Summary of decision

The purpose of this summary sheet is to provide a high level and accessible overview of the Legal Services Board's ("LSB") decision. Readers are recommended to read the formal decision notice below for further details. **This summary is not and should not be taken as a formal part of the LSB's decision notice under the Legal Services Act 2007 ("the Act")**.

The LSB's decision is to grant in full the application from the Intellectual Property Regulation Board ("IPReg") for approval of alterations to its Compensation Arrangements Rules 2021 ("the Rules"). The changes:

- amend eligibility to apply to the fund so that applications can only be made by individual clients or clients that are micro-entities
- clarify the definition of compensation arrangements and make further amendments to make clear sole practitioners are captured by the rules and that the fund is a fund of last resort
- provide a definition of a "micro-entity" in place of a definition for "micro, small and medium sized enterprises"
- make minor changes to reflect the chartered status of the Chartered Institute of Trade Mark Attorneys
- provide for IPReg to set out in guidance the factors it will take into account in exercising its discretion to make grants under the Rules
- also include consequential alterations to IPReg's Registered Bodies Regulations 2015.

The alterations reflect IPReg's arrangements to self-fund its compensation scheme in its entirety once the current insurance-backed compensation arrangements cease[1].

IPReg's proposals have been significantly modified during the LSB's consideration of the application. Following assessment of IPReg's initial application, the LSB raised concerns with IPReg. As submitted, the proposals restricted eligibility criteria too narrowly for the compensation scheme to have practical meaning. IPReg considered the LSB's concerns and subsequently modified its proposals to remove ambiguity as to whether "micro-entities" are eligible (the approved modified proposals make clear they are) and to introduce a "sunset clause" requiring a further application at to ensure new long-term regulatory arrangements are

[1] At the date of this decision notice the policy expires on 30 October 2021.

in place by 30 April 2024. These two modifications, although welcome, are not sufficient by themselves to fully mitigate our concerns. We have therefore set out expectations for IPReg to obtain evidence on those who might need to access the Fund and to develop a long-term solution to coincide with the expiry of the “sunset clause” that is now built into the proposals. We would expect to see evidence of progress towards this goal contained in future PCF applications.

As a result of the modifications made during the course of its assessment the LSB has concluded that the changes do not meet the conditions for refusal under paragraph 25(3) of Schedule 4 to the Act.

In approving these changes, in effect we are providing an approval of time-limited regulatory arrangements, with a view to the scheme being amended based on up-to-date evidence at an early opportunity. We do not make this approval lightly. We have derived some comfort from the absence of historical claims to the fund.

The decision notice explains our assessment of the main issues that we considered in reaching our decision.

Decision notice

The Intellectual Property Regulation Board application for approval of alterations to its regulatory arrangements relating to its Compensation Arrangements

1. The Legal Services Board ("LSB") has granted an application from the Intellectual Property Regulation Board ("IPReg") for approval of alterations to the IPReg Compensation Arrangements Rules 2021 ("the Rules").

2. The LSB is required by Part 3 of Schedule 4 to the Legal Services Act 2007 ("the Act") to review and grant or refuse applications by approved regulators to make alterations to their regulatory arrangements. The Chartered Institute of Patent Attorneys ("CIPA") and the Chartered Institute of Trade Mark Attorneys ("CITMA") are the approved regulators respectively for patent attorneys and trade mark attorneys and have delegated their regulatory functions to IPReg.

3. This decision notice sets out the decision taken, including a description of the changes. The notes at page 9 of this notice explain the statutory basis for the decision.

Chronology

- The LSB confirmed receipt of the application from IPReg on 22 September 2021.
- The 28-day initial decision period for considering the application ended on 19 October 2021.
- An extension notice was issued on 18 October 2021 extended the time to make a decision to 20 December 2021
- This decision notice is effective from 29 October 2021.
- The decision notice will be published on the LSB's website by 2 November 2021.

Background

4. In 2014 CIPA and CITMA (then known as ITMA) were designated as Licensing Authorities under the Act[2], on application made on their behalf by IPReg. As part of the designation, IPReg's regulatory arrangements for a compensation scheme that was fully insurance-backed was approved[3], and followed modifications of CIPA and CITMA's functions for such arrangements to be made.[4]

5. Since January 2015 IPReg has operated with a compensation scheme that it states had a total insurance-backed annual Compensation Fund of £2.5 million ("the Fund") for claims made under its compensation scheme, with a firm aggregate of £225,000. A limit of £25,000 per claim is specified in its current IPReg Compensation Arrangements Rules 2015 ("2015 Rules").

[2] The Legal Services Act 2007 (Licensing Authority) (No. 2) Order 2014 (legislation.gov.uk)
[3] https://legalservicesboard.org.uk/Projects/statutory_decision_making/pdf/20131206_ipreg_la_application_final.pdf
[4] The Legal Services Act 2007 (the Chartered Institute of Patent Attorneys and the Institute of Trade Mark Attorneys) (Modification of Functions) Order 2014 (legislation.gov.uk)

6. Under the 2015 Rules individuals and micro, small and medium sized enterprises who were clients of a current IPReg registered body or sole practitioner, are eligible to apply under those Rules for compensation.

7. No claims have been made under the scheme since it has been in place.

8. In May 2021 IPReg was informed that its insurer would no longer provide cover and that the insurance policy would expire on 30 June 2021. IPReg was able to obtain an extension to the policy to 31 August 2021 and was then able to obtain a further extension to 30 October 2021.

9. As the Fund is wholly insurance-backed, without any action there will be no cover for claims made after 30 October 2021.

10. The Act requires that licensing rules of a licensing authority must contain appropriate compensation arrangements[5] and so IPReg is required to have alternate arrangements in place on the expiry of the policy.

11. IPReg has taken steps to obtain alternative insurance cover without success (Paragraph 1.4 of the application) and therefore proposes to self-fund the compensation scheme to maintain consumer protection at a reduced level in the short-term pending a longer-term solution.

12. To find a short-term solution IPReg engaged the services of an actuary for advice on the appropriate size of a Fund and limits that should be applied based on an interim risk model.

Summary of proposed changes

13. IPReg's application contains two key proposals. As IPReg has not been able to obtain further insurance provision, it will instead run and maintain its own Fund as already provided for within its current regulatory arrangements, and we are not being asked to approve this change.

14. The first proposal is to reduce the aggregate limit for claims against a firm from £225,00 to £100,000, although that limit is not specifically provided for in the 2015 Rules nor the Rules. The individual limit of £25,000 per claim set out in the 2015 Rules is unchanged. The second proposal is to remove provision in the 2015 Rules prescribing who are eligible applicants. Instead, IPReg proposes new Guidance on the Rules, which sets out factors it may take into account in exercising its absolute discretion to make compensation grants under the scheme.

15. IPReg concluded, with the benefit of actuarial advice, that it was able to retain the individual limit of £25,000 per claim. This is intended to mitigate the likelihood of consumer detriment and still be affordable in the circumstances. Further detail of this can be found in the application at Paragraph 8.1.2.

16. Beyond the key proposal, IPReg is proposing changes to the regulatory arrangements which are set out in Paragraphs 6.1 to 6.7 of the application. In summary these changes:
    - clarify the definition of compensation arrangements for consistency within the Rules
    - clarify former sole practitioners are captured by the Rules

[5] S.83(5)(e) https://www.legislation.gov.uk/ukpga/2007/29/section/83

- emphasise the Fund is a fund of last resort
- provide in Guidance that the Rules apply (subject to IPReg's absolute discretion) to clients who are "micro-entities" and omit reference to small and medium sized enterprises
- make minor changes to reflect the chartered status of the CITMA
- provide for IPReg to set out in guidance the factors it will take into account in exercising its discretion
- also include minor consequential alterations to IPReg's Registered Bodies Regulations 2015 to clarify that the compensation arrangements are those contained in the Rules.

Key issues considered in the assessment of the application

Actuarial advice

17. The summary of the actuarial advice obtained by IPReg (Annex A to the application) gave the public opinion that the minimum viable Fund of £100,000 is set at a level to meet all claims [with individual claims limited to £25,000] in full in a reasonable stress-test. The opinion stated that given the scheme, the proposed Fund, risk model and associated contributions are expected to be viable and meet all claims in full over the next 24 months in all but the most extreme scenarios. The actuary was also of the opinion that the short-term scheme would enable longer-term operation, if needed, with minimal change required.

