

Rules for applications for designation as a licensing authority: technical amendment

1. A drafting error has been identified in the Rules for applications for designation as a licensing authority (“LA designation rules”) made by the Legal Services Board (“the Board”) on 22 February 2010.
2. Paragraph 52 of the LA designation rules is concerned with appellate bodies for licensing authorities and refers to Part 1 of Schedule 10 of the Legal Services Act 2007 (“the Act”). The reference should be to Part 5 of the Act.
3. Paragraph 6 of the LA designation rules allows the Board to amend the rules from time to time. If the amendments are considered to be material, a draft of the amended rules will be published for consultation and comments invited.
4. As this is a change to correct a drafting error, the Board do not consider this change to be material. The Board intends to make these rules on 13 June 2011. A copy of the proposed rules is at Annex A with the amendment in tracked changes.
5. Any comments on this proposal should be sent to the Board by **7 June 2011**. Responses should be sent to

Email: consultations@legalservicesboard.org.uk

Post: Michael Mackay
Legal Services Board
7th Floor, Victoria House
Southampton Row
London WC1B 4AD

Fax: 020 7271 0051

31 May 2011

Annex A

Rules for applications to be designated as a LA

RULES FOR LICENSING AUTHORITY DESIGNATION APPLICATIONS

A. PREAMBLE

1. These Rules are made by the Board (as defined below) under paragraphs 1(4), 1(5), 2(2), 9(3) and 11 of part 1 of schedule 10 to the Act (as defined below).

B. DEFINITIONS

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

Act	the Legal Services Act 2007
Applicant	a body who submits an Application
Application	an application to be designated as a Licensing Authority in relation to one or more Reserved Legal Activities that is submitted to the Board in accordance with these Rules
Approved Regulator	has the meaning given in Section 20(2) of the Act
AR Applicant	a body who submits an application to be designated as an Approved Regulator in relation to one or more Reserved Legal Activities that is submitted to the Board in Accordance with the Board's Rules for Approved Regulator Designation Applications, as in force from time to time
Authorised Person	has the meaning given in Section 18 of the Act
Board	the Legal Services Board
Consultees	the Mandatory Consultees and any Optional Consultee

Consumer Panel	the panel of persons established and maintained by the Board in accordance with Section 8 of the Act
Existing LA Applicant	an Applicant that is already a Licensing Authority in respect of certain Reserved Legal Activities and who is submitting an Application to be designated as a Licensing Authority in relation to one or more additional Reserved Legal Activities
Licensable Body	has the meaning given in Section 72 of the Act
Licensed Activity	has the meaning given in Section 111 of the Act
Licensed Body	has the meaning given in Section 71 of the Act
Licensing Authority	has the meaning given in Section 73 of the Act
Licensing Rules	has the meaning given in Section 83 of the Act
Mandatory Consultees	the OFT, the Consumer Panel and the Lord Chief Justice
OFT	the Office of Fair Trading
Optional Consultee	any person (other than a Mandatory Consultee) who the Board considers it reasonable to consult regarding an Application
Prescribed Fee	the fee that must accompany an Application as described in Section D of these Rules
Regulatory Objectives	has the meaning given in Section 1 of the Act
Reserved Legal Activity	has the meaning given in Section 12 and Schedule 2 of the Act
Reserved Legal Services	has the meaning given in section 207 of the Act
Schedule	the schedule to these Rules

C. WHO DO THESE RULES APPLY TO?

3. These are the Rules that apply if a body wishes to apply to the Board, under Part 1 of Schedule 10 of the Act, for the Board:
 - to make a recommendation to the Lord Chancellor that an order be made that the body be designated as a Licensing Authority in relation to one or more activities which constitute one or more Reserved Legal Activities; and
 - to approve what the body proposes as its Licensing Rules if such an order is made.
4. A body may only make an Application under these Rules in relation to a Reserved Legal Activity if:
 - it is an Approved Regulator in relation to the Reserved Legal Activity which is the subject of the Application under these Rules; or
 - it has made an application under Part 2 of Schedule 4 of the Act for the Board to recommend that an order be made by the Lord Chancellor designating the body as an Approved Regulator in relation to the Reserved Legal Activity which is the subject of the Application under these Rules.
5. These Rules set out:
 - the required content of any Application to the Board and some guidance in relation to that content (**see Section D**);
 - the amount of the Prescribed Fee that must accompany any Application (**see Section e**);
 - the processes and procedures that the Board will undertake in considering the Application (**see Section F**);
 - the manner in which the Applicant can make representations to the Board about its Application (**see Section G**);
 - the Board's criteria for determining Applications (see **Section H**); and
 - whom a body should contact if it has a question in relation to the Application process (see **Section I**).

