

# Further rules relating to the regulation of licensed bodies

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**Decision paper, summary of consultation responses, and rules concerning the notification of changes to the holding of interests in, registers of, and ownership of licensed bodies.**

## Contents

Introduction .....	1
Rules in relation to keeping of registers of ABS .....	3
Approach to the LSB's lists of disqualified persons .....	8
Ownership of licensed bodies: Schedule 13 – prescribed rules .....	11
Specifying periods relating to notification of changes to ownership required by Schedule 13 to the LSA.....	12
Annex A – Draft rules .....	14
Annex B – Draft statutory instrument.....	17

## Introduction

- 1 The Legal Services Board (the “**LSB**”) is one of the organisations created by the Legal Services Act 2007 (the “**LSA**”) and is responsible for overseeing legal regulators, (referred to as the approved regulators (“**ARs**”) in the LSA) in England and Wales. The LSB’s mandate is to ensure that regulation in the legal services sector is carried out in the public interest and that the interests of consumers are placed at the heart of the system. The LSA gives the LSB and the ARs the same regulatory objectives – including an objective to promote competition within the provision of legal services – and a requirement to have regard to the better regulation principles.
- 2 The LSA also makes provision for approved regulators to apply to the LSB to become designated as licensing authorities (“**LAs**”). As a LA they may issue licences to legal services businesses that have some element of non-lawyer ownership, commonly referred to as alternative business structures (“**ABS**”) but known in the LSA as licensed bodies. The LSB issued guidance in March 2010<sup>1</sup> for licensing authorities about the content of ABS licensing rules.
- 3 The Act gives the LSB the power<sup>2</sup> (but does not require it) to make a recommendation to the Lord Chancellor about the time period within which certain information must be provided by external investors to a LA. The LSB considers that it is appropriate for it to make such a recommendation in order to ensure that there is clarity for investors about their obligations and to enable LAs to have clear grounds for taking enforcement action if the time periods are not met.
- 4 On 6 December 2010 we published a consultation document that set out our proposals on:
  - additional rules about the content of registers that LAs must keep giving details of licensed bodies<sup>3</sup>;
  - additional rules that the Board must make under Schedule 13 to the LSA concerning the “prescribed period” during which certain actions connected with the ownership of licensed bodies must be carried out; and
  - a recommendation to be made by the Board to the Lord Chancellor to make an order specifying periods within which notification of changes

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<sup>1</sup>[http://www.legalservicesboard.org.uk/what\\_we\\_do/consultations/closed/pdf/abs\\_guidance\\_on\\_licensing\\_rules\\_guidance.pdf](http://www.legalservicesboard.org.uk/what_we_do/consultations/closed/pdf/abs_guidance_on_licensing_rules_guidance.pdf)

<sup>2</sup> Schedule 13 to the LSA paragraphs 10(2), 12(2), 21(3), 23(3), 39(2), 40(2)

<sup>3</sup> LSA s87

to ownership must be given to a LA<sup>4</sup>. These periods need to be defined in order to ensure that the criminal sanctions for failure to notify in the LSA are enforceable.

- 5 The LSB also must keep lists<sup>5</sup> of people who are disqualified from:
- acting as Head of Legal Practice (“**HoLP**”) of any licensed body,
  - acting as Head of Finance and Administration (“**HoFA**”) of any licensed body,
  - being a manager of any licensed body, or
  - being employed by any licensed body.

The consultation paper also set out the approach that the LSB proposed to take for keeping the lists.

- 6 We received seven consultation responses, with responses from:
- The Master of the Faculties
  - The Law Society
  - HM Land Registry
  - ILEX Professional Standards (IPS)
  - The Solicitors Regulation Authority (SRA)
  - The Institute of Chartered Accountants in England and Wales (ICAEW)
  - The Council for Licensed Conveyancers (CLC)

The all responses are available on the LSB’s website.

- 7 This document explains how the LSB has considered the consultation responses. It includes rules that the LSB has made and its “in principle” decision what to recommend to the Lord Chancellor. A final recommendation will be made once detailed drafting has been agreed with the Ministry of Justice (“**MoJ**”).