18. IPReg decided to follow the actuarial advice in relation to limits. The application explains that IPReg chose to do this in order to establish a Compensation Fund that provides a proportionate and targeted level of consumer protection while it undertakes work to gather information to better inform its risk model.

Eligibility in regulatory arrangements

19. The application submitted by IPReg initially provided for eligibility for applicants to apply for compensation, currently in the 2015 Rules, to be removed entirely from the Rules and placed into guidance. Eligibility requirements are a fundamental component of compensation arrangements and so form part of those regulatory arrangements. As such, should IPReg set out it's criteria for those eligible to make applications in guidance alone that would constitute regulatory arrangements under s21 Act of the Act and thus require LSB approval before they have effect.

20. Following consideration of the LSB's feedback, IPReg has subsequently clarified its proposals to include provision on eligibility in rule 5 of the Rules.

Restriction in scope of eligibility

21. We were concerned that the proposal set out in the application would limit eligibility to individual consumers and – only in exceptional circumstances - micro entities, to the extent that losses suffered are not recoverable by other means.

22. This proposal represented a significant reduction in eligibility. The 2015 Rules set out that individuals, micro, small and medium sized enterprises would all be eligible to make applications to the Fund subject to having suffered loss or hardship and such loss not covered by professional indemnity insurance, there is no 'recoverable by other means' or 'exceptional circumstance' requirements.

23. The LSB asked IPReg what data it held in relation to consumers of legal services provided by persons authorised by IPReg, which supported its proposal to reduce the scope of eligibility. In particular, what percentage of the market was made up of individual consumers, micro-enterprises and small or medium enterprises.

24. IPReg's response focused on the financial risk - and thus risk to IPReg who will fund the scheme in its entirety under the proposals noting it's income is c£1 million annually (largely funded by Practising Fees) with reserves of c£0.6m and no other recourse to funds - associated with covering losses for non-individuals. It explained that maintaining the current eligibility requirements and claim limits would result in significant increases in costs to authorised persons, which could cause some firms to exit the market.

25. IPReg also provided an explanation of analysis it had undertaken on data from the Intellectual Property Office ("IPO"), noting that less than 2% of patents are granted to inventors who represent themselves in front of the UK IPO. IPReg assumes that those inventors are more likely to be individual consumers or micro-businesses. IPReg also noted that 96% of all UK businesses are either individuals or micro-enterprises, although it has provided no evidence that this remains the case for UK businesses who are consumers of legal services provided by persons authorised by IPReg.

26. The LSB was not satisfied that IPReg had fully considered the impact on consumer interests in restricting the scope of eligibility under its proposed regulatory arrangements notwithstanding the financial risks for IPReg. We noted that, as drafted, the proposals give rise to concerns that the design of the scheme may exclude a significant proportion of consumers of legal services provided by persons authorised by it and asked it to reconsider this aspect of its proposals.

27. In response IPReg has revised its proposals to remove the requirement – set out in its Guidance - that micro entities would only be eligible in exceptional circumstances. The requirement for the compensation grants to be made only where loss or hardship is suffered, is unchanged from the 2015 Rules. We accept that IPReg's decision to reinsert eligibility requirements but restrict it to micro entities is proportionate in the short-term pending the development of a longer-term solution.

28. While the changes made by IPReg to its proposals provides some reassurance that there will be a minimum level of cover provided under the scheme, IPReg needs to prioritise its work to ensure a longer-term solution is found that will provide ongoing and sustainable consumer protection for a wider range of consumers of legal services provided by persons authorised by IPReg.

Sunset clause

29. In raising concerns with IPReg about eligibility, the LSB was aware that the urgency of the situation has meant that IPReg has been required to come up with a scheme to provide some continuity of cover in the short-term.

30. The LSB does not consider that the proposals set out in the application are suitable in the longer term without further evidence that the Fund is appropriately targeted. As a result, we asked IPReg to build an end date into the regulatory arrangements to ensure that the proposals were temporary and to make certain that IPReg returns to the LSB for approval of a longer-term solution.

31. In response, IPReg amended its proposal to include a sunset clause confirming that the arrangements will only apply until 30 April 2024. IPReg has explained that this will allow the Fund to operate for two years, with an additional six months for it to develop a risk model, consult on a further change to regulatory arrangements and apply to the LSB for approval.

Longer-term plans

32. The application sets out at Paragraphs 2.5.1, 7 and 13.1 that IPReg will gather further information to build its risk model with a view to introducing longer term measures if changes are required.

33. IPReg intends to gather data from regulated firms on practice areas, turnover, client numbers, credit ratings as well as risk indicator data such as CPD compliance, disciplinary history, complaints data, PII claims, failure to place PII and client money balances.

34. It also plans regular actuarial reviews to ensure the Fund is targeted and proportionate and updates to its draft guidance to reflect relevant claims experience.

35. We welcome IPReg's plans to gather information to help inform its plans to provide appropriate compensation arrangements in the longer term. However, we are concerned that the plans as drafted do not seek to better understand the consumers of legal services provided by persons authorised by it.

36. For IPReg to have suitable long-term compensation arrangements it must obtain evidence on those who might need to access the Fund. As it stands IPReg does not know the number of individual consumers of legal services provided by persons authorised by it. As originally drafted, the proposal was for the Fund to be inaccessible anyone other than individuals in all but exceptional circumstances. This is despite limited evidence stating that individuals would be a significant minority of consumers of legal services provided by persons authorised by IPReg.

37. The changes made by IPReg to its proposals during the LSB's consideration of its application provide parity of access to the Fund for individual consumers and micro-entities. However, IPReg does not currently have evidence indicating whether that is a suitable long-term position – such evidence is an important part of good policy and regulation in the public interest.

38. We will follow this work closely through relationship management and regulatory performance and expect IPReg to keep us updated on the preparation and execution of its data gathering and its review of these regulatory arrangements. For example, we would expect IPReg's next Section 51 practising fee application to include content on this work. We also expect IPReg to proactively engage in the process to alter its regulatory arrangements in good time in advance of the expiry of the arrangements we are approving. This planned data gathering, and review will be of particular relevance to the outcomes linked to the Regulatory Approach standard within the LSB's regulatory performance framework[6].

Decision

39. The LSB has considered IPReg's application against the refusal criteria in paragraph 25(3) of Schedule 4 to the Act. While we have concerns about the paucity of IPReg's evidence base, in the circumstances here we consider that there is no reason to refuse this application and accordingly, the application is granted.

40. **Annex A** to this decision notice contains the amendments to the regulatory arrangements approved by the LSB.

Matthew Hill, Chief Executive
Acting under delegated authority granted by the Legal Services Board

29 October 2021

[6] https://legalservicesboard.org.uk/news_publications/LSB_news/PDF/2017/Regulatory_Performance_Standards_December_2017_(final).pdf

Notes:

1. The LSB is required by Part 3 of Schedule 4 to the Act to review and grant or refuse applications by approved regulators to make alterations to their regulatory arrangements.

2. Paragraph 25(3) of Schedule 4 to the Act explains that the LSB may refuse an application setting out a proposed change to the regulatory arrangements only if it is satisfied that:
   (a) granting the application would be prejudicial to the regulatory objectives
   (b) granting the application would be contrary to any provision made by or by virtue of the Act or any other enactment or would result in any of the designation requirements ceasing to be satisfied in relation to the approved regulator
   (c) granting the application would be contrary to the public interest
   (d) the alteration would enable the approved regulator to authorise persons to carry on activities which are reserved legal activities in relation to which it is not a relevant approved regulator
   (e) the alteration would enable the approved regulator to license persons under Part 5 [of the Act] to carry on activities which are reserved legal activities in relation to which it is not a licensing authority, or
   (f) the alteration has been or is likely to be made otherwise than in accordance with the procedures (whether statutory or otherwise) which apply in relation to the making of the alteration.

3. The designation requirements referred to in paragraph 2(b) above are set out in paragraph 25(4) of Schedule 4 to the Act and are:
   (a) a requirement that the approved regulator has appropriate internal governance arrangements in place
   (b) a requirement that the applicant is competent, and has sufficient resources to perform the role of approved regulator in relation to the reserved legal activities in respect of which it is designated, and
   (c) the requirements set out in paragraphs 13(2)(c) to (e) of Schedule 4, namely that the regulatory arrangements are appropriate, comply with the requirements in respect of resolution of regulatory conflict (imposed by sections 52 and 54 of the Act) and comply with the requirements in relation to the handling of complaints (imposed by sections 112 and 145 of the Act).

