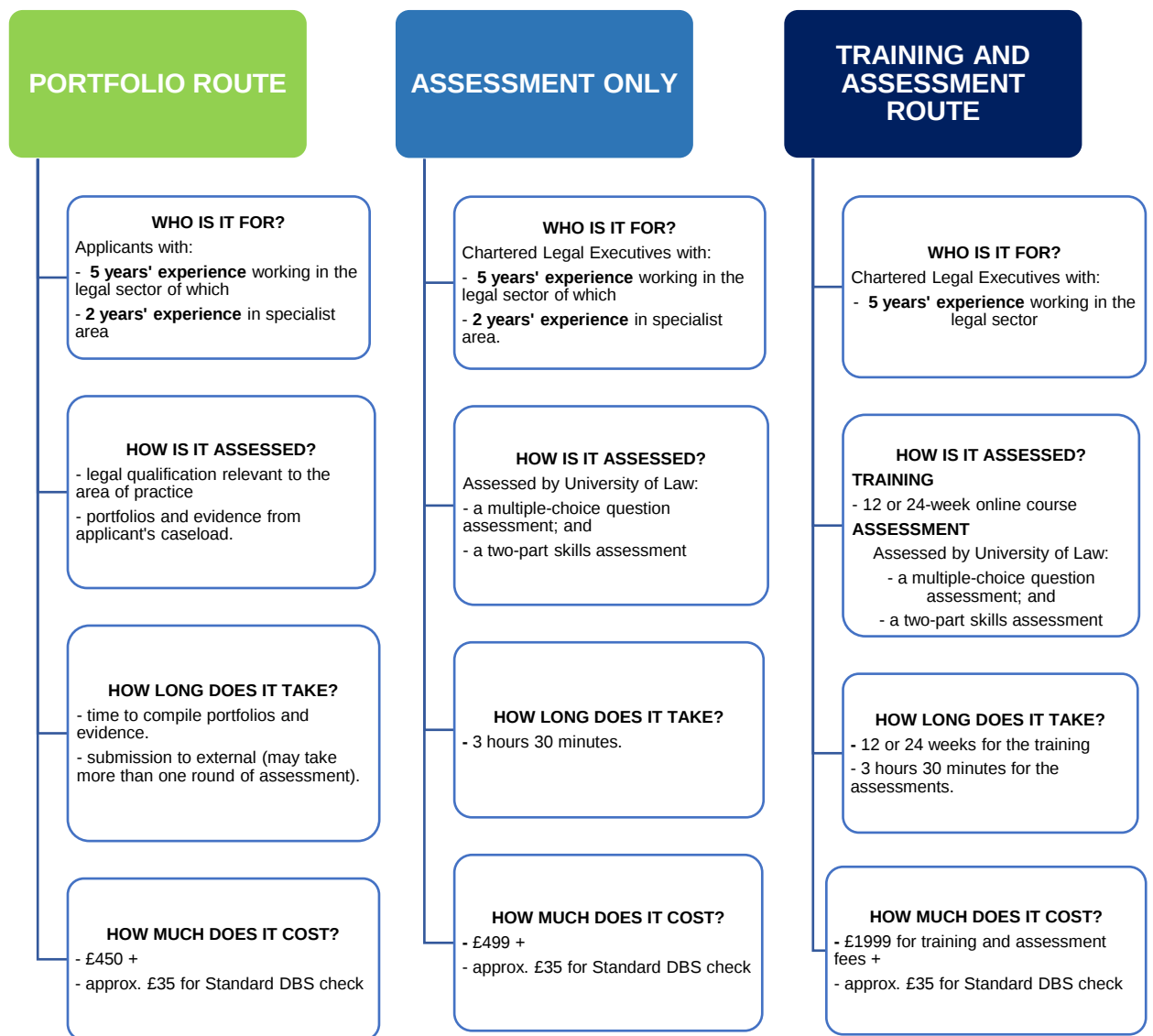
15. Following the Legal Services Board's decision of 13 October 2020, CILEx Regulation has considered the risks with accrediting a single provider to deliver both the training and assessment for the proposed alternative route. While there is a need to separate the delivery of training from the assessment, to ensure integrity of the assessment stage, CILEx Regulation believes that the required division can be achieved by a single provider provided the relevant mechanisms are in place.
16. In addition, CILEx Regulation recognises that most chartered legal executives will already have at least 2 years' experience of working in the area of practice in which they would be seeking independent practice rights and therefore these applicants would not need to undertake the training element of the provision. As such, given the low numbers likely to undertake the training, a single provider for both the training and assessment was considered to be the best option, both for commercial providers and for applicants, as it is less likely a provider would want to deliver the training for the proposed alternative route.
17. When tendering for a training and assessment provider, the application included a requirement for an organisation to provide information on its capacity and capability to develop and deliver training and assessment. One question within this section asked: 'How will you ensure a separation between training and/or the production of materials and the delivery of the assessment in order to protect the integrity of the assessment?'. Information was provided by all bidders to answer this question including The University of Law.
18. The University of Law provided sufficient evidence of the separation, which included its policies and procedures relating to assessment design and delivery, marking and moderation, and an explanation as to how the personnel involved in the programme delivery would be separated from programme and assessment design. In relation to the separation of personnel, an information barrier was to be put in place within the University, to prevent the sharing of information between trainers and assessors, which protects the integrity of the assessment.