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<sup>4</sup> Schedule 13 to the LSA paragraphs 10(2), 12(2), 21(3), 23(3), 39(2), 40(2)

<sup>5</sup> LSA s 100(6)

## Rules in relation to keeping of registers of ABS

### *Proposals*

- 8 The LSB proposed that the registers kept by LAs should be publically available. Ensuring that the information held is sufficient to be able to identify licensed bodies, managers, statutory officers and owners of licensed bodies. Making the information available should aid public confidence in the identity of providers of legal services.
- 9 Balanced against this is the requirement on the LSB and the LAs to act proportionately, so the proposals for the registers started from a position of what an LA would normally be expected to hold about those it regulates.
- 10 We proposed that the following information is held on the public ABS registers:
- Name of licensed body
  - Whether the licence is suspended or revoked and the date on which suspension or revocation took place
  - Any enforcement action or sanction on the licensed body, its owner or any employee
  - Trading name of licensed body
  - Previous names of the licensed body
  - The company registration number
  - The licence number of the body (if any)
  - Previous licences held by the body
  - The date the licence was issued
  - Registered address of licensed body
  - Practising address(es) of licensed body
  - The names of the head of legal practice and the head of finance and administration
  - The authorising body of the head of legal practice<sup>6</sup>
  - The reserved legal activities that the body is authorised to undertake
  - The ultimate beneficial owner (other than in very limited circumstances)<sup>7</sup>
- 11 We proposed not to require the inclusion of other information that is more regulatory in nature on the register, although we said we would encourage LAs to consider how they make such information available. This could include information on matters such as:
- Managers of the licensed body<sup>8</sup>

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<sup>6</sup> A Head of Legal Practice must be an authorised person i.e. regulated by an AR

<sup>7</sup> See our guidance “Alternative Business Structures: approaches to licensing” paragraph 110

- The names of those with a material interest in the licensed body<sup>9</sup>
- The names of authorised persons who are employees of the licensed body
- Any conditions placed on the licensed body

12 In addition to the statutory requirement to make the register available<sup>10</sup> we set out our view that the registers should be available electronically on the websites of LAs.

13 In order to maintain an accurate register the LSB proposed that the LAs are required to keep their register as up to date as reasonably practicable. We would expect that this would be able to reflect any change made within 28 calendar days.

### ***Consultation responses***

14 The responses of, CLC and the Master of the Faculties stated that they were content with the proposal. The Master of the Faculties was content with the time period proposed providing that there was adequate IT support.

15 The Land Registry agreed with the list but suggested that in addition, the following information should be mandatory:

- Managers of licensed body
- The names of authorised persons who are employees of the licensed body
- Any conditions placed on the licensed body

It placed particular importance on publishing the conditions that were placed on the ABS as this may include a condition not to undertake a particular type of work or reserved legal activity. It noted that while the information would be available elsewhere it would be “more convenient and transparent” to have it on the register.

16 Similarly, the Law Society agreed with the list provided but suggested that information about every shareholder in an ABS should be included. It thought that 28 days was sufficient time to publish the information but suggested that LAs should provide contact details of an individual who could access more up to date records for those who needed them.

17 IPS pointed out that charities do not have company registration numbers. It also raised concerns about publishing the licence number of an ABS as this differs from its current practice of not publishing the membership numbers of its individual members. IPS raised concern that information on the ultimate

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<sup>8</sup> See s207 LSA 2007.

<sup>9</sup> See paragraph 3(1) of Schedule 13 to the LSA 2007

<sup>10</sup> See section 87(3)

beneficial owner could become unwieldy in large companies with shareholders. IPS thought that information on authorised person employees should be kept but should not be published as it did “not appear to serve the public interest and in some cases that information could be used by the public in order to generate multiple complaints to relevant Approved Regulators about employees in a licensed body”. IPS agreed with the proposed publication requirements.