4. In accordance with paragraphs 20(1) and 23(3) of Schedule 4 to the Act, the LSB has made rules[7] about the manner and form in which applications to alter regulatory arrangements must be made. Amongst other things, the rules highlight the applicant's obligations under section 28 of the Act to have regard to the Better Regulation Principles. They also require applicants to provide information about each proposed change and details of the consultation undertaken.

5. If the LSB is not satisfied that one or more of the criteria for refusal are met, then it must approve the application in whole, or the parts of it that can be approved.

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[7] LSB's Rules for applications to alter regulatory arrangements – Version 2 April 2018 https://www.legalservicesboard.org.uk/what_we_do/regulation/pdf/New%20folder%20(2)/FINAL_Rules_for_applications_to_alter_regulatory_arrangements.pdf

Annex 1

IPReg Compensation Arrangements Rules ~~2015~~2021

(Regulations of the Patent Regulation Board of the Chartered Institute of Patent Attorneys and the Trade Mark Regulation Board of the Chartered Institute of Trade Mark Attorneys (working jointly as the Intellectual Property Regulation Board) regarding claims under their compensation arrangements)

Preamble:

The Patent Regulation Board of the Chartered Institute of Patent Attorneys and the Trade Mark Regulation Board of the Chartered Institute of Trade Mark Attorneys working jointly as the Intellectual Property Regulation Board (IPReg) now make the following provisions under:

(i) Part 5 of, and Schedule 11 to, the Legal Services Act 2007;

(ii) an Order made under section 69 of the Legal Services Act 2007, S.I. 2014 No. 3238.

These Regulations make provision as to:

- *the establishment of appropriate compensation arrangements by the Chartered Institute of Patent Attorneys and the Chartered Institute of Trade Mark Attorneys;*
- *the procedures for, and the circumstances in which, claims may be made under those compensation arrangements of the Chartered Institute of Patent Attorneys and the Institute of Trade Mark Attorneys.*

Rule 1 – Interpretation

1. In these Rules, unless otherwise provided:

"ABS" means a Licensed Body;

"Applicant**"** means a person applying for a Discretionary Grant;

"Authorised Insurer" means a person who:

(a) has permission under Part 4A of FSMA to effect or carry out contracts of insurance of a relevant class;

(b) carries on an insurance market activity, within the meaning of section 316(3) of FSMA;

(c) is an EEA authorised body of the kind mentioned in paragraph 5(d) of Schedule 3 to FSMA, and which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out contracts of insurance of a relevant class; or

(d) does not fall within paragraph (a), (b), or (c) and who may lawfully effect or carry out contracts of insurance of a relevant class in a member state other than the United Kingdom

where "relevant class" has the meaning set out in section 87(1B) of the Act and provided that this definition must be read with section 22 of FSMA, any relevant order under that section and Schedule 2 to FSMA

"Corporate work" means professional work undertaken by an employed regulated person acting solely as an agent on behalf of:

(a) their employer;

(b) a company or organisation controlled by their employer or in which their employer has a substantial measure of control;

(c) a company in the same group as their employer;

(d) a company which controls their employer;

(e) an employee (including a director or a company secretary) of a company or organisation under (a) to (d) above, where the matter relates or arises out of the work of that company or organisation; or

(f) another person with whom a person under (a) to (e) above has a common interest;

"Compensation Arrangements" means an insurance policy or a compensation fund under which grants may be made to compensate for losses or hardship suffered by persons in consequence of ~~fraud or other~~ dishonesty, ~~or a failure to account for money~~ by a Registered Body or its employees or Managers, <u>or a Sole Practitioner or their employees</u> to the extent that such losses are not covered by professional indemnity insurance <u>or otherwise recoverable from another source</u>;

"Discretionary Grant" means a Discretionary Grant made by IPReg under Rule 4;

"FSMA" means the Financial Services and Markets Act 2000;

"the Fund" means an IPReg Compensation Fund established under Rule 3; ~~and~~

"Micro-entity" means a company which has any two of the following: (a) a turnover of £632,000 or less; (b) £316,000 or less on its balance sheet; or (c) 10 employees or fewer.;

"in private practice" means undertaking professional work which is not solely Corporate Work;

"IPReg" means the Patent Regulation Board of the Chartered Institute of Patent Attorneys and the Trade Mark Regulation Board of the Institute of Trade Mark Attorneys working jointly as the Intellectual Property Regulation Board;

"Licensed body" means a Registered Body licensed under Part 5 of the 2007 Act.

~~"Micro, small and medium-sized enterprises" has the same meaning as in Article 2 of the Annex to Commission Recommendation 2003/361/EC;~~

"Patent Attorney Register" in respect of Registered persons other than ABS, means the Register kept under section 275 of the Copyright Designs and Patents Act 1988 as amended and, in respect of ABS, is part of IPReg's Register of licensed bodies for the purpose of section 87 of the 2007 Act;

"the Register" means the combined register kept by IPReg comprising, as sub-registers, the Patent Attorney Register and the Trade Mark Attorney Register and, in respect of ABS, is IPReg's Register of licensed bodies for the purpose of section 87 of the 2007 Act;

"Registered Body" means a body (corporate or unincorporated) entered in the Patent Attorney Register and/or the Trade Mark Attorney Register, and:

(a) a body which is an ABS and is entered in the Register, becomes upon that entry, a Licensed Body under the 2007 Act; and

(b) "Registration" and "Registered" shall be construed accordingly and shall mean, in respect of ABS, "licensing" and "being licensed" for the purpose of the 2007 Act;

"Registered Person" means:

(a) a patent attorney on the Patent Attorney Register;

(b) a trade mark attorney on the Trade Mark Attorney Register;

"Sole Practitioner" means a Registered Person who is practising as a sole principal in private practice;

"Trade Mark Attorney Register" in respect of Registered persons other than ABS, means the Register kept under section 83 of the Trade Marks Act 1995 as amended, and in respect of ABS, is part of IPReg's Register of licensed bodies for the purpose of section 87 of the 2007 Act;

"the 2007 Act" means the Legal Services Act 2007.

Rule 2 – Compensation Arrangements

2.1 IPReg will establish and maintain Compensation Arrangements which shall be applied to the payment of Discretionary Grants and for the other purposes provided for under these Rules. Such Compensation Arrangements may take the form either of:

(a) a compensation fund or funds; or

(b) one or more policies of insurance with Authorised Insurers.

2.2 The Compensation Arrangements made under Rule 2.1 provide for grants or other payments for the purposes of relieving or mitigating losses or hardship suffered by persons in consequence of:-

(a) ~~fraud or other~~ dishonesty on the part of:

(i) a Registered Body or former Registered Body in connection with the body's activities as a Registered Body, or

(ii) a manager or employee (or former manager or employee) of a Registered Body or former Registered Body in connection with the body's activities as a Registered Body;

(iii) a Sole Practitioner or former Sole Practitioner in connection with the Sole Practitioner's activities as a Registered Person;

(iv) an employee (or former employee) of a Sole Practitioner or former Sole Practitioner in connection with the Sole Practitioner's activities as a Registered Person;

(b) fraudulent or dishonest failure on the part of any person referred to in sub-paragraph (a)(i) to (iv) to account for money received by them in connection with the Registered Body's activities as a Registered Body or the Sole Practitioner's activities as a Registered Person.

2.3 Every:

(a) Registered Body; and

(b) Sole Practitioner

shall make contributions to the Compensation Arrangements. The rate, amount and payment arrangements for those contributions shall be such as IPReg may from time to time prescribe.

2.4 Any contribution in accordance with Rule 2.3 is recoverable by IPReg as a debt due from the relevant person.

Rule 3 - Management of the Fund

3.1 In the event that the Compensation Arrangements established pursuant to Rule 2.1 shall take the form of a compensation fund, the Fund shall be managed by IPReg, which may:

(a) hold and distribute any monies raised for the purposes of the Fund;

(b) invest the Fund in any investments in which trustees may invest under section 3 of the Trustee Act 2000 (general power of investment);

(c) insure in relation to the Fund, and pay premiums in respect of such insurance from the Fund, for such purposes and on such terms as it considers appropriate;

(d) borrow for the purposes of the Fund, pay interest on any money so borrowed, repay any money so borrowed and use investments which form part of the Fund as security for such borrowing; and

(e) use the Fund to pay any other costs, charges or expenses incurred by in establishing and administering the Fund.

