

Direction 152 issued under Part 3 of Schedule 4 to the Legal Services Act 2007 to the Chartered Institute of Legal Executives (CILEx)

1. This is a direction issued pursuant to paragraph 19(3) to Schedule 4 of the Legal Services Act 2007 (the “Act”).
2. Unless stated otherwise, words in this direction are used as they are defined in the Act.
3. In accordance with paragraph 19(3) to Schedule 4 of the Act, the Board has directed that the following alterations by CILEx to its regulatory arrangements be treated as exempt alterations for the purposes of paragraph 19(2)(c) to Schedule 4:

Bye-Laws of the Chartered Institute of Legal Executives (“CILEx Bye-Laws”)

Proposed changes

4. CILEx is proposing a number of amendments to its Bye-Laws following an independent review of its governance structure in 2016. The proposed amendments contain changes to wording to implement governance reforms and include alterations to ensure that CILEx’s governance arrangements comply with the LSB’s Internal Governance Rules 2019 (IGR).
5. The most significant change in relation to the exercise of CILEx’s functions as an Approved Regulator of reserved legal activities under the Act, is the removal of regulatory references in the Bye-Laws. A sole regulatory reference is contained within Bye-Law 17 (see below).
6. Bye-Law 17 is amended from a list of delegated functions to a statement that all regulatory functions are delegated to the Delegated Regulatory Body (CILEx Regulation) and must be undertaken independently from representative functions of the Approved Regulator. CILEx has assessed the proposed changes against the LSB’s Significance, Impact and Risk Assessment Framework and says that the revised wording is designed to provide greater clarity that all regulatory functions are delegated to CILEx Regulation. There is no change to the nature of delegation itself. The proposed changes are shown below.

Bye-Law 17 – current wording

Exercise of regulatory functions

17. *The Council shall as an approved regulator under Schedule 4 to the Act and otherwise, and in accordance with internal governance rules approved by the Legal Services Board, regulate the professional conduct of Fellows and members of the Chartered Institute and regulated persons and entities and shall subject to Bye-Law 18 delegate the following regulatory powers to the Regulatory Body:*

18. *The Council shall not itself exercise any of the regulatory functions it has delegated under Bye-Law 17.”*

Bye-Law 17 – proposed change

Exercise of regulatory functions

17. *The Chartered Institute shall as an approved regulator under Schedule 4 to the Act and otherwise, and in accordance with internal governance rules made by the Legal Services Board, delegate responsibility for performing all of its regulatory functions (as defined in Section 27(1) of the Legal Services Act 2007) to the Delegated Regulatory Body, independent of its representative functions, pursuant to Sections 29 and 30 of the Legal Services Act.*

7. Full details of the amended Bye-Laws are set out within the Annex to this notice and a non-exhaustive summary of the key changes is set out within the table below:

Section	Nature of change
Interpretation	Definition of “ <i>Member</i> ” has been changed to clarify the differentiation of ‘member’ as distinct from Fellow. Reference to other current grades of membership are retained.
	Definition of “ <i>AGM</i> ” has been added to the Bye-Law for clarity.
	Definition of “ <i>Approved Regulator</i> ” has been added to assist in giving clarity around delegated regulatory arrangements.
	Definition “ <i>The Chartered Institute</i> ” has been added to make clear that the Institute is both the professional body for its various members and the Approved Regulator under the Act.
	“ <i>Co-opted member</i> ” definition has been removed to reflect that ‘independent’ members will provide the broader expertise which may be required for the governance structure.
	Definition of “ <i>delegated regulatory body</i> ” amends the previous defined term of ‘ <i>regulatory body</i> ’ as it contemplates members of CILEx who might not be regulated by CILEx Regulation, but by a successor body in the future. Consequential amendments appear throughout the Bye-Laws where “ <i>delegated regulatory body</i> ” replaces “ <i>regulatory body</i> ”.
	Definition of “ <i>General Meeting</i> ” has been added to the Bye-Laws for clarity.
	Definition of “ <i>Group Board</i> ” has been added designating it as ‘ <i>Council</i> ’ for the purposes of the Charter. Consequential amendments appear throughout the Bye-Laws where “ <i>Group Board</i> ” replaces “ <i>Council</i> ”. A definition of “ <i>Group Board Member</i> ” has also been added for consistency.
	Definition of “ <i>Professional Board</i> ” has been added to differentiate from the other structures within the Chartered Institute.
	Definition of “ <i>Regulatory Rules</i> ” now specifies that it is for the Delegated Regulatory Body to make rules that relate to the performance of regulatory functions.
	Definition “ <i>SGM</i> ” has been added to the Bye-Laws for clarity.
New definition “ <i>Standing Orders</i> ” introduced. “ <i>Standing Orders</i> ” are as set out in new Bye-Law 29 and relate to ‘ <i>administration of the affairs of the Chartered Institute</i> ’ as distinct from “ <i>Regulatory Rules</i> ” which specifically relate to delegated regulatory functions.	
General Conditions for membership	Now contains consequential amendments to reference and differentiate between ‘ <i>Regulatory Rules</i> ’ and ‘ <i>Standing Orders</i> ’.
Admission as a Fellow	Removal of references to any regulatory elements such as those which currently reference ‘ <i>qualifying employment</i> ’, and inclusion of a reference to ‘ <i>delegated regulatory body</i> ’.