- 18 ICAEW considers that the register should only have to include the licensed body, provide contact details, details of a named individual for contact, details of the LA and the activities that the body was allowed to undertake. ICAEW could not see the justification for keeping details of former registrations and suggested that this would make the register unwieldy. It saw no reason for details of enforcement action or sanction to be included given that the body would still have been able to hold its licence. Similarly, it stated that it saw no benefit in naming the heads of legal practice and finance and administration. It also stated that it could think of no circumstances “where it would be helpful for someone searching the register to know who the ultimate owners of the licensed body are”.
- 19 ICAEW’s position on publication was that the register should be a joint register and that the register should be held by the LSB. It made reference to the public audit register and the FSA’s register of firms licensed under the designated body arrangements. It considered 28 days to be appropriate but it noted that it preferred time periods to be expressed in a number of business not calendar days.
- 20 In its response the SRA stated that it had identified areas where the proposals differed from their developing approach. After further discussion with the SRA it told us that the publication of the ultimate beneficial owner should not be compulsory, but the managers of the ABS and the names of people with a material interest should be compulsory. It also suggested that the guidance should be clarified to make clear that only enforcement action or sanctions that were substantive and disciplinary in nature should be included but not low level administrative sanctions (such as small fines for late submission of information) and it should not include ongoing investigations.

### ***LSB’s response and decision***

- 21 Apart from the ICAEW there was broad agreement on most of the proposed information on the register. There was a difference of views on the question of what information should be mandatory rather than optional.
- 22 We consider that the managers of a licensed body and the authorised persons who are employees of the licensed body should be public. There is no reason for the information not to be available for anyone who wants it.

Whilst we understand the desirability of being able to see all the information in one place, we are still of the view that it would be disproportionate to require that this information on the register if it is available elsewhere on the LA's website. However, it is our view that licenses and any conditions placed upon them must be in the public domain but this need not necessarily form part of this register.

23 We have considered the IPS argument that publishing authorised person employees is not in the public interest but do not agree with it. If multiple complaints arise about the actions of an authorised person and the ABS then these should be dealt with by the regulators working together (and a framework of memorandum which the IPS has signed has been put in place to deal with this type of situation), not by limiting the likelihood of complaints by withholding the information from the public.

24 We consider that the Law Society's proposal that information on all shareholdings included would be very burdensome for many ABS and LAs and may adversely affect the ability for listed shares to be traded.

25 We considered the issue of whether the ultimate owner of an ABS should be made public when we consulted on our guidance to LAs on licensing rules. We recognise that not all consumers will want this information but our view remains that it is important for those consumers and others who do to be able to find out who owns the firm giving them legal advice. They can then come to a view about whether they want to use the ABS. We said in our Guidance and continue to consider that:

*"In general, we consider that licensing rules should require the disclosure by the licence applicant (with sufficient evidence to enable the LA to for a view) about who the ultimate beneficial owners of an ABS are and that this information should be made public. It may be that some limited exceptions to public disclosure are necessary and LAs should ensure they have the flexibility to use their judgement about when this is appropriate. However, we consider that the identity of the owner must always be disclosed to the LA."*

26 The onus will therefore be on LAs to explain why they do not consider it appropriate for details of the ultimate beneficial owner to be published. In circumstances when this is, for example, a pension fund, we would expect the name of the fund to be published.

27 We accept the IPS comment that charities may have charity numbers instead of or as well as company numbers and that LAs should record all such identification numbers.



- 28 We agree with the Master of the Faculties that IT support will be vital for the success of the register. It is our view that this is best achieved on the LAs system rather than centralising the system in the LSB – as suggested by ICAEW. It is our expectation that the register will be similar to information available on other bodies regulated by the LA.
- 29 On the Land Registry’s concerns, the requirement to publish the reserved legal activities that the ABS can carry out will indicate whether they can conduct “reserved instrument activities” required for conveyancing. Any further conditions will be within the ABS licence that must be publicly available.
- 30 We have considered whether to change the requirement for notification to be expressed as working days. However, we do not consider that using calendar days will create problems in practice.
- 31 We agree that “low level” sanctions such as administrative fines for not providing information to the LA on time should not be included as it would be administratively onerous for LAs. In the event that there are a large number of such fines then we would expect the LA to consider taking more serious enforcement action against the ABS. Where a license has been revoked or enforcement action has been take we consider that this should also be available publically, either as part of the register or elsewhere on the LA’s website.
- 32 We have also reviewed again the proposed list and consider that a requirement to publish the licence number of the ABS and any previous licences held by the it would not be information that was of use to anyone in the context of these rules. We have therefore decided that they should be omitted.
- 33 A final version of the rules is at annex A