6. 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. CONTENTS OF APPLICATION

Content

7. The Act requires the Board to consider certain factors and to consult with other parties in order to reach its determination. Accordingly, the Application must contain sufficient information to allow the Board to make a proper consideration of the Application and to provide sufficient information to the Consultees to enable them to consider the Application in a meaningful way. Attached as a Schedule to these Rules are:
 - (a) the administrative information needed to enable processing of an Application (see Part 1 of the Schedule) and guidance on the possible evidence that could be provided to satisfy these requirements; and
 - (b) the items that the Act mandates should be included in a Licensing Authority's Licensing Rules (see Part 2 of the Schedule).
8. The Board does not prescribe the form which an Application should take. The onus is on the Applicant to supply all materials completely and accurately in the format that it thinks fit.

E. PRESCRIBED FEE

10. Any Application must be accompanied by the Prescribed Fee set out in Rule 11 below. The Prescribed Fee must be paid by electronic funds transfer to the bank account specified from time to time by the LSB using the following reference:

Reference: [Insert Applicant name]/Licensing Authority Designation Application

11. The Prescribed Fee that must accompany an Application will depend on the type of Application being made. The different levels of the Prescribed Fee are as follows:
- a) if the Applicant is an Existing LA Applicant, or if the Applicant is also an AR Applicant, the Prescribed Fee is £16,000; and
 - b) if the Applicant is not an Existing LA Applicant the Prescribed Fee is £22,000.
12. The amounts specified in Rule 11(a) and Rule 11(b) are each the average costs that the Board anticipates it will incur in considering these different types of Application. In respect of the Prescribed Fee for an Existing LA Applicant this is based on a day rate of £562 over 28.5 business days. In respect of a Prescribed Fee for an Applicant who is not an Existing LA Applicant, this is based on a day rate of £562 over 39 business days.
13. The Board reserves the right to charge an additional amount in excess of the amounts set out in Rule 11 in the following circumstances:
- a) if the Board requests further information from the Applicant in accordance with Rule 17 and the Board's costs in processing this information exceeds the relevant amount specified in Rule 11. In these circumstances, any such additional costs will be charged at the day rate of £562; or
 - b) the nature of the Application means that the Board has to seek external advice and the cost of this advice would mean that the Board's cost in processing the Application would exceed the relevant amount specified in Rule 11. In this case, the full cost of the advice will be charged to the Applicant.

F. PROCESSES AND PROCEDURE

Sending the Application

14. Subject to Rule 15 below, the Applicant must submit their Application (and, proof of transmission of the Prescribed Fee) either by email, post or courier to the relevant address shown below:
- If by email to: schedule10approvals@legalservicesboard.org.uk

- If by post or courier to:

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

For the attention
of: LA Designations Administrator

15. The Applicant must, unless otherwise agreed with the Board, submit their Application (and, proof of transmission of the Prescribed Fee) to the Board using the online tool at www.legalservicesboard.org.uk, once this has been developed.
16. On receipt of the Application and the Prescribed Fee, an acknowledgement email will be sent to the Applicant by the Board.
17. The Board will consider the Application and may ask the Applicant for such additional information as the Board may reasonably require.
18. The Board has the discretion to refuse to consider, or to continue its consideration of, an Application. The Board will exercise this discretion if it believes that it has not received all the information it requires.
19. Where the Board decides to refuse to consider, or to continue its consideration of, an Application it will give the Applicant notice of that decision and the reasons for it. Any such notice will be published by the Board on its website.
20. An Applicant may at anytime withdraw or amend their Application by giving notice to that effect to the Board.

Obtaining advice

21. On receipt of an Application (including the prescribed fee), and all further information that the Board may require under Rule 17, the Board will send a copy of the Application (together with any further information received) to the Consultees. The Board will specify to the OFT, the Consumer Panel and any Optional Consultee a time period in which each body must provide their advice on the Application to the Board. The Board intends to request that these bodies provide their advice within a time period which is reasonable depending on the volume and complexity of the Application received.

22. The OFT, the Consumer Panel and any Optional Consultee will then each consider the Application within the specified time period and will provide its advice to the Board.
23. In providing its advice to the Board, each Consultee may ask the Applicant (or any other person) to provide such additional information as may be required.
24. The Board will then provide the advice it receives from the OFT, the Consumer Panel and any Optional Consultee to the Lord Chief Justice and will specify to the Lord Chief Justice a time period in which he must provide his advice on the Application to the Board. Again, the time period that the Board will specify will depend on the particular circumstances of the Application.
25. The Lord Chief Justice will then consider the Application and will provide his advice to the Board.
26. Once the Board has received the advice of the Lord Chief Justice, it will provide a copy of all the advice that has been given by the Consultees to the Applicant.