3.2 The payments which may be made under Rule 3.1(e) include any expenditure, including the payment of any award of costs or damages, incurred by IPReg, their employees or agents as a result of proceedings against any of them for any good faith act or omission in the exercise or purported exercise of powers under these Rules.

Rule 4 - Discretionary Grants

4.1 Any Discretionary Grant shall be made in the absolute discretion of IPReg and no person shall have a right to such a grant which is enforceable at law.

4.2 IPReg may set out in guidance the factors it will take into account in exercising its discretion.

Rule 5 – Eligible Applicants

5.1 Applications for Discretionary Grants may only be made by:

(a) a current or former individual client, or

(b) a Micro-entity~~:~~

~~(i)~~ who is or was a client~~; and~~

~~(ii) where IPReg is satisfied that hardship has been caused to that entity.~~

~~**Rule 5 - Eligible Applicants**~~

~~5.1 Applications for Discretionary Grants may only be made by:~~

~~(a) current and former individual clients, and~~

~~(b) micro, small and medium-sized enterprises who are or were clients~~

~~of a Registered Body or a Sole Practitioner or a former Registered Body or Sole Practitioner.~~

Rule ~~6~~ 5 – Applications

5~~6~~.1 An application for a Discretionary Grant shall be made:

(a) in such form as IPReg may from time to time prescribe; and

(b) not more than one year after the Applicant first knew, or with reasonable diligence should have known, about the misappropriation or failure to account.

56.2 An Applicant must provide evidence to satisfy IPReg that, in consequence of any of the matters referred to in Rule 2.2, the Applicant has suffered ~~or is likely to suffer~~ loss and hardship.

56.3 The Applicant has the burden of proving an application and must provide IPReg with such documents or other information as it may require in respect of that claim.

56.4 Failure to provide documents or other information or to co-operate with IPReg may be taken into account when determining the merits of a claim.

Rule ~~7~~ 6 - Other remedies and subrogation

67.1 A Discretionary Grant may be refused in respect of all or any part of a loss that is:

(a) an insured risk; or

(b) a risk that would have been insured if professional indemnity insurance had been in place as required by Rule 17 of the IPReg Code of Conduct; or

(c) capable of being made good by any other means.

67.2 Before deciding whether to make a Discretionary Grant, IPReg will require an Applicant to:

(a) pursue any civil remedy against the Registered Body or Sole Practitioner who is the subject of the application to the extent that it is reasonably practicable to do so;

(b) commence insolvency proceedings against that Registered Body or Sole Practitioner (if they have not already been commenced) where possible;

(c) make a formal complaint to the Police or other agency against that Registered Body or Sole Practitioner; and

(d) assist in the taking of any action against that Registered Body or Sole Practitioner to the extent that it is reasonably practicable to do so.

67.3 If a Discretionary Grant is made, any rights or remedies of the recipient shall be subrogated to IPReg and, if required by IPReg (whether before or after the making of the grant), the Applicant shall:

(a) prove in any insolvency or winding-up of the Registered Body or Sole Practitioner;

(b) sue for recovery of the loss in the name of the Applicant but on behalf of IPReg; and

(c) comply with any other reasonable requirement for the purpose of giving effect to IPReg's rights.

Rule 78 - Grant Limits9

7~~8~~.1 A Discretionary Grant may not exceed £25,000.

Rule ~~9~~8 - Refusal of an application

8~~9~~.1 If an application for a Discretionary Grant is refused, whether in whole or part, IPReg will inform the Applicant in writing of its decision and the reasons for that decision within 28 days of the date of the decision.

Rule 1~~0~~ – Commencement

9~~10~~.1 These regulations apply from 31 October 2021 until 30 April 2024.

IPReg Registered Bodies Regulations 2015

(Regulations of the Patent Regulation Board of the Chartered Institute of Patent Attorneys and the Trade Mark Regulation Board of the Institute of Trade Mark Attorneys (working jointly as the Intellectual Property Regulation Board) regarding the Registration of partnerships and bodies corporate)

The Patent Regulation Board of the Chartered Institute of Patent Attorneys and the Trade Mark Regulation Board of the Institute of Trade Mark Attorneys working jointly as the Intellectual Property Regulation Board (IPReg) now make the following provisions under:

(i) section 275A of the Copyright, Designs and Patents Act 1988;

(ii) section 83A of the Trade Marks Act 1994; and

(iii) Part 5 and Schedule 11 of the Legal Services Act 2007.

These Regulations make provision as to:

- *the procedures for, and the circumstances in which, bodies may be registered, i.e, entered into the Patent Attorney Register and/or the Trade Mark Attorney Register, and where they are alternative business structures, licensed under the Legal Services Act 2007;*
- *the duration of registration and the circumstances in which registration will expire or may be revoked or suspended;*
- *the circumstances in which IPReg will need to approve persons to be managers or owners of a body registered by it, and the procedure for the grant of such approvals as well as the circumstances in which such approvals may be withdrawn;*
- *the procedure for IPReg's approval of individuals to fill the role of Head of Legal Practice ("HoLP") or Head of Finance and Administration ("HoFA") of a Registered Body and for the withdrawal of such approvals in certain circumstances;*
- *the form and manner of applications relating to the Registration of a body, the approval of managers, owners, HoLP and HoFA, and other rules applying to registered bodies, their owners, managers and employees;*
- *the general terms and conditions subject to which every registration is granted and the circumstances in which a body's registration may be made subject to further conditions;*
- *appeals relating to the registration of a body, conditions on registration or approvals; and*
- *the names and designations to be used by registered bodies and the information to be published on IPReg's register.*

PART 1 – GENERAL PROVISIONS

Regulation 1 – Interpretation

In these regulations:

"ABS" means a licensable body as defined in section 72 of the 2007 Act;

"Authorised Person(s)" means a person within section 111(2) of the 2007 Act and "Non- Authorised Person(s)" and "Authorised" should be construed accordingly;

"the Commencement Date" means 1 January 2015;

“HoFA” means a Head of Finance and Administration within the meaning of Paragraph 13(2) of Schedule 11 to the 2007 Act;

“HoLP“ means a Head of Legal Practice within the meaning of Paragraph 11(2) of Schedule 11 to the 2007 Act;

“IPReg” means the Patent Regulation Board of the Chartered Institute of Patent Attorneys and the Trade Mark Regulation Board of the Institute of Trade Mark Attorneys working jointly as the Intellectual Property Regulation Board;

“Manager” in relation to a body has the same meaning as in section 207 of the 2007 Act;

“Micro, small and medium-sized enterprises” has the same meaning as in Article 2 of the Annex to Commission Recommendation 2003/361/EC;

“Owner” means a person who has a material interest in a body, phrases “person” and “material interest” having the same meaning as in Schedule 13 of the 2007 Act, save that, in relation to a partnership, a person has a material interest in the partnership if he is a partner;

“Patent Attorney Register” means (together) in respect of Registered persons other than ABS, the Register kept under section 275 of the Copyright Designs and Patents Act 1988 as amended, and in respect of ABS, is part of IPReg’s Register of licensed bodies for the purpose of section 87 of the 2007 Act;

“the Register” means the combined register kept by IPReg comprising, as sub-registers, the Patent Attorney Register and the Trade Mark Attorney Register;

“Registered European Lawyer” means a lawyer regulated by the Solicitors Regulation Authority or the Bar Standards Board under that title;

“Registered Foreign Lawyer” and “exempt European lawyer” mean lawyers regulated by the Solicitors Regulation Authority under those titles;

“Registered Body” means a body (corporate or unincorporated) entered (or where clear in the context, applying to be entered) in the Patent Attorney Register and/or the Trade Mark Attorney Register, and:

(a) a body which is an ABS and is entered in the Register, becomes upon that entry, a licensed body under the 2007 Act;

(b) “Registration” and “Registered” shall be construed accordingly and shall mean, in respect of ABS, “licensing” and “being licensed” for the purpose of the 2007 Act; and

(c) for the avoidance of doubt, references to “Registration” and “Register” in these regulations are to initial registration and any renewal of registration;

“Regulatory Arrangements” has the meaning given to it by section 21 of the 2007 Act;

“the Regulatory Objectives” are those set out in section 1 of the 2007 Act;

“Reserved Legal Activity” has the same meaning as in section 12 of the 2007 Act;

"the Rules of Conduct" means IPReg's Rules of Conduct for Patent Attorneys, Trade Mark Attorneys and Other Regulated Persons and the Special Rules of Professional Conduct applicable to Regulated Persons conducting litigation or exercising a right of audience before the Courts;

"Trade Mark Attorney Register" means (together) in respect of Registered persons other than ABS, the Register kept under section 83 of the Trade Marks Act 1994 as amended, and in respect of ABS, is part of IPReg's Register of licensed bodies for the purpose of section 87 of the 2007 Act; and

"the 2007 Act" means the Legal Services Act 2007.