## Approach to the LSB's lists of disqualified persons

### *Proposals*

34 Ensuring that people who are disqualified from involvement in the provision of legal services are kept from further harming the public is a key regulatory protection in the LSA. As such there is a requirement that a centralised list of such people is held by the LSB. This list must be published by the LSB.<sup>11</sup>

35 Given the serious nature of disqualification we considered the information contained on other lists of disqualified persons such as the register of disqualified directors.<sup>12</sup> We proposed that the following information should be included on the list of disqualified people:

- Full name
- Other names known by
- Date of birth
- Type of disqualification (as a manager, employee, HoLP, or HoFA)
- Date of disqualification decision
- Review date
- Result of review
- Cessation of disqualification
- Name of licensed body previously employed by, or manager of
- Number of licence (if any)
- Licensing Authority
- Type of authorisation (if an authorised person e.g. solicitor, barrister etc.)
- Practising certificate number (if any)
- Details of misconduct (reason for disqualification)

36 We proposed that, like the register of ABS, this information should be freely accessible on the LSB's website with a link from each licensing authority.

37 We are also required to keep a list<sup>13</sup> of people that LAs have objected to holding of a material interest in an ABS or who have had conditions placed on their ownership. This also needs to include if the LA has applied for that holding to be divested. LAs may also notify us if an owner breaches a share or voting limit, but this is not compulsory. We are required to make this list available to all LAs. We proposed that the information held on this list should be similar to that on the disqualification list and that it should also be available to the public.

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<sup>11</sup> See section 100(6) LSA

<sup>12</sup> See <http://www.companieshouse.gov.uk/ddir/>

<sup>13</sup> Schedule 13 paragraph 51 LSA

### ***Consultation responses***

38 The responses of CLC, the Land Registry, the Law Society and the Master of the Faculties all supported the proposals.

39 The SRA made reference to its publication policy<sup>14</sup> and said that in some cases it may “decide not to publish details of a decision and the grounds on which it was taken”. However, it did consider that the information that we had proposed should be held was proportionate. ICAEW commented that the information exceeded that held for disqualified directors and the information that should be held should be sufficient to identify the individual – name, address and date of birth. The remaining information should relate to the disqualification and it would be unlikely that the searcher would have details of the licence or practising certificate. ICAEW considered that this disqualification register should be publically available. However, it did not see any benefit in making the list under paragraph 51 of Schedule 13 of those who LAs had objected to a holding or had conditions placed on their holding publically available. It cited the complexity of this particular part of the Act and said that by including someone on such a list it may imply that they had committed a “wrong” or was a “bad person” in other respects. It suggested that this information only be shared with LAs.

40 IPS commented that it would have difficulty in meeting a 7 day deadline in notifying the LSB. It said that its current rules allowed a period of 15 days to appeal and publication only takes place after that period expires or after an appeal has been heard. IPS raised data protection concerns about the amount of information proposed to be held on the register. In particular it considered that publishing the date of birth of the disqualified individual may lead to identity theft. It also suggested listing appeal dates and outcomes of appeal. It also commented that “it must be appreciated that publication of such details is a form of punishment for the disqualified person, and may tarnish the reputation of the licensing body involved”.

### ***LSB’s response and decision***

41 We consider that information about those disqualified from providing legal advice should be disclosed in the public interest and the rule of law and that it is consistent with the regulatory objectives in the LSA, and the requirement for transparency in the better regulation principles. Publication of this information should provide confidence about the regulation of legal services. We consider that there will only be exceptional circumstances where it may not be appropriate to publish information. We will continue discussions with the SRA about this issue.

