

Comparison of Probate Rights Certification Rules with CILEx Regulation Authorisation rules

NOTE: this table maps subsections between the old and new rules. Within subsections, new rules may be renumbered and reordered.

Probate rights	New rules	Comments
<p>DEFINITIONS</p> <p>1. In these Rules, except where otherwise indicated:</p> <ul style="list-style-type: none"> • “Probate Certificate” means a Probate Certificate identified in these Rules; • “Probate Practitioner” means a person who has been granted a right to undertake probate, under the terms of the Act; • “Certification Rules” means the Probate Rights Certification Rules; • “External Advisor” means a person appointed by CILEx Regulation to carry out the role and functions identified for them in these Rules; • “Applicant in good standing” means a person in respect of whose conduct there is no complaint outstanding, and against whom there is no disciplinary or prior conduct record which, in the view of CILEx Regulation, affects their suitability to be a Probate Practitioner; • “CILEx” means the Chartered Institute of Legal Executives; • “Investigation, Disciplinary and Appeals Rules” means the Rules of CILEx which are in place from time to time and which govern the complaints handling, misconduct investigation and disciplinary procedures of CILEx Regulation; • “The Act” means the Legal Services Act 2007; and • “The Officer” means a person with responsibility for the Probate Practice Rights Scheme. 	<p>DEFINITIONS</p> <p>1. In these Rules, except where otherwise indicated:</p> <ul style="list-style-type: none"> • “Probate Certificate” means a Probate Certificate identified in these Rules; • “External Advisor” means a person appointed by CILEx Regulation to carry out the role and functions identified for them in these Rules; • “Applicant in good standing” means a person in respect of whose conduct there is no complaint outstanding, and against whom there is no disciplinary or prior conduct record which, in the view of CILEx Regulation, affects their suitability to be a <u>Chartered Legal Executive or CILEx Practitioner</u>; • “CILEx” means the Chartered Institute of Legal Executives; • “Enforcement” means the Rules of CILEx Regulation which are in place from time to time and which govern the complaints handling, misconduct investigation and disciplinary procedures of CILEx Regulation; • “The Act” means the Legal Services Act 2007; and • “The Officer” means a person with responsibility for the Authorisation Rules . • <u>“Chartered Legal Executive” means a CILEx member authorised by CILEx Regulation to conduct one or more reserved activities (also known as a Fellow of CILEx)</u> • <u>“CILEx Practitioner” means a person authorised to conduct Probate practice or Conveyancing practice as defined in these rules, but not authorised as a Chartered Legal Executive/Fellow of CILEx;</u> • “Practice Certificate” means a “Practice Rights Certificate” or a “Litigation Certificate” or an “Advocacy Certificate” identified in these Rules; • “Practice Rights Certificate” means a Conveyancing Certificate, “Immigration Certificate”, “Probate Certificate”, 	<p>Definitions deleted are no longer used in the rules.</p> <p>Four new definitions relevant to the amendments made to the rules for probate rights authorisation have been added.</p>

Comparison of Probate Rights Certification Rules with CILEx Regulation Authorisation rules