### **Intent**

19. By amending the Practice Rights Certificate for Chartered Legal Executive Rules to remove the sunrise clause (rule 39) to introduce an alternative route for chartered legal executives to obtain independent practice rights, it is intended that the improved choice and flexibility available to chartered legal executives will increase the number of CILEX Practitioners. This is evidenced by the increase of 14% in the total number of CILEX Practitioners following completion of the pilot.

20. The existing portfolio-based route to acquiring practice rights in a reserved or regulated area will remain in force. It is intended for there to be a choice for chartered legal executives wishing to acquire additional practice rights in the future and it will not impact on those chartered legal executives who may be part way through seeking practice rights via the existing route. The rights granted through the proposed alternative route will mirror the rights granted under the existing route. CILEx Regulation is committed to keeping both routes under review to determine whether to remove one of the options. This will form part of the two-year review of the alternative route.

21. The below diagram summarises the routes that would be available to chartered legal executives with 5 years' qualifying employment experience, subject to Legal Services Board approval:



## **Purpose**

22. The proposed rule change will allow the alternative route to practice rights to be made available to all chartered legal executives with 5 years' qualifying employment experience.
23. While there is an existing route available for chartered legal executives to apply for additional practice rights, this has not been widely taken up and CILEx Regulation received feedback to its consultation in 2019 to suggest the proposed alternative route would be more popular with chartered legal executives ([see website](#)).
24. The proposed alternative route requires chartered legal executives to complete a two-stage assessment with The University of Law. The first part of the assessment assesses knowledge through a multiple-choice question (MCQ) examination and the second stage assesses competency in relation to skills relevant to the area of practice in which the individual is seeking authorisation. Applicants must be successful in both parts of the assessment to satisfy the requirements for authorisation.

## **Effect**

25. Subject to Legal Services Board approval, the alternative route to obtaining independent practice rights will come into force immediately. The desired outcome of the introduction of an alternative route to additional authorisation is to encourage more chartered legal executives to apply for additional practice rights.
26. By offering the option for a chartered legal executive to complete training prior to an assessment in a new area of practice provides the possibility for individuals to obtain additional practice rights for new areas of law in which they have not previously worked. This allows chartered legal executives to extend their authorisation to covered linked areas of practice, i.e. reserved instrument activities required as part of a probate matter (severing a joint tenancy) or litigation required as part of a judicial review case in immigration proceedings. The existing portfolio-based scheme requires experience of working in an area of practice for at least 2 years prior to making an application for authorisation in that area so this precludes a lot of chartered legal executives from being able to offer a full service to clients.
27. As a result, CILEx Regulation considers that implementing this alternative route will provide more choice for consumers of legal services by expanding the pool of lawyers able to deliver reserved legal activities, or regulated activities, to consumers.
28. In addition, CILEx Regulation intends for the proposed alternative route to remove duplication of work required of chartered legal executives seeking authorisation with additional practice rights. The existing portfolio-based application scheme requires applicants to compile a portfolio of evidence from their caseload which is akin to the requirements of the application process to be authorised as a chartered legal executive.

29. For the first 2 years, chartered legal executives will have the choice of either the portfolio-based application or the proposed alternative route should they wish to apply for authorisation for additional areas of practice. This will then be reviewed to consider the impact on equality, diversity and inclusion should one of the routes be closed.