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<sup>14</sup> <http://www.sra.org.uk/consumers/solicitor-check/policy.page>

- 42 IPS's concerns about identity theft need to be balanced against the wider interest in ensuring the disqualified persons are not allowed to continue to be involved in ABS and that people with the same name with someone who has been disqualified is not unfairly tarnished. We raised this issue with the Information Commissioner's Office (ICO) their position is that at this time they would not seek to challenge the proposed approach. The ICO noted the duty to comply with the eight principles to the Data Protection Act including the third principle that "personal data must be adequate, relevant and not excessive in relation to the purpose".
- 43 We also consider that 7 days is sufficient time to provide information to the LSB. Given the way the appeals mechanism functions, we consider that such a notification should happen after any internal review but prior to any appeal to the appellate body since this may take some time and in the meantime it is important that others know the individual is disqualified.
- 44 We have considered the ICAEW's point about whether publication of information about people about whom a LA has made an objection to a restricted interest or placed conditions on a restricted interest would be misleading. It is important to take into consideration the fact that a LA would only have carried out this type of action if it had concerns about the person who held the restricted interest. We consider that this information should be made public. Similarly, if a non-authorized person acquires shares in excess of the share limit or voting limit this could amount to a breach of a licence condition. LAs have the discretion to notify the LSB about these actions but we consider that where they consider it sufficiently serious to notify us, we should publish that information.
- 45 We have also reviewed again the proposed list and consider that a requirement to publish the licence number of the ABS and the practising certificate number of an individual would not be information that was of use to anyone in the context of these rules. We have therefore decided that they should be omitted. Other than this, the LSB has kept the proposals set out in the consultation document.

## Ownership of licensed bodies: Schedule 13 – prescribed rules

46 Schedule 13 to the LSA concerns the ownership by non-lawyers of ABS. It sets out, amongst other things, the ways in which LAs may approve non-authorised people who hold restricted interests, requirements on non-authorised people to notify the LA in certain circumstances, rights of appeal against certain LA decisions and requirements on LAs about the way in which they consider the information that has been given to them. The Schedule states that certain actions (by LAs and non-authorised people) have to be carried out within a “prescribed period” set in rules made by the LSB.

47 We made a proposal that where the period required action by the LA<sup>15</sup> the period should be 90 days and where it required action by the licensed body<sup>16</sup> the period should be 28 days.

### *Consultation responses*

48 All respondents either agreed with the proposal or made no comment.

### *LSB’s response and decision*

49 The rules that the LSB has made are unchanged from the consultation and are at Annex A.

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<sup>15</sup> i) Schedule 13 paragraph 25(2) – where the LA has to make a determination about whether to approve or object to an investor’s holding of a notifiable interest following notification by the investor;  
(ii) Schedule 13 paragraph 33(2)(b) – where the LA has to decide whether to impose conditions (or further conditions) on an existing restricted interest;  
(iii) Schedule 13 paragraph 36(2) – where the LA may object to an existing restricted interest;  
and  
(iv) Schedule 13 paragraph 44(4)(b) – where a restriction notice has been given to an investor and the LA may apply to the High Court for an order for divestiture.

<sup>16</sup> Schedule 13 paragraph 44(4)(b)

## Specifying periods relating to notification of changes to ownership required by Schedule 13 to the LSA

50 Schedule 13 to the LSA sets out the regime and mechanisms for non-authorised persons (i.e. non lawyers) owning or controlling ABS. The schedule sets out tests that individuals need to satisfy in order to be able to hold an interest.<sup>17</sup> There are a number of different ways in which a non-authorised person can hold a material interest.<sup>18</sup> We discuss this in more detail in our guidance to licensing authorities.<sup>19</sup>

51 Given the strong protection and rigour in Schedule 13 there are a number of areas where there are criminal sanctions for failing to comply with particular requirements (for both holders of an interest and potential holders of an interest). These sanctions are set as fines not exceeding level 5 on the standard scale – the maximum of the scale currently set at £5000. In addition, was such a breach to occur, the breach and the fine would be likely to be taken into account as part of any future application for a licence or may be grounds for licence revocation.

52 There are three areas where a notification requirement is specified in the LSA:

- Where there are changes in those expected to hold restricted interests prior to the issuing of the licence<sup>20</sup>;
- Where an investor acquires an interest in a licensable body<sup>21</sup>; and
- If a share limit or voting limit has been exceeded<sup>22</sup>.

53 We proposed in the consultation paper that the periods for the first two should be 7 calendar days and the third type should be 28 calendar days.

