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## SCHEDULES

VALID FROM 02/08/2010

### SCHEDULE 11

Section 83

#### LICENSING RULES

#### PART 1

#### LICENSING PROCEDURE

##### *Applications for licences*

- 1 (1) Licensing rules must make provision about the form and manner in which applications for licences are to be made, and the fee (if any) which is to accompany an application.
- (2) They may make provision about—
- (a) the information which applications must contain, and
  - (b) the documents which must accompany applications.

##### *Determination of applications*

- 2 (1) Licensing rules must make the following provision about the determination of applications for licences.
- (2) Before the end of the decision period the licensing authority must—
- (a) decide the application,
  - (b) notify the applicant of its decision, and
  - (c) if it decides to refuse the application, set out in the notice the reasons for the refusal.
- (3) The decision period is the period of 6 months beginning with the day on which the application is made to the licensing authority in accordance with its licensing rules.
- (4) The licensing authority may, on one or more occasions, give the applicant a notice (an “extension notice”) extending the decision period by a period specified in the notice.
- (5) But—
- (a) an extension notice may only be given before the time when the decision period would end, but for the extension notice, and
  - (b) the total decision period must not exceed 9 months.
- (6) An extension notice must set out the reasons for the extension.

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*Review of determination*

- 3 Licensing rules must make provision for review by the licensing authority of—
- (a) a decision to refuse an application for a licence;
  - (b) if a licence is granted, the terms of the licence.

*Period of licence and renewal*

- 4 (1) The licensing rules may make provision—
- (a) limiting the period for which any licence is (subject to the provision of this Part of this Schedule and of the licensing rules) to remain in force;
  - (b) about the renewal of licences, including provision about the form and manner in which an application for the renewal is to be made, and the fee (if any) which is to accompany an application.
- (2) The licensing rules may make provision about—
- (a) the information which applications for renewal must contain, and
  - (b) the documents which must accompany applications.
- (3) Licensing rules must provide that a licence issued to a licensed body by the licensing authority ceases to have effect if the licensed body is issued with a licence by another licensing authority.

*Continuity of licences*

- 5 (1) Licensing rules may make provision about the effect, on a licence issued to a partnership or other unincorporated body (“the existing body”), of any change in the membership of the existing body.
- (2) The provision which may be made includes provision for the existing body's licence to be transferred where the existing body ceases to exist and another body succeeds to the whole or substantially the whole of its business.

*Modification of licences*

- 6 (1) Licensing rules must make provision about the form and manner in which applications are to be made for modification of the terms of a licence under section 86, and the fee (if any) which is to accompany the application.
- (2) They may make provision as to the circumstances in which the licensing authority may modify the terms of a licence under section 86 without an application being made.
- (3) They must make provision for review by the licensing authority of—
- (a) a decision to refuse an application for modification of the terms of a licence;
  - (b) if the licensing authority makes licensing rules under sub-paragraph (2), a decision under those rules to modify the terms of a licence.

*Modifications under section 106 or 107*

- 7 (1) Licensing rules must make provision about the form and manner in which applications are to be made under section 106 or 107, and the fee (if any) which is to accompany the application.

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- (2) They may make provision as to the matters to which the licensing authority must have regard in determining whether to make an order under section 106, or to revoke or modify such an order.
- (3) They must make provision for review by the licensing authority of—
- (a) a decision to refuse an application under those sections;
  - (b) the terms of any order made under section 106 or any decision under section 107.
- 8 (1) Licensing rules must make the following provision in relation to licensed bodies to which section 106 applies (“special bodies”), and in relation to which an order under section 106 has been made.
- (2) If a special body becomes a special body of a different kind, it must notify the licensing authority of that fact before the end of the relevant period.
- (3) If a special body ceases to be a special body, it must notify the licensing authority of that fact before the end of the relevant period.
- (4) The relevant period is the period of 30 days (or such longer period as may be specified in licensing rules) beginning with the day on which the body first became a special body of a different kind, or ceased to be a special body.
- (5) Licensing rules may make provision requiring a special body to provide the licensing authority with such information relevant to the matters mentioned in section 106(5) as may be specified in the licensing rules.

## PART 2

### STRUCTURAL REQUIREMENTS

#### *Management*

- 9 (1) Licensing rules must require a licensed body to comply with the following requirement at all times.
- (2) At least one of the licensed body's managers must be a person (other than a licensed body) who is an authorised person in relation to a licensed activity.
- (3) No manager of the licensed body may be a person who under this Part of this Act is disqualified from acting as a manager of a licensed body.
- 10 (1) Licensing rules may make further provision as to—
- (a) the managers of licensed bodies, and
  - (b) the arrangements for the management by them of the licensed body and its activities.
- (2) They must not require all the managers of a licensed body to be authorised persons in relation to a reserved legal activity.

#### *Head of Legal Practice*

- 11 (1) Licensing rules must include the following requirements.