Probate rights	New rules	Comments
	<p>“Employment Certificate”, “Business Certificate” or “General Certificate” identified in these Rules;</p>	
<p>NOTES Words importing the singular include the plural and vice versa.</p>	<p>NOTES 3. Words importing the singular include the plural and vice versa.</p>	<p>No change, but rule number added. New rules have an additional note.</p>
<p>DELEGATIONS Responsibility for this qualification scheme is delegated by CILEx to CILEx Regulation.</p>	<p>DELEGATIONS 4. Responsibility for this authorisation scheme is delegated to CILEx Regulation by CILEx.</p>	<p>Text change for consistency. Rule number added.</p>
<p>PROBATE PRACTICE CERTIFICATE 3. An applicant in good standing may apply to CILEx Regulation to be granted a Probate Certificate. 4. The probate rights exercisable by a person holding a Probate Certificate are to prepare any probate papers for the purposes of the law of England and Wales or in relation to any proceedings in England and Wales. Probate papers mean any papers on which to found or oppose a grant of probate or a grant of letters of administration.</p>	<p>Practice Rights ELIGIBILITY PROBATE CERTIFICATE 22. An applicant in good standing who <ul style="list-style-type: none"> • has three years’ general legal experience including probate practice experience in the two years preceding the application, or • is applying for Fellowship and has three years’ general legal experience including probate practice experience in the two years preceding the application, may apply to CILEx Regulation to be granted a Probate Certificate. 23. The probate rights exercisable by a person holding a Probate Certificate are to prepare any probate papers for the purposes of the law of England and Wales or in relation to any proceedings in England and Wales. Probate papers mean any papers on which to found or oppose a grant of probate or a grant of letters of administration.</p>	<p>Changes reflect the two routes to award of a Probate Certificate (with or without Fellowship). The requirement for three years’ general legal experience was previously stated in the Practice Handbook. The requirement for two years’ probate experience was in Annex 3 of the Probate Rights Certification Rules.</p>
<p>QUALIFICATION ARRANGEMENTS 5. Applicants who seek a Probate Certificate must demonstrate that they meet the knowledge, skills and experience criteria in accordance with the knowledge, skills and experience guidelines and the Portfolio Guidelines which appear at Annexes 1 and 2 and the competence framework at Annex 3.</p>	<p>APPLICATIONS Probate Certificate 34. Applicants who seek a Probate Certificate must be able to demonstrate they meet the knowledge and competence requirements set out at Annex 6 in accordance with the application guidelines set by CILEx Regulation. 30. Applicants who seek a Practice Rights Certificate should demonstrate meeting the</p>	<p>Changed section heading for consistency. Note: new rules in this section are not listed in numerical order but to correspond with current rules Rules appear in different sections as a result of consolidation.</p>

Comparison of Probate Rights Certification Rules with CILEx Regulation Authorisation rules

Probate rights	New rules	Comments
<p>6. Applicants who seek a Probate Certificate must make an application in accordance with the knowledge, skills and experience guidelines which appear 3 at Annex 1 and the portfolio guidelines and assessment criteria which appear at Annex 2.</p> <p>7. An application must be made on such form as may be prescribed for the purpose by CILEx Regulation and shall be accompanied by such fees as may be fixed by CILEx Regulation from time to time.</p> <p>8. CILEx Regulation will consider the application to ensure it meets the criteria set out in the knowledge, skills and experience guidelines which appear at Annex 1 and the portfolio guidelines and assessment criteria which appear at Annex 2.</p> <p>9. The portfolios which form part of the application will be sent to an external advisor for assessment. The external advisor will assess whether the portfolios meet the knowledge, skills and experience guidelines and the portfolio guidelines and assessment criteria at Annexes 1 and 2.</p> <p>10. Where the external advisor finds that the portfolios are satisfactory and meet the knowledge, skills and experience guidelines and the portfolio guidelines and assessment criteria at Annexes 1 and 2, the CILEx</p>	<p>knowledge and competence requirements by using the documentation prescribed by CILEx Regulation to produce a portfolio of evidence.</p> <p>31. Applicants who seek a Practice Rights Certificate must complete all application forms required by CILEx Regulation and pay such fees as may be fixed by CILEx Regulation from time to time.</p> <p>DECISION MAKING</p> <p>39. In making any assessment or decision required by these Rules, the Admissions and Licensing Committee shall have regard to the relevant eligibility criteria, application guidelines, and the knowledge and competence requirements.</p> <p>41. CILEx Regulation will consider an application for a Practice Rights Certificate to ensure it meets the relevant eligibility criteria, the application guidelines and the related knowledge and competence requirements.</p> <p>43. The portfolios which form part of the application will be sent to an external advisor for assessment. The external advisor will assess whether the portfolios meet the application guidelines and the relevant knowledge and competence requirements.</p> <p>44. Where the external advisor finds that the portfolios are satisfactory the CILEx Regulation Officer will decide whether the application may be approved. In reaching their decision, the Officer will consider all the information provided by the applicant and may call for further information from any person or source it considers appropriate. Where the Officer has any doubt as to the suitability of the applicant they may request additional information from the applicant and/or refer the application to the Admissions and Licensing Committee for decision.</p> <p>45. Where the external advisor decides that the portfolios do not meet the relevant knowledge and competence requirements</p>	<p>Generic application paragraphs apply to probate certificate applications.</p> <p>References to supplementary annexes have been replaced by reference to the new Education Standards and to new application guidelines to be produced by CILEx Regulation.</p> <p>No material changes to the decision making process, but the text of the rules has been altered to make more consistent.</p>