### **Consultation responses**

54 The responses of CLC, the Land Registry and the SRA had no comments on this part of the consultation.

55 The Master of the Faculties had no comment apart from suggesting that the order clarifies the calculation of the time periods (working days or calendar days) and when the notice to the LA would be considered to be “received”. However, it noted that it did not feel strongly on this issue.

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<sup>17</sup> See Schedule 13 paragraph 6 LSA

<sup>18</sup> See schedule 13 paragraph 3 LSA

<sup>19</sup> See paragraphs 10 – 11 and 106 – 128:

[http://www.legalservicesboard.org.uk/what\\_we\\_do/consultations/closed/pdf/abs\\_guidance\\_on\\_licensing\\_rules\\_guidance.pdf](http://www.legalservicesboard.org.uk/what_we_do/consultations/closed/pdf/abs_guidance_on_licensing_rules_guidance.pdf)

<sup>20</sup> See schedule 13 paragraph 10(2) and 12(2) LSA

<sup>21</sup> See schedule 13 paragraph 21(3) and 23(2) LSA

<sup>22</sup> See schedule 13 paragraph 39(2) and 40(2) LSA

- 56 IPS agreed with the proposals apart from the 28 day period proposed for notification where a share or voting limit had been exceeded which it considered was too long.
- 57 ICAEW thought that those who the limits affected should be clearly informed about it and the consequences of failure to adhere to the requirements. This ICAEW considers that this issue has been made more difficult as the requirement (the period) is to be specified in secondary legislation while the offence is in primary legislation. ICEAW said it assumes “that there will be some sort of reporting obligation on the LAs to report a breach for which there is a legislative sanction”.
- 58 The ICAEW considered that a 7 day period for notifying changes to those expected to hold restricted interests prior to the issuing of the licence raised some issues. For example, the LA might want to consider the application afresh, or a licence would have to be withdrawn, depending on when in the application process a notification was received. ICAEW considered that most LAs would build into the application process a form of undertaking that the ownership structure would comply with the LA’s criteria and this may encourage applicants to take steps that no changes are made during the licensing process. ICAEW thought that as share and voting limits were limits in LA’s rules the LSB should not propose a period for notification by SI and these rules should be set by the LA. It questioned “the need for the LSB to prescribe periods in circumstances where there is no threat to the confidence in the regulatory framework”. It also raised an issue about disparity between the periods specified in the draft rules and the draft SI.

### ***LSB’s response and decision***

- 59 It is for LAs to consider what approach they take to minimising the risk of notification disrupting the consideration of a licence application in the way the ICAEW suggests. However, we consider that it is important to specify time limits for these issues when they do arise since, without them, the criminal sanctions in the LSA cannot have effect. There needs to be a credible deterrent and that is provided by this part of the LSA. Although a requirement could be included in LAs’ rules this would not have the effect of triggering a criminal sanction and so would not achieve the desired deterrent. It may be that LAs wish to draw the requirements in the LSA to applicants’ and licensees’ attention. However, it is for those who are subject to requirements in the LSA to ensure that they comply with them.
- 60 The Board will therefore make a recommendation to the Lord Chancellor on the basis of the SI at Annex B. However, the drafting may change pending final agreement on wording with MoJ. We will publish the final recommendation.

## Annex A – Draft rules

### Registers of licensed bodies: Section 87(4) rules

#### A. PREAMBLE

1. These Rules are made by the Board (as defined below) under section 87(4) of the Act (as defined below).

#### B. DEFINITIONS

2. Words defined in these Rules have the following meanings:

<b>Act</b>	the Legal Services Act 2007
<b>Board</b>	the Legal Services Board
<b>Licensing Authority</b>	within the definition of 73(1) of the Act
<b>Licensed Body</b>	a body granted a licence by a licensing authority

#### C. WHAT DO THESE RULES APPLY TO?

3. These Rules are the rules that the Board has made in compliance with section 87(4) of the Act in order to specify the information to be held on the registers of licensed bodies.

4. The Board reserves the right to amend these Rules from time to time. If the amendments made to the Rules are, in the opinion of the Board, material the Board will publish a draft of the amended Rules and will invite consultations in accordance with section 205 of the Act.