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- (2) A licensed body must at all times have an individual—
- (a) who is designated as Head of Legal Practice, and
  - (b) whose designation is approved by the licensing authority.
- (3) A designation of an individual as Head of Legal Practice has effect only while the individual—
- (a) consents to the designation,
  - (b) is an authorised person in relation to one or more of the licensed activities, and
  - (c) is not under this Part of this Act disqualified from acting as Head of Legal Practice of a licensed body.
- (4) The licensing authority may approve a person's designation only if it is satisfied that the person is a fit and proper person to carry out the duties imposed by section 91 in relation to that body.
- (5) The licensing authority may approve a person's designation in the course of determining an application for a licence under section 84.
- (6) If the licensing authority is satisfied that the person designated as a licensed body's Head of Legal Practice has breached a duty imposed by section 91, it may withdraw its approval of that person's designation.
- 12 (1) Licensing rules must make provision—
- (a) about the procedures and criteria that will be applied by the licensing authority when determining under paragraph 11(4) whether an individual is a fit and proper person;
  - (b) for a review by the licensing authority of a determination under that paragraph that an individual is not a fit and proper person;
  - (c) about the procedures and criteria that will be applied by the licensing authority in determining under paragraph 11(6) whether to withdraw its approval;
  - (d) for a review by the licensing authority of a determination under that paragraph to withdraw its approval;
  - (e) about the procedure which is to apply where a licensed body ceases to comply with the requirement imposed by virtue of paragraph 11(2).
- (2) Rules made in accordance with sub-paragraph (1)(e) may in particular provide that the requirement imposed by virtue of paragraph 11(2) is suspended until such time as may be specified by the licensing authority if the licensed body complies with such other requirements as may be specified in the rules.

*Head of Finance and Administration*

- 13 (1) Licensing rules must include the following requirements.
- (2) A licensed body must at all times have an individual—
- (a) who is designated as Head of Finance and Administration, and
  - (b) whose designation is approved by the licensing authority.
- (3) A designation of an individual as Head of Finance and Administration has effect only while the individual—
- (a) consents to the designation, and

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- (b) is not under this Part of this Act disqualified from acting as Head of Finance and Administration of a licensed body.
- (4) The licensing authority may approve a person's designation only if it is satisfied that the person is a fit and proper person to carry out the duties imposed by section 92 in relation to that body.
- (5) The licensing authority may approve a person's designation in the course of determining an application for a licence under section 84.
- (6) If the licensing authority is satisfied that the person designated as a licensed body's Head of Finance and Administration has breached a duty imposed by section 92, it may withdraw its approval of that person's designation.
- 14 (1) Licensing rules must make provision—
- (a) about the procedures and criteria that will be applied by the licensing authority when determining under paragraph 13(4) whether an individual is a fit and proper person;
  - (b) for a review by the licensing authority of a determination under that paragraph that an individual is not a fit and proper person;
  - (c) about the procedures and criteria that will be applied by the licensing authority in determining under paragraph 13(6) whether to withdraw its approval;
  - (d) for a review by the licensing authority of a determination under that paragraph to withdraw its approval;
  - (e) about the procedure which is to apply where a licensed body ceases to comply with the requirement imposed by virtue of paragraph 13(2).
- (2) The rules made in accordance with sub-paragraph (1)(e) may in particular provide that the requirement imposed by virtue of sub-paragraph 13(2) is suspended until such time as may be specified by the licensing authority if the licensed body complies with such other requirements as may be specified in the rules.

### PART 3

#### PRACTICE REQUIREMENTS

##### *Practising address*

- 15 (1) Licensing rules must require a licensed body, other than one to which sub-paragraph (3) applies, at all times to have a practising address in England and Wales.
- (2) For this purpose “practising address”, in relation to a licensed body, means an address from which the body provides services which consist of or include the carrying on of reserved legal activities.
- (3) This sub-paragraph applies to a licensed body—
- (a) which is a company or limited liability partnership, and
  - (b) the registered office of which is situated in England and Wales (or in Wales).

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*Licensed activities*

- 16 Licensing rules must provide that a licensed body may carry on a licensed activity only through a person who is entitled to carry on the activity.

*Compliance with regulatory arrangements etc*

- 17 (1) Licensing rules must include the following provision.
- (2) A licensed body must at all times have suitable arrangements in place to ensure that—
- (a) it, and its managers and employees, comply with the duties imposed by section 176, and
  - (b) it, and any person to whom sub-paragraph (3) applies, maintain the professional principles set out in section 1(3).
- (3) This sub-paragraph applies to any manager or employee of the licensed body who is an authorised person in relation to an activity which is a reserved legal activity.
- (4) A licensed body must at all times have suitable arrangements in place to ensure that non-authorised persons subject to the duty imposed by section 90 in relation to the licensed body comply with that duty.
- (5) Licensing rules may make provision as to the arrangements which are suitable for the purposes of rules made under sub-paragraphs (2) and (4).

*Disqualified employees*

- 18 (1) Licensing rules must include the following requirement.
- (2) A licensed body may not employ a person who under this Part of this Act is disqualified from being an employee of a licensed body.