**c. The gap or defect in existing regulatory arrangements that the alteration is intended to remedy**

30. CILEx Regulation's existing route to authorisation for independent practice rights requires the following:
- i. **Knowledge** - achievement in CILEX level 6 examinations or equivalent or through five portfolios covering a range of matters handled in their casework; and
  - ii. **Experience** - five years working in the legal sector of which at least two years are in the specialist field; and
  - iii. **Skills** - in the practice area by way of one, or a combination of a logbook and portfolio of evidence demonstrating the learning outcomes have been met; or completion of a specified course
31. CILEx Regulation does not believe there is a gap or defect in the existing portfolio-based route. However, feedback from the regulated community would suggest that it creates duplication of work that is required of applicants when applying for authorisation as a chartered legal executive.
32. As part of the application process for authorisation as a chartered legal executive, applicants are required to compile a comprehensive portfolio of evidence from their caseload to demonstrate competency against 27 outcomes. When developing the proposed alternative route, CILEx Regulation has considered whether requesting further evidence specific to an individual's area of practice to assess their suitability for additional practice rights would be the most appropriate form of assessment.
33. The proposed alternative route recognises the level of assessment that existing chartered legal executives will have already satisfied and focuses on the knowledge and skills specifically required for authorisation with additional practice rights in a specialist area of practice.
34. The University of Law has developed a training programme and assessment that satisfies the CILEx Regulation competency framework for independent practice rights and, in addition, awards individuals with 20 academic credits at Level 7. Further information relating to the results of the pilot of the training and assessment method which has been provided by The University of Law can be found at **Annex 2 (Results) and Annex 3 (The University of Law Report)**.
35. CILEx Regulation believes that the proposed alternative training and assessment route will be just as rigorous as the existing portfolio-based route while also requiring a reduced time commitment from applicants.

36. While CILEx Regulation is not proposing this alternative route to address a gap or defect in the existing regulatory arrangements, it is intended to increase the choice available to chartered legal executives who are working in reserved or regulated areas of legal practice who may benefit from being authorised with additional practice rights in these areas.
37. CILEx Regulation considers that the proposed alternative route will lead to simplification of the process for applying for additional practice rights. A review of the existing and proposed alternative routes to obtaining practice rights will take place in 2 years to consider the viability of continuing with two routes for authorisation.
38. CILEx Regulation also intends to explore the possibility of using the proposed alternative assessment method for other competence assessment requirements.
39. The proposed route will also allow chartered legal executives who do not have direct experience of working in an area of practice to apply for practice rights that they may require to fully perform their role. Under the existing scheme, individuals need to have at least 2 years' experience of working in an area of practice before they would be eligible to apply for authorisation with independent practice rights for the relevant reserved legal activities. With the proposed alternative route, chartered legal executives would be able to complete training with The University of Law, in place of experience gained through legal practice, prior to undertaking the competency assessment.

#### **d. Implementation**

40. Subject to Legal Services Board approval, CILEx Regulation intends to implement the new rules immediately.
41. The alternative route would be available for all eligible chartered legal executives, i.e., those with at least 5 years' qualifying employment.
42. CILEx Regulation will communicate with chartered legal executives to explain the routes available to them in relation to applying for independent practice rights.

#### **e. Impact on other regulated persons**

43. The proposed rule change will have no impact of other regulated persons. Chartered legal executives can apply for authorisation with additional practice rights through the existing portfolio-based application currently offered and the proposed alternative route will mirror the rights granted under the existing route.

#### **f. Impact on other approved regulators**

44. CILEx Regulation is the independent regulatory body for The Chartered Institute of Legal Executives (CILEX). CILEX is an Approved Regulator for the authorisation of individuals with independent practice rights for: the exercise of

rights of audience, the conduct of litigation, reserved instrument activities, probate activities and immigration.

45. The rights granted by the Practice Rights Certificate for Chartered Legal Executive Rules will mirror the rights granted through existing Practice Rights Rules and will have no impact on other Approved Regulators.