#### D. REQUIREMENTS FOR THE PURPOSES OF SECTION 87(4)

5. The register of licensed bodies that each licensing authority holds under section 87(1) shall contain at least the following information:

- a) Name of licensed body
- b) Whether the licence is suspended or revoked and the date on which suspension or revocation took place
- c) Enforcement action or sanction on the licensed body, its owner or any employee not including administrative fines
- d) Trading name of licensed body
- e) Previous names of the licensed body
- f) All company registration numbers, charity numbers or equivalent
- g) The date the licence was issued
- h) Registered address of licensed body
- i) Practising address(es) of licensed body
- j) The names of the head of legal practice and the head of finance and administration
- k) The authorising body of the head of legal practice
- l) The reserved legal activities that the body is authorised to undertake

6. In addition to the requirements on the licensing authority under 87(3) the register should be available electronically via the licensing authority's website, or similar.



## **E. FURTHER INFORMATION**

7. If you have any questions about these Rules you should contact the Board at:

Address:     Legal Services Board  
              7<sup>th</sup> Floor Victoria House  
              Southampton Row  
              London WC1B 4AD

Email:                             [contactus@legalservicesboard.org.uk](mailto:contactus@legalservicesboard.org.uk)

Telephone:  020 7271 0050

# Ownership of licensed bodies: Schedule 13- prescribed rules

## A. PREAMBLE

1. These Rules are made by the Board (as defined below) under Schedule 13 to the Act (as defined below).

## B. DEFINITIONS

2. Words defined in these Rules have the following meanings:

<b>Act</b>	the Legal Services Act 2007
<b>Board</b>	the Legal Services Board
<b>Licensing Authority</b>	within the definition of 73(1) of the Act
<b>Licensed Body</b>	a body granted a licence by a licensing authority

## C. WHAT DO THESE RULES APPLY TO?

3. These Rules are the rules that the Board has made in compliance with Schedule 13 to the Act in order to specify the prescribed period for certain actions of licensing authorities and others.

4. The Board reserves the right to amend these Rules from time to time. If the amendments made to the Rules are, in the opinion of the Board, material, the Board will publish a draft of the amended Rules and will invite consultations in accordance with section 205 of the Act.

## D. REQUIREMENTS FOR THE PURPOSES OF SCHEDULE 13 OF THE ACT

5. For the purposes of:

- (i) Schedule 13 paragraph 25(2)
- (ii) Schedule 13 paragraph 33(2)(b)
- (iii) Schedule 13 paragraph 36(2)
- (iv) Schedule 13 paragraph 44(4)(b)

the prescribed period is 90 days.

6. In all other cases the prescribed period is 28 days.

## E. FURTHER INFORMATION

7. If you have any questions about these Rules you should contact the Board at:

Address:       Legal Services Board  
                  7<sup>th</sup> Floor Victoria House  
                  Southampton Row  
                  London WC1B 4AD

Email:           contactus@legalservicesboard.org.uk  
Telephone:      020 7271 0050

## Annex B – Draft statutory instrument

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### STATUTORY INSTRUMENTS

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2011 No.

## LEGAL SERVICES, ENGLAND AND WALES

### The Legal Services Act 2007 (Notification of Interests in Licensed Bodies) (Specified Periods) Order 2011

<i>Made</i>	- - - -	***
<i>Laid before Parliament</i>		***
<i>Coming into force</i>	- -	***

The Lord Chancellor makes the following Order in exercise of the powers conferred by paragraphs 10(2), 12(2), 21(3), 23(2), 39(2) and 40(2) of Schedule 13 to the Legal Services Act 2007<sup>(1)</sup>.

In accordance with each of those paragraphs, the Order is made following a recommendation made by the Legal Services Board.

#### Citation and commencement

1.—(1) This Order may be cited as the Legal Services Act 2007 (Notification of Interests in Licensed Bodies) (Specified Periods) Order 2011.

(2) This Order comes into force on [date].

#### Specified periods for purposes of Schedule 13 to the Legal Services Act 2007

2.—(1) Articles 3 to 8 specify periods within which notification of certain matters must be given in accordance with the requirements of Schedule 13 to the Legal Services Act 2007 (which contains provision about the ownership of licensed bodies<sup>(2)</sup>).