Representations

27. The Applicant has **28 days** beginning on the day on which a copy of the advice referred to in Rule 26 is given to the Applicant, or such longer period as the Board may specify in a particular case, to make representations to the Board about the advice. Any representations made by the Applicant must be made in accordance with Section G of these Rules.

Publication of Advice

28. As soon as practicable after the end of the period within which representations under Rule 27 may be made, the Board will publish on its website:
 - the advice received from the Consultees; and
 - subject to Rule 29, any written representations duly made by the Applicant (and the report of oral representations (if any) prepared under Rule 47).

29. Prior to the publication of any written representations (and the report of oral representations (if any) prepared under Rule 47) the Board will decide whether any parts of the representations shall remain private and, if so why, taking account of representations from the Applicant.
30. The Board will so far as practicable exclude any material which relates to the private affairs of a particular individual the publication of which, in the opinion of the Board, would or might seriously and prejudicially affect the interests of that individual.

The Board's Decision

31. After considering the items listed at paragraph 12(1) of schedule 10 to the Act, the Board will decide whether to grant the Application.
32. If the Board decides to grant the Application, it will notify the Applicant and will recommend to the Lord Chancellor that an order be made.
33. If the Board decides not to grant the Application, the Board will write to the Applicant with the reasons for its decision.
34. The Board will publish on its website a copy of any decision that it gives to the Applicant.
35. Where an Application relates to more than one Reserved Legal Activity, the Board may grant the Application in relation to all or any one of them.

The Lord Chancellor's Decision

36. The Lord Chancellor has up to 90 days from the date on which the Board makes its recommendation in accordance with Rule 30 to notify the Applicant of whether or not he will make an order in accordance with the recommendation.
37. Where the Board's recommendation relates to more than one Reserved Legal Activity, the Lord Chancellor may make an order in relation to all or any of them.
38. If the Lord Chancellor decides not to make an order in accordance with the Board's recommendation, the Lord Chancellor's notice to the Applicant must state the reasons for that decision. The Lord Chancellor will publish any notice given under Rule 35.

Timing

39. Under the provisions of the Act the Board has 12 months from the date of the Application to give its decision to the Applicant and its recommendation to the Lord Chancellor (if appropriate). The Board may extend this period up to a maximum of 16 months from the date of Application by giving notice to the Applicant. The Board may only give such a notice if it has first consulted with the Mandatory Consultees in relation to such an extension. Such notice will state the Board's reasons for extending the period and will also be published by the Board on its website.
40. Notwithstanding Rule 38, the Board will aim to deal with an Application within six months from the later of:
- the date upon which the Board accepts submission of the Application (it being understood that the Board will not accept an Application if a submission is made which the Board regards as being incomplete and/or in a format that is not reasonably practicable to consider efficiently); and
 - the final date of submission of any further information that the Board may request under Rule 17.

G. FORM OF REPRESENTATIONS

Written representations

41. Subject to Rules 41 and 43, all representations made to the Board must be in writing and must be submitted to the Board either by email, post or courier to the relevant address set out at Rule 14.
42. The Applicant must, unless otherwise agreed with the Board, submit all representations to the Board using the online tool at www.legalservicesboard.org.uk, once this has been developed.
43. All representations must be received by the Board within the period set out in Rule 27. Representations out of this time will not be considered unless, exceptionally and at the sole discretion of the Board, they appear to raise matters of substance relevant to the Application which are not already under consideration.