## D. Consultation and Engagement

46. A consultation of the proposed alternative route to practice rights (the 2019 consultation) was launched on the CILEx Regulation website between 31 May 2019 and 23 August 2019. A summary of the consultation can be found on our website ([see website](#)).
47. The next stage of the engagement process was to complete a pilot with the chosen training and assessment provider, The University of Law. The University of Law ran the pilot between September and December 2021 and the outcomes can be found at **Annex 2**.
48. The University of Law collected feedback from pilot participants and has shared this feedback with CILEx Regulation. The feedback has been included at **Annex 3**.
49. Of the 27 chartered legal executives who participated in the pilot, 13 provided responses to The University of Law survey. The feedback provided in relation to the pilot was generally positive however, some learning points have been identified for future assessment windows:
  - a) The module should be offered on a part-time 24-week basis rather than the 12-week full-time basis, to enable module students to engage more fully considering other commitments.
  - b) The Civil Litigation syllabus content on trial procedure and conducting trial should be reviewed and, if necessary, excised with guidance given to all candidates where such knowledge and training may be acquired elsewhere within the CILEx Regulation scheme.
  - c) A stricter final enrolment deadline should be introduced to enable more settled onboarding and enable fuller understanding of delivery and demands, and better enabling the University response to digital literacy development, return to learning and disability / learning support requirements.
50. CILEx Regulation will work with The University of Law to implement the recommendations made.
51. When considering the Civil Litigation syllabus content, The University of Law noted that the pilot participants did not perform as well in the questions related to trial procedure and conducting trials. CILEx Regulation is satisfied that these elements will be covered by the advocacy skills course and assessment that applicants would need to complete in addition to the assessment with The University of Law, should they be applying for authorisation for Litigation & Advocacy in civil, criminal, or family proceedings. CILEx Regulation recognises the importance of these elements being appropriately taught and assessed and will ensure the appropriate standard is met by any chartered legal executive prior to authorisation with Litigation & Advocacy (Rights of Audience) practice rights.
52. 13 of the 27 participants chose not to sit part of the assessment and the reasons given for this included work pressures and illness. It is intended that The University of Law will hold 4 windows for assessment each year once the

training and assessment is live. CILEx Regulation considers that this will improve the learner experience for chartered legal executives who require the training prior to assessment as well as offering flexibility if other commitments need to take priority. To supplement this application, The University of Law has provided a report, 'CILEX Pilot Evaluation and analysis — assessment results and module survey' which provides an evaluation of the pilot held at the end of 2021 and suggestions for future amendments to assessments.

53. The University of Law provided feedback of its experience in administering the pilot. They drew comparison between results achieved by the pilot participants and high-achieving LPC students as follows, *'This is very high-level performance overall and certainly comparable - albeit on a broad basis - with the performance and aptitudes of the highest-achieving LPC students'*.
54. Based on the responses to the 2019 consultation, the feedback from pilot participants provided to The University of Law and The University of Law as the training and assessment provider, CILEx Regulation is content that, subject to Legal Services Board approval, the proposed training and assessment route is suitable to make available to all chartered legal executives.

## **E. Impact Assessment**

### **a. Equality impact assessment**

55. CILEx Regulation has completed an Equality Impact Assessment as part of this application, considering the outcome of the pilot with The University of Law. The report has been provided at **Annex 4**. This Equality Impact Assessment found that the proposed alternative route for chartered legal executives to obtain additional practice rights had no significant impact and has the potential to have a positive impact on protected characteristic groups.
56. CILEx Regulation intends to ensure that equality and diversity data will be collected for all chartered legal executives who undertake the proposed alternative route so that the impact can be monitored. The applications received for practice rights both through the proposed alternative route and the existing route will be monitored and compared to identify the impact of the introduction of the alternative route.

### **b. Impact on regulated persons, consumers and the public interest**

#### Cost of assessment

57. CILEx Regulation has considered whether the cost of the proposed alternative route will negatively impact on any regulated persons, consumers or the public interest and found that there should not be any negative impact as the route is proposed as an alternative to the existing route. While the proposed alternative route does have a higher application fee (£499 for the assessment only and £1,999 for the training and assessment option), chartered legal executives will have the choice to apply for additional practice rights through the existing portfolio-based route which is slightly more cost effective (£450) albeit with a greater time commitment on the part of applicants.
58. CILEx Regulation considered value for money as part of the tender process for selecting the training and assessment provider. While the proposed fees are higher for The University of Law assessment, when compared with the existing portfolio-based route for obtaining practice rights, this is balanced with the convenience of undertaking an online assessment on a set date in place of compiling an extensive portfolio of evidence that may require several rounds of assessment.
59. CILEX members can apply to the [CILEX Foundation](#) for support with funding of training and development opportunities if they have experienced hardship and find themselves unable to fund The University of Law fees.

#### Existing applicants

60. CILEx Regulation intends for the rights that will be granted following successful completion of the proposed alternative route to mirror those granted to individuals who complete the existing route for obtaining additional practice rights. Chartered legal executives seeking additional practice rights for litigation and advocacy for civil, criminal or family proceedings via the proposed alternative route will be required to complete successfully an accredited advocacy skills course in addition to the assessment with The University of Law

prior to authorisation, as is the case with the existing route. As such, there would be no negative impact on regulated persons or any chartered legal executive who has already made an application for practice rights through the existing portfolio-based scheme.