(2) Any reference in any of those articles to a paragraph of a specified number is to the paragraph of that number in Schedule 13 of that Act.

#### Period specified for purposes of paragraph 10(2)

3. In paragraph 10(2) (applicant for a licence under duty to inform the licensing authority of specified changes in connection with holdings of restricted interest in the applicant<sup>(3)</sup>), the specified period is the period of 7 days starting with the date on which there is a change in the matter specified in paragraph 10(2)(a) or (b) which is to be notified.

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<sup>(1)</sup> 2007 c.29.

<sup>(2)</sup> A number of defined terms are mentioned in this Order in the descriptions of particular provisions. See the index of defined terms in Schedule 24 to the Legal Services Act 2007 for definitions of “licensed body”, “licensing authority”, “licensing rules”, “non-authorized person” and “shares”.

<sup>(3)</sup> See paragraph 2 of Schedule 13 to the Legal Services Act 2007 for the definition of “restricted interest”.

**Period specified for purposes of paragraph 12(2)**

4. In paragraph 12(2) (notification period where a person under duty to inform a licensing authority imposed by paragraph 10 of Schedule 13 becomes aware of facts giving rise to that duty only after the duty has arisen), the specified period is the period of 7 days starting with the date on which the person first becomes aware of the facts that give rise to the duty to notify.

**Period specified for purposes of paragraph 21(3)**

5. In paragraph 21(3) (notification period where non-authorized person acquires a restricted interest in a licensed body without giving prior notice), the specified period is the period of 7 days starting with the date on which the person first becomes aware of the acquisition that is to be notified.

**Period specified for purposes of paragraph 23(2)**

6. In paragraph 23(2) (notification period where a person under a duty to notify imposed by paragraph 21(2) of Schedule 13 becomes aware of facts giving rise to that duty only after the duty has arisen), the specified period is the period of 7 days starting with the date on which the person first becomes aware of the facts that give rise to the duty to notify.

**Period specified for purposes of paragraph 39(2)**

7. In paragraph 39(2) (notification period for acquisitions of shares or voting rights that are restricted by licensing rules), the specified period is the period of 28 days starting with the date on which the person first becomes aware of the acquisition that is to be notified.

**Period specified for purposes of paragraph 40(2)**

8. In paragraph 40(2) (notification period where a person under a duty to notify imposed by paragraph 39(2) of Schedule 13 becomes aware of facts giving rise to that duty only after the duty has arisen), the specified period is the period of 28 days starting with the date on which the person first becomes aware of the facts that give rise to the duty to notify.

Signed by authority of the Lord Chancellor

Date

*Name*  
Parliamentary Under Secretary of State  
Ministry of Justice

**EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order specifies the periods for the giving of notice in accordance with the requirements of Schedule 13 to the Legal Services Act 2007 (c.29) (“the 2007 Act”). The 2007 Act contains provision about the regulation of persons who provide legal services to members of the public and Part 5 of the Act makes provision for the licensing by licensing authorities of alternative business structures (referred to in the Act as “licensed bodies”). These structures allow lawyers and non-lawyers (“non-authorized persons”) to work together to deliver legal and other services. Schedule 13 to the 2007 Act imposes restrictions that apply to the interests which a non-authorized person can have in a licensed body. The Schedule requires the licensing authority’s approval in specified circumstances in connection with such interests and requires that notice concerning those interests be given to the licensing authority which issued a licence to the licensed body under Part 5 of the 2007 Act. In some cases, notice must also be given to the licensed body. Notices must be given within periods specified by the Lord Chancellor on the recommendation of the Legal Services Board.

Articles 3 and 4 specify a 7 day period for notices in relation to restricted interests which are required to be given in connection with applications made to a licensing authority for a licence under Part 5 of the 2007 Act.

Articles 5 and 6 specify a 7 day period for notices in relation to restricted interests which are required to be given after the grant of a licence.

Articles 7 and 8 specify a 28 day period for notices about the acquisition of interests in a licensed body or its parent undertaking which exceed a specified limit. Notices of such acquisitions are required in the event that rules made by a licensing authority specify such limits.