Comparison of Probate Rights Certification Rules with CILEx Regulation Authorisation rules

Probate rights	New rules	Comments
<p>Regulation Officer will consider whether the applicant may be granted a Probate Certificate. In reaching their decision, the Officer will consider all the information provided by the applicant and may call for further information from any person or source it considers appropriate. Where the Officer has any doubt as to the suitability of the applicant they may request additional information from the applicant and/or refer the application to the Admissions and Licensing Committee for decision.</p> <p>11. Where the external advisor decides that the portfolios do not meet the knowledge, skills and experience guidelines and the portfolio guidelines and assessment criteria at Annexes 1 and 2 they will give reasons for their decision. The Officer will inform the applicant of the decision. The applicant may withdraw their application, amend and re-submit their application or make further representation and ask that the full application be referred to the Admissions and Licensing Committee to consider.</p> <p>12. The Admissions and Licensing Committee will decide whether or not an application should be approved. In reaching its decision, the Committee will consider all the information provided by the applicant, and may call the applicant for interview or call for further information from any person or source it considers appropriate.</p> <p>13. The Committee may:</p> <ul style="list-style-type: none"> • approve the application; • decide that the applicant does not meet the criteria and indicate which of the criteria the applicant does not meet. <p>14. In making any assessment or decision required by these Rules,</p>	<p>they will give reasons for their decision. They shall indicate what action the applicant needs to take to provide a satisfactory portfolio. The Officer will inform the applicant of the decision. The applicant may withdraw their application, amend and re-submit their application or make further representation and ask that the full application be referred to the Admissions and Licensing Committee to consider.</p> <p>46. The Admissions and Licensing Committee will decide whether or not an application referred to it should be approved. In reaching its decision, the Committee will consider all the information provided by the applicant, and may call the applicant for interview or call for further information from any person or source it considers appropriate.</p> <p>47. The Admissions and Licensing Committee may:</p> <ul style="list-style-type: none"> • Approve the application; • Decide that the applicant does not meet the criteria and indicate which of the criteria the applicant does not meet. <p>48. The Officer will notify an applicant of their decision or the decision of the Admissions and Licensing Committee.</p> <p>49. Where the application has been approved, the notification shall include the Practice Rights Certificate.</p> <p>50. Where the application is unsuccessful, the notification shall set out the Committee’s reasons and any pre-conditions to the consideration of any subsequent application. Where an application is unsuccessful, the applicant may apply for reconsideration in accordance with the Admissions and Licensing Committee Rules.</p>	

Comparison of Probate Rights Certification Rules with CILEx Regulation Authorisation rules

Probate rights	New rules	Comments
<p>the Admissions and Licensing Committee shall have regard to the knowledge, skills and experience guidelines and the portfolio guidelines and assessment criteria at Annexes 1 and 2.</p> <p>15. The Officer will notify an applicant of their decision or the decision of the Admissions and Licensing Committee.</p> <p>16. Where the application has been approved, the notification shall include the Probate Certificate.</p> <p>17. Where the application is unsuccessful, the notification shall set out the Committee’s reasons and any pre-conditions to the consideration of any subsequent application. Where an application is unsuccessful, the applicant may apply for reconsideration in accordance with the Admissions and Licensing Committee Rules.</p>		
<p>PRACTICE MANAGEMENT AND ACCOUNTS</p> <p>18. A Probate Practitioner who seeks to practise in an entity seeking regulation by CILEx Regulation must demonstrate that they meet the knowledge, skills and experience in accounts and practice management in accordance with the knowledge, skills and experience guidelines and portfolio guidelines and the competency framework which appear at Annexes 4 and 5. They will not be authorised to be an Approved Manager in an entity until these requirements are met.</p> <p>19. Where an applicant relies upon existing experience they must complete a log in accordance the portfolio guidelines. An applicant who relies upon a qualification as evidence of meeting the competency framework must provide details of that</p>		<p>Rules deleted as covered by regulatory arrangements for entity regulation.</p>