Oral representations

44. The Board may, at its sole discretion authorise an Applicant to make oral representations about advice received by the Board. On grounds of cost, efficiency, transparency and consistency of treatment between Applicants, the Board will not normally accept oral representations unless the particular circumstances of the Applicant or the complexity of the issues merit an exception to the normal process in individual cases. If the Board grants such an exception, it will publish its reasons for doing so.
45. Should the Board authorise an Applicant to make oral representations, the representations will take place at a hearing to be held either by telephone, video conference or in person. The Board will usually give the Applicant not less than ten business days notice that there will be a hearing. If the hearing is to be held in person the notice will specify the place and time at which the hearing will be held. If the hearing is to be held by telephone or video conference, the notice will specify the time of the telephone call or video conference and also the arrangements for facilitating the telephone call or video conference.
46. Hearings conducted in person (rather than by telephone or video conference) will normally be open to the public. However, within the period ending four business days prior to the scheduled date of the hearing, the Applicant may submit to the Board a written request, with reasons, that aspects of the hearing be held in private. The Board will consider the reasons given and will then publish the reasons for any decision that it reaches. Where the hearing is held in private, the Board will only admit persons, other than representatives of the Applicant and the Board, after obtaining the agreement of the Applicant.
47. The Applicant must appear at the hearing, either in person, by telephone or by video conference (as the case may be), and may be represented by any persons whom it may appoint for the purpose. The proceeding of the hearing will be recorded on behalf of the Board and will be transcribed onto paper.
48. Where oral representations are made, the Board will prepare a report of those representations which will be based on the transcription of the hearing made in accordance with Rule 46. Before preparing the report, the Board:
 - must give the Applicant a reasonable opportunity to comment on a draft of the report; and
 - must have regard to any comments duly made by the Applicant.

49. Subject to complying with the timing requirements set out in Rule 38, the Board reserves the right to extend processes to take account of the need to transcribe and verify oral submissions.
50. The Board may from time to time adjourn the hearing.
51. For the avoidance of doubt, this Section G only applies to representations made to the Board by the Applicant in relation to the advice provided by the Consultees.

H. CRITERIA FOR DETERMINING APPLICATIONS

52. In accordance with paragraph 11(2) and 11(3) of Schedule 10 to the Act, the Board will grant an Application in relation to a particular Reserved Legal Activity only if it is satisfied that:
- the Applicant's proposed Licensing Rules in relation to the Reserved Legal Activity comply with the requirements of Section 83 of the Act;
 - if the Lord Chancellor were to make an Order designating the Applicant as a Licensing Authority in relation to the particular Reserved Legal Activity, there would be a body with power to hear and determine appeals which, under [Part 5](#) of the Act or the Applicant's proposed Licensing Rules, may be made against the decisions of the Applicant;
 - if the Lord Chancellor were to make an Order designating the Applicant as a Licensing Authority in relation to the particular Reserved Legal Activity, the Applicant would have appropriate internal governance arrangements in place at the time the order takes effect and, in particular that the exercise of the Applicant's regulatory functions would not be prejudiced by its representative functions and, so far as is reasonably practicable, regulatory decisions would be taken independently of representative ones;
 - if such an Order, were to be made, the Applicant would be competent, and have sufficient resources, to perform the role of Licensing Authority in relation to the Reserved Legal Activity at that time;
53. In addition, when considering an Application the Board will consider how consistent an Applicant's proposed Licensing Rules are with the requirements of Section 28 of the Act (duty to promote the Regulatory Objectives, pursue best regulatory practice etc.) and with the LSB's guidance on licensing rules. In this regard, and in accordance with the

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requirements of section 82, an applicant must also prepare and issue a statement of policy as to how, in exercising its functions under Part 5 of the Act, it will comply with the requirements of section 28 of the Act.

I. FURTHER INFORMATION

54. If you have any questions about the Application process or the preparation of an Application, you should contact the Board at:

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

Email: schedule10approvals@legalservicesboard.org.uk

Telephone: 020 7271 0050

SCHEDULE

Part 1 - Administrative Information Needed to Enable Processing of an Application

	What is required	Section of Act	Possible Evidence
1.	Background information	N/A	Contact details in relation to the person(s) the Board should contact in relation to the Application, including job title, email address and phone number, a physical address for communication and the Applicant's registered office address (if different from communication address) and company registration number if applicable
2.	A statement of the Reserved Legal Activity or Activities to which the Application relates	Sch. 10, paragraph 1(4) (a)	Specification of which of the Reserved Legal Activities set out in Section 12 and Schedule 2 of the Act the Application applies to
3.	Details of the Applicant's proposed Licensing Rules	Sch. 10, paragraph 1(4) (b)	An explanation of how the proposed Licensing Rules comply with Section 83(5), Schedule 11 to the Act (see Part 2 of this Schedule for further details) and the LSB's guidance on licensing rules.
4.	Such explanatory material as the Applicant considers is likely to be needed for the purposes of Part 1 of Schedule 10	Sch. 10, paragraph 1(4) (c)	<p>An applicant must be able to demonstrate how it has prepared properly and thoroughly for its role as a LA and has appropriate arrangements in place to license competently ABS, in particular it must:</p> <ul style="list-style-type: none"> - show that it has appropriate regulatory arrangements to ensure that it can act,