Regulation 2 – Form, Timing and Fees of Applications

2.1 All applications made to IPReg, under these regulations or otherwise, in respect of a Registered Body, a body applying to be Registered, or a body's Managers, Owners or employees, including its HoLP or HoFA, must comprise:

(a) the prescribed form, correctly completed;

(b) the correct fee or fees for the application, as determined from time to time by IPReg;

(c) such additional information, documents and references as may be specified by IPReg; and

(d) any additional information or documentation which IPReg may reasonably require.

2.2 It is not necessary to submit all documents, information and payments simultaneously, but an application will only have been made once IPReg has received all of the documentation, information and payments comprising that application.

PART 2 – REGISTRATION AND CONDITIONS

Regulation 3 – Registration by IPReg

3.1 IPReg will not Register a body if IPReg is not satisfied that IPReg has suitable Regulatory Arrangements in place to regulate that body in accordance with IPReg's statutory duties and the Regulatory Objectives. For the avoidance of doubt, and without limiting the generality of the foregoing sentence, IPReg will not Register a body which undertakes (to whatever extent) any of the following activities:

(a) criminal law;

(b) family or matrimonial law;

(c) conveyancing other than conveyancing of intellectual property rights;

(d) real estate related legal services;

(e) probate and the drafting of wills;

(f) immigration law;

(g) personal injury litigation, including medical negligence;

(h) administrative law, except in so far as it relates to intellectual property; or

any related services.

3.2 A body may, before making an application for Registration, request the opinion of IPReg on whether IPReg has suitable Regulatory Arrangements to Register that body. An opinion provided under this regulation does not amount to a refusal or grant of an application for Registration and shall not in any way prejudice IPReg's determination of any such application.

3.3 For the purpose of regulation 3.1, "suitable Regulatory Arrangements" has the same meaning as in Paragraph 7 of Schedule 12 to the 2007 Act save that the term "licensable body" in that Paragraph shall be read as including non-ABS.

Regulation 4 – Determination

4.1 Subject to regulations 4.2 and 4.3, IPReg may only grant an application for Registration if it is satisfied that the applicant body is a partnership, LLP or company which meets the eligibility criteria set out in Annex A.

4.2 IPReg may refuse an application for Registration if:

(a) it is not satisfied under regulation 3 that it has suitable Regulatory Arrangements to Register the body;

(b) it is not satisfied that the body's Managers or Owners are suitable, as a group, to operate or control a business providing regulated legal services;

(c) it is not satisfied that, if Registered, the body will conduct its activities in a way that is consistent with the Regulatory Objectives;

(d) the body has provided inadequate or misleading information; or

(e) for any other reason, IPReg reasonably considers that it would be against the public interest to grant Registration.

4.3 In reaching a decision under this regulation, IPReg may take into account:

(a) any conduct on the part of a Manager or Owner of the applicant body which calls into question their honesty, integrity or respect for the processes of law;

(b) any failure or refusal to disclose, or attempt to conceal, a matter in relation to the application;

(c) the extent to which the Managers and Owners of the applicant body, taken together, have sufficient skills and knowledge to run and manage a business which provides the legal and ancillary services which are the subject of the application; and

(d) any other information which IPReg reasonably considers appropriate to take into account.

4.4 In reaching a decision under this regulation, IPReg will take into account, so far as is reasonably practicable, the Regulatory Objectives, including the objective of improvingaccess to justice, and will determine applications in a way which is most appropriate for the purpose of meeting those objectives.

Regulation 5 – Decision Period and Notification

5.1 Subject to regulation 5.2, before the end of the period of 6 months beginning with the day on which any application for Registration is received (the “decision period”), IPReg must:

(a) decide the application;

(b) notify the applicant body of its decision; and

(c) if it decides to refuse the application, set out in the notice the reasons for the refusal.

5.2 IPReg may, on one or more occasions, give the applicant body a notice extending the decision period (an “extension notice”), but:

(a) an extension notice may only be given before the time when the decision period would end but for the extension notice;

(b) the total decision period must not exceed 9 months; and

(c) an extension notice must set out the reasons for the extension.

Regulation 6 – Form and Effect of Registration

6.1 A body which is eligible for Registration in the Patent Attorney Register and in the Trade Mark Attorney Register shall be Registered in both Registers unless IPReg receives anexpress request from the body that Registration should be limited to only one of the Registers.

6.2 The entry of an ABS in the Patent Attorney Register and/or the Trade Mark Attorney Register constitutes the grant of a licence under the 2007 Act.

6.3 A Registration under these regulations, including for the avoidance of doubt a licence under the 2007 Act, will be granted in the terms set out in the specimen Registration certificate at Annex C subject to any amendments made and any further conditions imposed by IPReg.

Regulation 7 – Terms and Conditions of Registration

7.1 Every Registration granted under these regulations is subject to:

(a) the payment, on the date of the grant of Registration, of such contribution to the compensation scheme maintained under ~~regulation 19~~ the Compensation Arrangements Rules as required by IPReg;

(b) the obligations in regulation 7.2;

(c) the general terms and conditions set out in the specimen Registration certificate at Annex C, subject to any amendments made by IPReg; and

(d) any further conditions imposed by IPReg under regulation 7.3.

7.2 Every Registered Body must:

(a) by the prescribed date each year:

(i) submit a self-assessment return in the prescribed form;

(ii) pay the Registration fee set by IPReg for that body;

(iii) pay such contribution to the compensation scheme maintained under the Compensation Arrangements Rules ~~regulation 19~~ as required by IPReg;

(b) submit any additional information or self-assessment returns required by IPReg; and

(c) as soon as reasonably practicable, inform IPReg of any change in its circumstances which renders or may render the body non-compliant with the eligibility criteria in Annex A, or which does or may give rise to a material breach by the body, itsManagers, Owners or employees (including its HoLP and HoFA), of these regulations, a term or condition of the body's Registration or any other obligations imposed by IPReg's Regulatory Arrangements, including the Rules of Conduct.

7.3 IPReg may impose one or more further conditions on a Registered Body's Registration:

(a) when granting Registration;

(b) when granting approval of an Owner, Manager, HoLP or HoFA under Part 4 of these regulations, including the temporary approval of a HoLP or HoFA under regulation 15.7;

(c) when deciding whether to withdraw an approval under regulation 15.9;

(d) when granting temporary emergency Registration under regulation 21; or

(e) at any other time.

7.4 IPReg may impose a condition under regulation 7.3 where it considers:

(a) that:

(i) the condition would limit, restrict, halt or prevent an activity on the part of the body, or of a Manager, an employee (including, for the avoidance of doubt, the HoLP or HoFA) or an Owner of the body, which is putting or is likely to put at risk the interests of clients, third parties or the public;

(ii) the condition would limit the activities of a Manager or an employee of the body who is considered unsuitable to undertake a particular activity, either at all or save as specified in the condition;

(iii) the condition would limit, halt or prevent a risk to clients, third parties or the public arising from a business agreement or association which the body has or is likely to enter into, or a business practice which the body has or is likely to adopt;

(iv) the condition is necessary where, in relation to a Registered Body, a relevant insolvency event as defined in Paragraph 1(3) of Schedule 14 to the 2007 Act has occurred but the event has not triggered the expiry of Registration under regulation 9.2;

(v) the condition is necessary to facilitate closer monitoring by IPReg ofcompliance by a Registered Body, its Managers, Owners, HoLP or HoFA, with IPReg's Regulatory Arrangements, including these regulations and the terms and conditions of the body's Registration;

(vi) imposing the condition will require the body concerned to take specified steps conducive to the carrying on of an efficient practice by that body; or

(vii) the condition is necessary in any other case, having regard to IPReg's statutory duties and the Regulatory Objectives;

and

(b) that it is in the public interest to impose the condition.