Comparison of Probate Rights Certification Rules with CILEx Regulation Authorisation rules

Probate rights	New rules	Comments
<p>qualification and assessment. CILEx Regulation will consider whether the experience or qualification relied upon demonstrates that the applicant meets the requirements of the competency framework.</p> <p>20. An applicant who does not meet the knowledge, skills and experience requirements for practice management and or accounts must complete qualification courses and assessment in those areas which meet the competency frameworks at Annexes 4 and 5.</p>		
<p>ADMISSIONS AND LICENSING COMMITTEE</p> <p>21. The Admissions and Licensing Committee established under the Admissions and Licensing Committee Rules shall be responsible for the probate rights qualification scheme.</p>	<p>38. The Admissions and Licensing Committee established under the Admissions and Licensing Committee Rules shall be responsible for matters relating to these Rules.</p>	<p>Rule now in the Decision making section. New number and made applicable across the practice areas.</p>
<p>EXTERNAL ADVISORS</p> <p>22. CILEx Regulation shall appoint external advisors to advise CILEx Regulation and the Admissions and Licensing Committee on issues relating to probate practice rights.</p>	<p>EXTERNAL ADVISORS</p> <p>40. CILEx Regulation shall appoint external advisors to advise CILEx Regulation and the Admissions and Licensing Committee on matters relating to these Rules.</p>	<p>Rule now in the Decision making section. New number and made applicable across the practice areas.</p>
<p>PROBATE PRACTITIONERS</p> <p>23. An applicant who has been awarded a Probate Certificate will be known as a Probate Practitioner.</p>	<p>AUTHORISED PERSONS AT CILEx REGULATION</p> <p>83. An applicant who has been awarded a Probate Certificate will be known as a CILEx Practitioner (Probate).</p>	<p>Section heading changed. Rule number changed and rule reflects change in title arising from new Education Standards.</p>
<p>CONTINUING PROFESSIONAL DEVELOPMENT (CPD)</p> <p>24. Probate Practitioners will be required to undertake Continuing Professional Development (CPD) in accordance with the CPD Regulations issued by CILEx Regulation from time to time applicable to Chartered Legal Executives.</p> <p>25. Where a Probate Practitioner has failed to undertake CPD which meets the CPD Regulations or fails</p>	<p>CONTINUING PROFESSIONAL DEVELOPMENT</p> <p>104. Chartered Legal Executives and CILEx Practitioners are required to undertake Continuing Professional Development (CPD) in accordance with the CPD Regulations issued by CILEx Regulation from time to time.</p> <p>105. Where a Chartered Legal Executive or CILEx Practitioner's Certificate has been withdrawn for 12 months or more, on the basis that they have not met their CPD requirements, they will be required to make</p>	<p>The CPD rules have been consolidated for all practice areas.</p> <p>Three rules have been deleted as they repeat, unnecessarily the CPD regulations that the current rules already refer to.</p>

Comparison of Probate Rights Certification Rules with CILEx Regulation Authorisation rules

Probate rights	New rules	Comments
<p>to provide a record of such CPD, the Officer will refer the matter to the Admissions and Licensing Committee. The Admissions and Licensing Committee will consider whether the Probate Practitioner should retain their Probate Certificate.</p> <p>26. The Probate Practitioner will have the opportunity to make written representations to the Committee and a right to be heard by the Committee.</p> <p>27. The Committee may decide to:</p> <ul style="list-style-type: none"> • Grant an extension of up to 3 months for the Probate Practitioner to meet their outstanding CPD requirements. The Probate Practitioner will still be required to meet their current CPD requirement in the normal way; or • Withdraw the Probate Certificate. <p>28. Where a Probate Practitioner's Certificate has been withdrawn for 12 months or more, on the basis that they have not met their CPD requirements, they will be required to make a fresh application for a Probate Certificate in accordance with these Rules.</p>	<p>a fresh application for a Practice Certificate in accordance with these Rules.</p>	

Comparison of Probate Rights Certification Rules with CILEx Regulation Authorisation rules