Grades for registration/ Certificates and designatory letters	New Bye-Laws 8 and 9 seek to set out and protect those grades of membership which have designatory letters containing reference to 'Chartered' but which recognises, in new Bye-law 8(3), that the Group Board of the Chartered Institute may in future wish to register other grades, subject to the requirements now set out in the Standing Orders. A key provision is at Bye-Law 9(5) which ensures any changes to the use of the term ' <i>Chartered</i> ' is still subject to Privy Council approval.
	Grades to which the term ' <i>Chartered</i> ' or designatory letters do not attach and that are no longer used have been removed: Hong Kong Member, Legal Accounts Member, Legal Accounts Executive, and Paralegals.
	Bye-Law 9(4) also introduces a new ' <i>Ordinary Member</i> ' grade (the prefix to differentiate from references to ' <i>member</i> ', as defined) which is entitled to use the designatory letters ' <i>MCILEx</i> '.
Fees and subscriptions	New Bye-Law 10 is drafted to strip out previous regulatory references and focus on membership subscriptions as set by the Group Board. Current Bye-Laws 10(A) and 10(B) ('Applications for regulatory authorisation and approval' and 'Fees payable by regulated persons and entities') have been removed. The same rationale is behind the removal of old Bye-Law 11 ('Practice Certificates').
Cessation	New Bye-Laws 11-14 amend existing Bye-Laws 12-14 by removing regulatory references and differentiating between Fellows and any other members of the Institute. The same approach has been taken to amendments to those Bye-Laws relating to 'Suspension' and 'Reinstatement'.
Exercise of regulatory functions	New Bye-Law 17 has been reviewed and re-drafted, in liaison and in agreement with CILEx Regulation, in light of the publication by the LSB of its investigation report into the Law Society and the SRA (in May 2018). This Bye-Law has therefore been amended to replace the current exhaustive list to make clear that all regulatory functions must be delegated to the Delegated Regulatory Body to be undertaken independently from representative functions of the Approved Regulator.
Qualification arrangements	New Bye-Law 18 recognises that, as an Ofqual regulated Awarding Body, CILEx develops qualifications for its members but prevents the arrangements made in that undertaking from straying into regulatory arrangements which must be delegated to the Delegated Regulatory Body via Bye-Law 17.
Delegation to the Professional Board	New Bye-Law 19 enables the Group Board to delegate specifically member-focused functions to the Professional Board.
General meetings	Details of " <i>Notices of general meetings</i> ", have been consolidated into the general section on " <i>General meetings</i> ".
The Group Board	New Bye-Law 28 explains that appointments and approvals to the Group Board shall be contained in Standing Orders.
Standing Orders	New Bye-Law 29 enables the creation of Standing Orders for matters relating to the ' <i>administration of the affairs of the Chartered Institute</i> ', where appropriate, and shall include in relation to " <i>Notices</i> " as in new Bye-Law 30.

	Therefore, those parts of the current Bye-Laws setting out provisions relating to what were “ <i>General provisions relating to general meetings</i> ”, are now set out in “ <i>Standing Orders</i> ” appended to the amended Bye-Laws. These include also references to the composition and proceedings of the Group Board, related eligibility, terms and vacation of office, and the same for the Professional Board. This means that current Bye-Laws 83 – 88 (“ <i>Proceedings of the Council</i> ”) for example have been deleted.
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8. There are also a number of drafting alterations to the regulations that are of less significance to the exercise of CILEx’s functions as an approved regulator.
9. The LSB has assessed the wording change in Bye-Law 17 and other minor drafting alterations as being compliant with Rule 2 of the IGR, “Duty to Delegate”.

Reason for exemption direction

10. The LSB has considered the proposed alterations against our Significance, Impact and Risk Assessment Framework (“SIR Framework”) and is satisfied that, in accordance with the SIR, the proposed alterations are suitable for exemption.
11. The proposed amendments to the CILEx Bye-Laws do not represent a substantial change in regulatory policy or approach. They are drafting changes which set out new governance arrangements and additional changes which were made for CILEx to comply with the IGR.
12. This direction is limited to the approval of amendments made by CILEx to its Bye-Laws. It does not cover CILEx’s wider compliance with the IGR.
13. A copy of the alteration was submitted to the Board on 15 May 2020.
14. This direction is to be deemed made on and to be effective from 10 June 2020.

For and on behalf of the Legal Services Board

10 June 2020