7.5 A condition imposed under this regulation takes effect from the date on which it is imposed unless a later date is specified by IPReg.

Regulation 8 – Modification of Terms and Conditions

8.1 Subject to the provisions of the 2007 Act, IPReg may, at any time and by giving written notice to the Registered Body, modify any terms or conditions of a Registration:

(a) on the application of the Registered Body; or

(b) without such an application being made.

8.2 IPReg shall have regard to:

(a) the criteria in regulation 7.4, when deciding whether to modify a condition of Registration; and

(b) the Regulatory Objectives, when deciding whether to modify a term of Registration.

8.3 Any modification will have effect from the date of the notice given under regulation 8.1 or such later time as may be specified in the notice.

PART 3 – DURATION OF REGISTRATION, RENEWAL, SUSPENSION AND REVOCATION

Regulation 9 – Duration, Expiry and Renewal of Registration

9.1 A body's Registration takes effect from the date of the Registration certificate, and continues in force until it expires or ceases to have effect in accordance with regulation 9.2 or 9.3, or it is revoked or suspended under regulation 10.

9.2 A body's Registration will automatically expire:

(a) in accordance with the conditions of the Registration if they provide for expiry; or

(b) if the body is wound up or for any other reason ceases to exist;

whichever is the earliest.

9.3 A licence granted by IPReg to an ABS ceases to have effect upon the issuing of a licence to that ABS by another licensing authority.

Regulation 10 – Suspension or Revocation of Registration

10.1 IPReg may suspend or revoke a body's Registration, if:

(a) Registration was granted as a result of error or fraud;

(b) the body's application for Registration would be refused under regulation 4 if it were at that time applying for Registration;

(c) the body has breached one or more terms or conditions of its Registration including any of the obligations imposed by regulation 7.2 above;

(d) the body has a temporary emergency Registration but has not, within the initial 28 day period or any extension of that period, commenced a substantive application for Registration;

(e) a Non-Authorised Person is an Owner of the Registered Body in breach of these regulations and/or Schedule 13 of the 2007 Act;

(f) a Non-Authorised Person who is subject to the duty in section 90 of the 2007 Act fails to comply with that duty;

(g) the body, or a Manager, an Owner or an employee of the body (including, for the avoidance of doubt, the HoLP or HoFA), fails to comply with the duties imposed by IPReg or under any enactment including section 176 of the 2007 Act;

(h) the body has ceased to practise;

(i) an approved regulator (as defined in the 2007 Act) other than IPReg has authorised the body;

(j) IPReg has received an application by the body to revoke its Registration and is satisfied that revocation would not present a risk to clients, to the protection of client money, or to any investigative process; or

(k) for any other reason, it would be against the Regulatory Objectives for the body's Registration to continue.

10.2 (a) Subject to regulation 22, IPReg may suspend or revoke the licence of a Registered Body which is an ABS, if that body ceases to be an ABS.

(b) Unless its Registration has expired or is suspended or revoked by IPReg, a bodywhose licence is suspended or revoked under regulation 10.2(a) will remain on the Register, and will, from the date of the suspension or revocation, be Registered under the Copyright, Designs and Patents Act 1988 and/or the Trade Marks Act 1994 as applicable.

10.3 (a) Subject to (b) below, suspension or revocation takes effect on expiry of the notice period under regulation 18.2(a) or on such later date as may be stated in the notice;

(b) If an appeal, either under regulation 17 of these regulations or under rules 19 and 20 of the IPReg Disciplinary Procedure Rules, is made before the revocation takes effect, the revocation is suspended pending determination or discontinuance of the appeal, unless in the opinion of IPReg the proceedings on that appeal have been unduly protracted by the appellant or are unlikely to be successful.

(c) A suspension remains in force until the matter giving rise to the suspension has been rectified or otherwise resolved to the satisfaction of IPReg.

PART 4 – OWNERS, MANAGERS, HOLP AND HOFA

Regulation 11 – Managers

11.1 No person may be a Manager of a Registered Body unless that person has been approved by IPReg under these regulations.

11.2 Any person appearing on the Patent Attorney Register and/or the Trade Mark Attorney Register shall be deemed approved as a Manager.

Regulation 12 – Non-authorised Owners

12.1 A Non-Authorised Person may not be an Owner of a Registered Body unless that person has been approved by IPReg to be an Owner in accordance with these regulations and Schedule 13 of the 2007 Act.

Regulation 13 – HoLP and HoFA

13.1 The HoLP of a Registered Body must be an individual who:

(a) is a Manager of the body;

(b) is a Registered patent attorney, a Registered trade mark attorney, a lawyer of England and Wales, a Registered European Lawyer, a Registered Foreign Lawyer or anexempt European lawyer; and

(c) has been designated by the Registered Body to be its HoLP and that designation has been approved by IPReg under these regulations.

13.2 For the purpose of regulation 13.1(c), a designation of an individual as HoLP has effect only while the individual:

(a) consents to the designation;

(b) is an Authorised Person in relation to one or more of the Reserved Legal Activities for which the Registered Body is authorised; and

(b) is not disqualified under the 2007 Act from acting as HoLP.

13.3 The HoLP of a Registered Body must:

(a) take all reasonable steps to ensure compliance with the terms and conditions of the body's Registration (except any obligations relating to accounts and money- handling), and with the duties imposed by sections 90 and 176 of the 2007 Act; and

(b) as soon as reasonably practicable, report to IPReg any failure so to comply.

13.4 The HoFA of a Registered Body must be an individual who:

(a) is a Manager or an employee of the Registered Body;

(b) is suitably qualified to fulfil the role of HoFA; and

(c) has been designated by the Registered Body to be its HoFA and that designation has been approved by IPReg under these regulations.

13.5 For the purpose of regulation 13.4(c), a designation of an individual as HoFA has effect only while the individual:

(a) consents to the designation; and

(b) is not disqualified under the 2007 Act from acting as HoFA.

13.6 The HoFA of a Registered Body must:

(c) take all reasonable steps to ensure compliance with any obligations relating to accounts and money-handling imposed by IPReg in the Rules of Conduct or under the terms and conditions of the body's Registration; and

(d) as soon as reasonably practicable, report to IPReg any failure so to comply.

13.7 Provided that the approval criteria and other requirements are met, nothing in these regulations shall prevent an individual from concurrently acting as the HoLP and HoFA of a Registered Body.

Regulation 14 – Approval of Owners, Managers, HoLP and HoFA

14.1 IPReg may not approve a person to be a Manager, an Owner, HoLP or HoFA of a Registered Body, if IPReg is not satisfied that the person concerned is suitable to be involved in the provision of legal services, and to exercise influence over the conduct of the Registered Body because:

(a) the person or any Registered Body or other entity of which that person has previously been a Manager, an Owner or an employee, has been:

(i) notified in writing by IPReg that it does not regard as satisfactory an explanation given at IPReg's request; or

(ii) made the subject of disciplinary sanction by, or refused Registration with, or authorisation by, another approved regulator, professional or regulatory tribunal, or regulatory authority, whether in England and Wales or elsewhere,

in respect of a matter involving the person concerned;

(b) the person concerned:

(i) has been disqualified from being a company director;

(ii) has been disqualified from being a Manager, an Owner, HoLP or HoFA under the 2007 Act;

(iii) has been removed from the office of trustee for a charity by an order within the terms of section 72(1)(d) of the Charities Act 1993;

(iv) is an undischarged bankrupt;

(v) has been adjudged bankrupt and discharged;

(vi) has entered into a voluntary arrangement or a partnership voluntary arrangement under the Insolvency Act 1986;

(vii) has been a Manager of a company, LLP or other body which has been the subject of a winding up order, an administration order or administrative receivership or which has entered into a voluntary arrangement under the Insolvency Act 1986 or has otherwise been wound up or put into administration in circumstances of insolvency;

(viii) 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 person;

(ix) is the subject of outstanding judgments involving the payment of money;

(x) has been committed to prison in criminal proceedings;

(xi) is currently charged with an indictable offence, or has been convicted of an indictable offence or any offence under the 2007 Act, the Solicitors Act 1974, the Financial Services and Markets Act 2000, the Immigration and Asylum Act 1999 or the Compensation Act 2006;

(xii) has been the subject of an order under section 43 of the Solicitors Act 1974;

(xiii) has been the subject of an equivalent circumstance in another jurisdiction to those listed in (i) to (xii); or

(xiv) has been involved in other conduct which calls into question their honesty, integrity or respect for the processes of law;

(xv) has committed an offence under the Companies Act 2006;

(xvi) in the case of an application for approval as an Owner, HOLP or HOFA of an ABS, the person has a previous conviction which is now spent for a criminal offence relating to bankruptcy, IVAs or other circumstances of insolvency;

(xvii) where the person is a corporate person/entity, it:

(a) has been the subject of a winding up order, an administration order or administrative receivership or which has entered into a voluntary arrangement under the Insolvency Act 1986 or has otherwise been wound up or put into administration in circumstances of insolvency; or

(b) other matters that call its fitness and propriety into question are disclosed or come to light;

(c) the Registered Body or the person concerned fails to disclose, refuses to disclose or seeks to conceal any matter within (a) or (b) above in relation to the approval application.