Probate rights	New rules	Comments
<p>DISCIPLINARY PROCEDURES AND CODE OF CONDUCT</p> <p>29. Probate Practitioners will be required to abide by the Code of Conduct of CILEx for the time being in force. They will also be bound by the associated regulatory arrangements in force from time to time.</p> <p>30. Where a complaint is made, or an issue is brought to the attention of CILEx Regulation, regarding the conduct of a Probate Practitioner, that matter will be dealt with in accordance with CILEx’s Investigation, Disciplinary and Appeals Rules. Where a finding, order or decision is made against a Probate Practitioner, that finding, order or decision will be referred to the Admissions and Licensing Committee. The Admissions and Licensing Committee will decide whether the Probate Practitioner remains a fit and proper person to hold a Probate Practice Certificate. The Admissions and Licensing Committee must give reasons for its decision.</p> <p>31. Rule 30 shall not apply where an order is made excluding a Probate Practitioner from registration of CILEx Regulation or membership of CILEx. In such a case the Probate Practitioner’s Certificate shall be invalid from the date the exclusion from membership or registration takes effect.</p> <p>32. Where the Admissions and Licensing Committee decides that the Probate Practitioner is no longer a fit and proper person to hold a Probate Certificate or their certificate is invalid in accordance with Rule 31, they must return their Certificate to CILEx Regulation within 28 days of them being notified of the decision. Failure to do so will constitute a</p>	<p>Disciplinary procedures and Code of Conduct</p> <p><u>106. Chartered Legal Executives and CILEx</u> Practitioners will be required to abide by the Code of Conduct of CILEx for the time being in force. They will also be bound by the associated regulatory arrangements in force from time to time.</p> <p><u>107.</u> Where a complaint is made, or an issue is brought to the attention of CILEx Regulation, regarding the conduct of a <u>Chartered Legal Executive or CILEx</u> Practitioner, that matter will be dealt with in accordance with the CILEx Regulation Enforcement Rules.</p> <p><u>108.</u> Where a finding, order or decision is made against a <u>Chartered Legal Executive or CILEx</u> Practitioner, that finding, order or decision will be referred to the Admissions and Licensing Committee. The Admissions and Licensing Committee will decide whether the <u>Chartered Legal Executive or CILEx</u> Practitioner remains a suitable person to hold a Practice Certificate. The Admissions and Licensing Committee must give reasons for its decision.</p> <p><u>109.</u> Rule <u>108</u> shall not apply where an order is made excluding a <u>Chartered Legal Executive or CILEx</u> Practitioner from registration of CILEx Regulation or membership of CILEx. In such a case the <u>Chartered Legal Executive or CILEx</u> Practitioner’s Certificate shall be invalid from the date the exclusion from membership or registration takes effect.</p> <p><u>110.</u> Where the Admissions and Licensing Committee decides that the <u>Chartered Legal Executive or CILEx</u> Practitioner is no longer a suitable person to hold a Practice Certificate or their certificate is invalid in accordance with Rule <u>108</u>, they must return their Certificate to CILEx Regulation within 28 days of them being notified of the decision. Failure to do so will constitute a disciplinary offence. The <u>Chartered Legal Executive or CILEx</u> Practitioner may not exercise any practice rights granted to them under their Practice Certificate after they have been notified of the decision.</p> <p><u>111.</u> Notwithstanding the Admissions and Licensing Committee Rules an appeal</p>	<p>The Disciplinary Rules have been consolidated for all practice areas. Minor text changes for consistency across all practice areas.</p>

Comparison of Probate Rights Certification Rules with CILEx Regulation Authorisation rules

Probate rights	New rules	Comments
<p>disciplinary offence. The Probate Practitioner may not exercise any probate practice rights granted to them under their Certificate after they have been notified of the decision.</p> <p>33. Notwithstanding the Admissions and Licensing Committee Rules an appeal against the decision of the Admissions and Licensing Committee that a Probate Practitioner is no longer a fit and proper person to hold a Probate Certificate will be considered by a professional member and 2 lay members drawn from the panel of lay and professional members appointed to serve on CILEx Regulation’s appeals body.</p>	<p>against the decision of the Admissions and Licensing Committee that a <u>Chartered Legal Executive or CILEx</u> Practitioner is no longer a suitable person to hold a Practice Certificate will be considered by a professional member and 2 lay members drawn from the panel of lay and professional members appointed to serve on CILEx Regulation’s Appeals Panel.</p>	