*Indemnification arrangements and compensation arrangements*

- 19 (1) For the purpose of giving effect to indemnification arrangements and compensation arrangements, licensing rules may—
- (a) authorise or require the licensing authority to establish and maintain a fund or funds;
  - (b) authorise or require the licensing authority to take out and maintain insurance with authorised insurers;
  - (c) require licensed bodies or licensed bodies of any specific description to take out and maintain insurance with authorised insurers.
- (2) In this paragraph “authorised insurer” has the same meaning as in section 64.

*Accounts*

- 20 (1) The licensing rules must make provision as to the treatment of money within sub-paragraph (2), and the keeping of accounts in respect of such money.
- (2) The money referred to in sub-paragraph (1) is money (including money held on trust) which is received, held or dealt with by the licensed body, its managers and employees for clients or other persons.

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## PART 4

### REGULATION

#### *Fees*

- 21 (1) The licensing rules must require licensed bodies to pay periodical fees to the licensing authority.
- (2) The rules may provide for the payment of different fees by different descriptions of licensed body.

#### *Financial penalties*

- 22 The licensing rules must make provision as to—
- (a) the acts and omissions in respect of which the licensing authority may impose a penalty under section 95, and
  - (b) the criteria and procedure to be applied by the licensing authority in determining whether to impose a penalty under that section, and the amount of any penalty.

#### *Disqualifications*

- 23 (1) Licensing rules must make provision as to the criteria and procedure to be applied by the licensing authority in determining whether a person should be disqualified under section 99.
- (2) Licensing rules must make provision—
- (a) for a review by the licensing authority of a determination by the licensing authority that a person should be disqualified;
  - (b) as to the criteria and procedure to be applied by the licensing authority in determining whether a person's disqualification should cease to be in force;
  - (c) requiring the licensing authority to notify the Board of any determination by the licensing authority that a person should be disqualified, of the results of any review of that determination, and of any decision by the licensing authority that a person's disqualification should cease to be in force.

#### *Suspension or revocation of licence under section 101*

- 24 (1) Licensing rules must make the following provision.
- (2) The licensing authority may suspend or revoke a licensed body's licence under section 101 in the following cases.
- (3) The first case is that the licensed body becomes a body which is not a licensable body.
- (4) The second case is that the licensed body fails to comply with licensing rules made under paragraph 16 (carrying on of licensed activities).
- (5) The third case is that—
- (a) a non-authorised person holds a restricted interest in the licensed body—
    - (i) as a result of the person taking a step in circumstances where that constitutes an offence under paragraph 24(1) of Schedule 13



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- (whether or not the person is charged with or convicted of an offence under that paragraph),
- (ii) in breach of conditions imposed under paragraph 17, 28, or 33 of that Schedule, or
- (iii) the person's holding of which is subject to an objection by the licensing authority under paragraph 31 or 36 of that Schedule,
- (b) if the relevant licensing rules make the provision mentioned in paragraph 38(1)(a) of that Schedule, a non-authorised person has under those rules a shareholding in the licensed body, or a parent undertaking of the licensed body, which exceeds the share limit,
- (c) if the relevant licensing rules make the provision mentioned in paragraph 38(1)(b) of that Schedule, a non-authorised person has under those rules an entitlement to exercise, or control the exercise of, voting rights in the licensed body or a parent undertaking of the licensed body which exceeds the voting limit,
- (d) if the relevant licensing rules make the provision mentioned in paragraph 38(1)(c) of that Schedule, the total proportion of shares in the licensed body or a parent undertaking of the licensed body held by non-authorised persons exceeds the limit specified in the rules, or
- (e) if the relevant licensing rules make the provision mentioned in paragraph 38(1)(d) of that Schedule, the total proportion of voting rights in the licensed body or a parent undertaking of the licensed body which non-authorised persons are entitled to exercise, or control the exercise of, exceeds the limit specified in the rules.
- (6) The fourth case is that a non-authorised person subject to the duty in section 90 in relation to the licensed body fails to comply with that duty.
- (7) The fifth case is that the licensed body, or a manager or employee of the licensed body, fails to comply with the duties imposed by section 176.
- (8) The sixth case is that—
- (a) the licensed body fails to comply with licensing rules made under paragraph 9(3) or 18 (prohibition on disqualified managers and employees), and
- (b) the manager or employee concerned was disqualified as a result of breach of a duty within section 99(4)(c) or (d).
- (9) The seventh case is that the licensed body is unable to comply with licensing rules made under—
- (a) paragraph 11 (requirement for Head of Legal Practice), or
- (b) paragraph 13 (requirement for Head of Finance and Administration).
- (10) Before suspending or revoking a licence in accordance with sub-paragraph (2), the licensing authority must give the licensed body notice of its intention.
- (11) The licensing authority may not suspend or revoke the licence before the end of the period of 28 days beginning with the day on which the notice is given to the licensed body (or any longer period specified in the notice).

Licensing rules may make provision about other circumstances in which the licensing authority may exercise its power under section 101 to suspend or revoke a licence.



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- 26 (1) Licensing rules must make provision about the criteria and procedure the licensing authority will apply in deciding whether to suspend or revoke a licence, or to end the suspension of a licence, under section 101.
- (2) They must make provision for a review by the licensing authority of a decision by the licensing authority to suspend or revoke a licence.

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