14.2 IPReg may not approve a person to be an Owner of a Registered Body unless it is satisfied that in addition to the criteria in regulation 14.1, the requirements in Paragraph 6 of Schedule 13 to the 2007 Act are met.

14.3 IPReg may not approve an individual's designation as HoLP or HoFA of a Registered Body unless IPReg is satisfied that the individual meets the requirements set out in regulation 13 and is in a position of sufficient responsibility to fulfil the duties of HoLP or HoFA (as applicable) in relation to the Registered Body.

Regulation 15 – Approval process

15.1 The approval process for Owners is that set out in Schedule 13 of the 2007 Act and not governed by regulation 15.

15.2 An application for the approval of a Manager, HoLP or HoFA must be made by the Registered Body concerned and may be made:

(a) in advance of an application for Registration;

(b) when applying for Registration; or

(c) at any time after Registration has been granted.

15.3 Where the Registered Body applies for approval following the grant of Registration, it must not allow the person concerned to become a Manager, HoLP or HoFA (as applicable) until it has received written notice that the person has been approved.

15.4 (a) It is for the Registered Body to demonstrate that the person concerned meets the criteria for approval.

(b) The Registered Body must co-operate, and secure the co-operation of the person concerned, to assist IPReg to obtain all information and documentation necessary to determine the application.

(c) The person concerned must confirm in writing on the face of the application that the information supplied about them is correct and complete.

15.5 IPReg's decision to approve or refuse approval must be notified in writing to the Registered Body and, separately, to the person concerned.

15.6 Approval takes effect from the date of the decision unless otherwise stated, and continues until:

(a) the approved person is disqualified from being a Manager, HoLP or HoFA (as applicable) of a Registered body;

(b) the approval is withdrawn; or

(c) the person ceases to hold the approved position in the Registered Body who applied for the approval.

15.7 (a) IPReg may grant a temporary approval of a designation as HoLP or HoFA where due to an unforeseen event, a Registered Body ceases to have a designated and approved HoLP or HoFA and within seven days:

(i) informs IPReg of that fact;

(ii) designates a suitable person to replace the previous HoLP or HoFA; and

(iii) makes an application for the temporary approval of that person.

(b) Subject to regulation 15.9 below, a temporary approval shall be valid for 28 days or such other period as specified by IPReg.

15.8 IPReg may at any time request an approved person or the Registered Body concerned to provide it with such information or documentation as it considers necessary to satisfy IPReg that the approved person continues to meet the criteria for approval.

15.9 (a) IPReg may withdraw an approval, including a temporary approval, if:

(i) it is not satisfied that an approved person continues to meet the criteria for approval;

(ii) information or documentation is not promptly supplied in response to a request made under regulation 15.8;

(iii) IPReg is satisfied that the approved person has breached a duty imposed on them under IPReg's Regulatory Arrangements or any enactments;

(b) Subject to (c) below, withdrawal of approval takes effect on expiry of the notice period under regulation 18.2 or such later date as may be stated in the notice.

(c) If an appeal is made before the withdrawal of approval takes effect, the withdrawal is suspended pending the determination or discontinuance of the appeal, unless in the opinion of IPReg the proceedings on that appeal have been unduly protracted by the appellant or are unlikely to be successful.

(d) Where withdrawal of approval relates to a director of a company, IPReg may set separate dates for that person ceasing to be a director and disposing of any shares that they hold.

PART 5 – RECONSIDERATION AND APPEALS

Regulation 16 – Reconsideration

16.1 IPReg may reconsider or rescind a decision made under these regulations when it appears that IPReg:

(a) was materially misled;

(b) failed to take proper account of material facts or evidence;

(c) took into account immaterial facts or evidence;

(d) made a material error of law;

(e) made a decision which was otherwise irrational or procedurally unfair;

(f) made a decision which was otherwise ultra vires; or

(g) failed to give sufficient reasons.

Regulation 17 – Appeals

17.1 A person who is the subject of a decision by IPReg under these regulations may appeal the decision by invoking the appeal procedure set out in the IPReg Appeals Rules, within the time limits specified therein.

PART 6 – MISCELLANEOUS PROVISIONS

Regulation 18 – Notification of decisions by IPReg

18.1 IPReg shall notify its reasons in writing when it:

(a) refuses any application under these regulations;

(b) grants the application subject to one or more conditions; or

(c) refuses a permission required under a condition on a body's Registration.

18.2 IPReg will give 28 days' written notice, with reasons:

(a) to the Registered Body concerned, when IPReg decides to impose a condition on the body's Registration or to suspend or revoke the body's Registration;

(b) to the body and the person concerned, when IPReg decides to withdraw its approval of a Manager, HoLP or HoFA, under regulation 15.9.

18.3 Except in respect of a suspension or revocation, IPReg may shorten or dispense with the 28 day period under 18.2 if it is considers it appropriate to do so.

~~Regulation 19 – IPReg's compensation arrangements~~

~~19.1 (a) IPReg will maintain such compensation arrangements as it, from time to time, considers appropriate, having regard to its statutory duties and the public interest.~~

~~(b) Subject to (a) and any variations or further rules or arrangements made by IPReg, the principal terms of its current compensation scheme are set out in Annex B.~~

Regulation 20 – Waivers

20.1 Subject to any legal restrictions on its ability to do so, IPReg may, in respect of a body or type of bodies, waive any provision in these regulations and any terms or conditions of Registration, and may revoke such a waiver at any time.

Regulation 21 – Temporary Emergency Registration following a Partnership split

21.1 If a partnership split brings into being a new partnership which is not a Registered Body:

(a) the partners of the new partnership must notify IPReg of that fact within 7 days; and

(b) temporary emergency Registration may be granted, subject to regulations 21.2 to 21.4 below, so as to enable the new partnership to lawfully practise for a limited period.

21.2 An application for temporary emergency Registration may be made by telephone, provided that details given by telephone are confirmed in writing on the same day, and must be made (or confirmed) at the earliest possible opportunity on the prescribed form and accompanied by all information and documentation that IPReg may reasonably require.

21.3 IPReg may grant an application for temporary emergency Registration if it is satisfied that:

(a) the partners could not reasonably have commenced an application for Registration in advance of the change; and

(b) the partnership appears to comply with the eligibility criteria set out in Annex A.

21.4 Temporary emergency Registration:

(a) will be granted for 28 days unless a different period is specified by IPReg;

(b) may be extended in response to a reasonable request by the applicant body;

(c) will be extended pending determination of a substantive application for Registration commenced during the currency of the temporary emergency Registration;

(d) cannot prejudice IPReg's discretion to refuse a substantive application for the Registration of the body under regulation 4; and

(e) in exceptional circumstances and for reasonable cause, may be revoked with immediate effect.

Regulation 22 – Unforeseen temporary breaches

If due to an unforeseen event:

(a) a Registered Body which is an ABS ceases to be an ABS;

(b) a Registered Body no longer complies with the eligibility criteria set out in Paragraphs 1 and 2 of Annex A; or

(c) a Registered Body which is a partnership ceases to be a body because it has fewer than two members;

but IPReg is informed of that fact within seven days of the event first occurring, and within 28 days of the event first occurring or such other period as may be specified by IPReg, the Registered Body returns to being an ABS, compliant with the eligibility criteria, or a body (as applicable), then the body will be deemed to have remained so during the said period and to that extent, will not be liable to have its licence or Registration revoked or suspended.