### Consumers

61. CILEx Regulation believes that the introduction of the proposed alternative route for chartered legal executives to obtain additional practice rights should have a positive impact on consumers of legal services as individuals will be assessed on their technical legal knowledge and skills, as well as professional skills, including ethical judgements, consumer awareness and client care.
62. In addition, CILEx Regulation intends to promote the proposed alternative route to chartered legal executives to increase the number of CILEX Practitioners with practice rights in their specialist area of practice. If the number of CILEX Practitioners increases, it is believed that the choice of legal services providers available to consumers will be greater.
63. There is a remote risk that the increased cost of the proposed alternative route may have an impact on consumers of legal services however, the difference in cost between the existing and proposed alternative routes is relatively small and is a one-off fee, therefore, CILEx Regulation does not expect that this additional cost will be passed on to consumers.

### The public interest

64. CILEx Regulation believes that the introduction of the proposed alternative route for chartered legal executives to obtain additional practice rights is in the public interest. It is likely to increase the pool of authorised persons that consumers of legal services can choose from which should have a positive impact on access to justice, whilst ensuring robust assessment of individuals prior to authorisation.

## **F. Evaluation and monitoring**

65. CILEx Regulation considers that the proposed alternative route will provide a more streamlined approach to authorisation in reserved legal activities whilst maintaining the competence requirements for authorisation, so that individuals are safe to practise in the public interest and to protect and promote the interests of consumers.
66. This approach should increase the numbers of legal professionals able to deliver reserved legal activities to the public and the accessibility of the CILEX route to authorisation is likely to enhance the diversity of the legal profession.
67. CILEx Regulation will monitor the applications received through the proposed alternative route, along with the applications received through the existing portfolio-based application scheme. It is intended that this monitoring will result in a full evaluation of both routes two years following the implementation of the proposed alternative route to understand the impact on equality and diversity through both authorisation routes.
68. As now, data will be collected in terms of equality, diversity and inclusion annually to ensure that the proposed alternative route does not have a significant negative impact on those chartered legal executives seeking authorisation with additional practice rights. However, evidence from the pilot does not indicate that this will be the case.
69. To assess the success of the proposed alternative route, CILEx Regulation will monitor and evaluate the impact of the changes proposed as follows:
- Gather baseline data from current information to provide a benchmark against which to test the activities below:
- a) Monitor the number of applicants (including equality and diversity characteristics) choosing to apply for authorisation under the existing and proposed alternative assessment routes throughout the next 2 years;
  - b) Monitor the number of individuals (including equality and diversity characteristics) regulated by CILEx Regulation as holders of independent practice rights;
  - c) Seek the views of applicants under the existing and alternative routes throughout the next 2 years to understand the views of the regulated community through the issue of feedback forms;
  - d) Monitor and evaluate a sample of the CPD activity undertaken by CILEX Practitioners who have qualified under the proposed alternative route; and
  - e) Monitor the complaints data received in relation to regulated individuals who have progressed through the old and proposed alternative routes throughout the next 2 years to ensure that there is no adverse impact on consumers.
70. CILEx Regulation anticipates that there will be an increase in the number of chartered legal executives with additional practice rights. We will seek the views of these individuals to ensure that the intended consequences of the changes have been realised.

71. CILEx Regulation intends to utilise this data to ensure that proposed alternative route is working effectively and where improvements are signalled that they can be promptly identified and effectively proposed, implemented, and monitored with the course provider.
72. In addition to considering the equality and diversity impact, CILEx Regulation will also consider whether there is a benefit, and that it remains appropriate, to continue to offer two routes for obtaining independent practice rights as part of the evaluation exercise.

**G. Any draft guidance or policy that will support implementation of the alterations**

73. CILEx Regulation has created a specific website [page](#) to host this and other relevant information to ensure it is easily accessible for potential applicants. The website resources also contain details of the tender process.

**CONTACT DETAILS:**

Danielle Rowles  
Practitioner Authorisation & Supervision Manager

Email: [danielle.rowles@cilexregulation.org.uk](mailto:danielle.rowles@cilexregulation.org.uk)

CILEx Regulation, Room 301, Endeavour House, Wrest Park, Silsoe, Bedfordshire,  
MK45 4HS (currently working remotely)

CILEx Regulation Ltd company registration number: 6712409  
CILEX company registration: RC000850

---

<sup>i</sup> Research carried out by the Legal Services Consumer Panel in 2017 shows that specialism and local offices are important drivers for consumers.

[http://www.legalservicesconsumerpanel.org.uk/publications/research\\_and\\_reports/documents/How\\_consumers\\_are\\_choosing\\_Final\\_2017.pdf](http://www.legalservicesconsumerpanel.org.uk/publications/research_and_reports/documents/How_consumers_are_choosing_Final_2017.pdf)