Regulation 23 – Special bodies

23.1 IPReg does not accept applications for any order to be made by it under section 106 of the 2007 Act.

Regulation 24 – Transitional provisions

24.1 Except where it is an ABS, a body which was Registered by IPReg before the Commencement Date will be deemed to be Registered under these regulations and is not required to:

(a) re-apply for Registration whilst its existing Registration remains effective; or

(b) comply with any requirements in these regulations relating to HoLP and HoFA until after the expiry of a 6 month notice, which notice shall be given no earlier than 1st January 2015.

24.2 Any Manager of a Registered Body who was approved by IPReg before the Commencement Date shall be deemed to have been approved under these regulations and the approval shall remain effective subject to any terms and conditions of the approval and these regulations.

24.3 Applications for Registration, approval of a person to be a Manager, or temporary emergency Registration, made before the Commencement Date but not decided by then, will be determined under these regulations.

Regulation 25 – Name and designation of a Registered Body

25.1 A body corporate will be Registered under its corporate name.

25.2 An unincorporated body must elect to have a name under which it is to be Registered.

Regulation 26 – The Register

26.1 IPReg shall keep a Register comprising of two sub-Registers, being the Patent Attorney Register and the Trade Mark Attorney Register.

26.2 The Register shall contain, for each Registered Body (as relevant), the following information:

(a) the name, and trading name if different, under which the body is Registered;

(b) the body's Registered address and practising address(es);

(c) the date on which Registration was granted;

(d) in the case of an ABS, that the body is licensed under the 2007 Act;

(e) whether the body's Registration has been suspended or revoked and the date on which suspension or revocation took place;

(f) any enforcement action taken against the body or any of its Owners or employees (except administrative fines);

(g) any previous names of the body;

(h) all company Registration numbers, charity numbers or equivalent as relevant;

(i) the names of the body's HoLP and HoFA;

(j) the authorising regulatory body of the HoLP;

(k) the Reserved Legal Activities that the body is authorised to undertake; and

(l) any other information that IPReg considers appropriate to include.

26.3 (a) The Register may be kept in electronic form and made available on IPReg's website.

(b) Entries in the Register shall be available for inspection by any member of the public.

Regulation 27 – Commencement

27.1 These regulations apply from the Commencement Date. They replace the Patent Attorney and Trade Mark Attorney Registered Bodies Regulations which from the Commencement Date cease to have effect.

ANNEX A – ELIGIBILITY CRITERIA FOR REGISTRATION

A partnership, LLP or company ("body") may be entered in the Patent Attorney Register and/or the Trade Mark Attorney Register if it meets all of the criteria in (1) to (6) below.

(1) (a) In the case of a body applying to be entered in the Patent Attorney Register, the body undertakes as its primary activity legal services relating to any of the development and protection, and management and exploitation of patents and registered designs (alone or in combination with the legal services described in 1(b) below), includingbut not limited to the business of acting as agent for others for the purpose of:

(i) applying for or obtaining patents and registered designs, in the United Kingdom or elsewhere; and/or

(ii) conducting proceedings before the Comptroller General of Patents, Designs and Trade Marks relating to applications for, or otherwise in connection with, patents and registered designs;

together with the provision of any other legal services ancillary to the legal services described above;

(b) In the case of a body applying to be entered in the Trade Mark Attorney Register, the body undertakes as its primary activity legal services relating to any of the development and protection, and management and exploitation of trade marks and registered designs (alone or in combination with the legal services described in 1(a) above), including but not limited to the business of acting as agent for others for the purpose of:

(i) applying for or obtaining the registration of trade marks and registered designs, in the United Kingdom or elsewhere; and/or

(ii) conducting proceedings before the Comptroller General of Patents, Designs and Trade Marks relating to applications for, or otherwise in connection with, the registration of trade marks and registered designs;

together with the provision of any other legal services ancillary to the legal services described above.

(2) The body carries on non-legal activities and provides non-legal services that are ancillary to 1(a) and/or (b) above and only concern or relate to the creation, development, maintenance, exploitation or otherwise of intellectual property and activities ancillary thereto.

(3) (a) In the case of a partnership:

(i) which applies to be entered in the Patent Attorney Register, at least one of the partners is a person (ABS or other) who is on the Patent Attorney Register.

(ii) which applies to be entered in the Trade Mark Attorney Register, at least one of the partners is a person (ABS or other) who is on the Trade Mark Attorney Register.

(b) In the case of an LLP or company:

(i) which applies to be entered in the Patent Attorney Register, at least one of the Managers is a person (ABS or other) who is on the Patent Attorney Register.

(ii) which applies to be entered in the Trade Mark Attorney Register, at least one of the Managers is a person (ABS or other) who is on the Trade Mark Attorney Register.

(4) The body:

(i) In the case of an ABS, has a practising address (as defined in Para 15, Schedule 11 of the 2007 Act) in England and Wales and, in all other cases, the United Kingdom; and

(ii) In the case of an ABS, is domiciled, or has a real and effective industrial or commercial establishment, in England and Wales and, in all other cases, theUnited Kingdom.

(5) All non-authorised Managers of the body have been approved under Part 4 of these regulations.

(6) In the case of an ABS, all non-authorised Owners of the body have been approved under Part 4 of these regulations and Schedule 13 of the 2007 Act.

(7) The body confirms that it will abide by IPReg's Regulatory Arrangements, including the Rules of Conduct, and with the terms and conditions of its Registration.

(8) IPReg is satisfied that if Registered, the body will be in compliance with the terms and conditions of its Registration.

~~ANNEX B – COMPENSATION ARRANGEMENTS~~

~~Subject to regulation 19, the principal terms of IPReg's compensation scheme are as follows:~~

~~(1) IPReg will maintain a compensation fund under which grants may be made to compensate for losses or hardship suffered by persons in consequence of fraud or other dishonesty, or a fraudulent or dishonest failure to account for money by a Registered Body or its employees and Managers, to the extent that such losses are not covered or required to be covered by professional indemnity insurance.~~

~~(2) Registered bodies shall contribute to the costs of the scheme, through annual contributions required under regulations 7.1(a) and 7.2(a)(iii).~~

~~(3) Only:~~

~~(a) current and former individual clients; and~~

~~(b) micro, small and medium-sized enterprises who are or were clients,~~

~~of the Registered Body will be entitled to benefit from the arrangements.~~

~~(4) All grants will be made at the sole discretion of IPReg and subject to a cap of £25,000 per claimant.~~

~~(5) All applications for grants must be made in the form and within the time period prescribed by IPReg.~~

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ANNEX C – SPECIMEN REGISTRATION CERTIFICATE

Registration Certificate

This certificate is issued by the Intellectual Property Regulation Board [under delegation from the Chartered Institute of Patent Attorneys/Institute of TradeMark Attorneys] under section [84 of the Legal Services Act 2007] [83 of the Trade Marks Act 1994] [and] [275 of the Copyright, Designs and Patents Act 1988]

To: [name of firm] IPReg registration number [xxxxxxxxxx]

Trading as: [delete if trading name is the same]

Registered Office [delete if not applicable]: [insert details]

Main practising address: [insert details]

Registration

[name of firm] is registered by the [Trade Mark Regulation Board] [and] [Patent Regulation Board] to undertake the following reserved legal activities:

1. **the exercise of a right of audience;**
2. **the conduct of litigation;**
3. **reserved instrument activities;**
4. **the administration of oaths.**

Pursuant to the IPReg Registered Bodies Regulations 2015 this firm is regulated by the [Trade Mark Regulation Board] [and] [Patent Regulation Board] in respect of:

(a) the carrying on of the reserved legal activities stated above;

(b) any other reserved or non-reserved legal activities which fall within section 12 of the Legal Services Act 2007; and

(c) any other activities which are subject to conditions imposed [under Part 5 of the Legal Services Act 2007] and as set out in this certificate.

This registration is granted from [date] and shall continue until it shall expire, cease to have effect in accordance with regulation 9, or shall be revoked or suspended in accordance with regulation 10, of the IPReg Registered Bodies Regulations 2015.

A detailed review of [Firm] will take place on the [date – three or five years from the date of registration at IPReg's discretion].

(electronic signature)

~~Ann Wright~~

Fran Gillon

Chief Executive

This registration is subject to the following terms and conditions:

[Firm] shall comply with:

- the general conditions listed in the Annex to this licence; [and
- the following additional conditions [list any additional conditions that may be imposed on the body].

Unless otherwise indicated, all terms in the conditions must be construed in accordance with the IPReg Registered Bodies Regulations and the IPReg Disciplinary Procedure Rules.