What is required	Section of Act	Possible Evidence
		<p>so far as reasonably practicable, in a way which is compatible with the regulatory objectives, and have regard to standards of openness, accountability and transparency and best regulatory practice;</p> <ul style="list-style-type: none"> - demonstrate an understanding of the types of ABS it will be regulating and the services provided by those ABS. In particular it must show that it has suitable processes and systems in place to identify and dealing with the complexity, risk and volume of expected ABS; - demonstrate that it is a solid, stable, well structured, adequately financed and professionally operated body with the governance and institutional stability to discharge its functions on a proper basis. This includes (but is not limited to) sufficient and appropriate staffing and staffing arrangements to ensure good quality regulation and a sufficiently robust and flexible business plan, including appropriate contingency arrangements that is able to adapt to: <ul style="list-style-type: none"> - changes in demand for licences; - changes in complexity of ABS models; - new threats to the regulatory objectives; and - changes in the operating and/or regulatory environment. <p>An applicant must also provide an assessment of its progress against its implementation plan to become a LA</p>
5.	In deciding what advice to give, the OFT must, in particular, have	Sch. 10, paragraph 4(2) The OFT is considering whether to issue its own guidance on the issues to which it is likely to have regard in giving advice

	What is required	Section of Act	Possible Evidence
	regard to whether an order ... would (or would be likely to) prevent, restrict or distort competition within the market for Reserved Legal Services to any significant extent		
6.	In deciding what advice to give, the Consumer Panel must, in particular, have regard to the likely impact on consumers of the making of an order	Sch. 10, paragraph 5(2)	<p>Explanation of how the proposed Licensing Rules will:</p> <ul style="list-style-type: none"> • protect and promote the interests of consumers generally • meet the specific requirements in terms of indemnification and complaint handling
7.	A selected consultee may give the Board such advice as the selected consultee thinks fit in respect of the Application	Sch. 10, paragraph 8	Information on any matters specified by a selected consultee
8.	The Lord Chief Justice must, in particular, have regard to the likely impact on the courts in England and Wales of the making of an order	Sch. 10, paragraph 7(3)	Information on any matters specified by the LCJ

	What is required	Section of Act	Possible Evidence
9.	The Board may grant an Application in relation to a particular Reserved Legal Activity only if it is satisfied that, the Applicant's proposed Licensing Rules in relation to the Reserved Legal Activity comply with the requirements of Section 83 of the Act	Sch.10, paragraph 11(2)(a)	See Item 3
10.	The Board may grant an Application in relation to a particular Reserved Legal Activity only if it is satisfied that, if an order were to be made designating the Applicant in relation to the Reserved Legal Activity, there would be a body with power to hear and determine appeals which, under Part 5 of the Act or under the Applicant's proposed Licensing Rules, may be made against decisions of the Applicant	Sch. 10, paragraph 11(2)(b)	<p>The Applicant must include a statement about the appellate body that the Applicant proposes to use for appeals against financial penalties and conditions imposed on a Licensable Body.</p> <p>The Applicant should also include a statement for the appellate body that it agrees to hear those appeals</p>
11.	The Board may grant an Application in relation to a particular Reserved Legal Activity only if it is	Sch. 10, paragraph 11(2)(c)	Such explanatory material (including material about the Applicant's constitution and activities) as the Applicant considers is likely to be

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	What is required	Section of Act	Possible Evidence
	satisfied that, if an order were to be made designating the Applicant in relation to the Reserved Legal Activity, the Applicant would have appropriate internal governance arrangements in place at the time the order takes effect		needed to show how its internal governance arrangements comply with the Board's most recently published policy on internal governance
12.	The Board may grant an application in relation to a particular Reserved Legal Activity only if it is satisfied that, if an order were to be made designating the Applicant in relation to the Reserved Legal Activity, the Applicant would be competent, and have sufficient resources, to perform the role of Licensing Authority in relation to the Reserved Legal Activity at the time the order takes effect	Sch. 10, paragraph 11(2)(d)	<p>Statement from authorised staff/officeholders in the organisation that there are sufficient resources, an explanation of how this has been assessed</p> <p>Documents signed off by an external accountant as being calculated, presented and supported to a standard that could pass a statutory audit</p> <p>Business Plan for coming year and 3 year forward look</p> <p>Risk management strategy</p> <p>Staff development and retention strategies</p>
13.	The rules made for the purposes of sub-paragraph 2(c) must in particular require the Board to be satisfied that the exercise of the Applicant's regulatory	Sch. 10, paragraph 11(3)(a)	Statement on how the arrangements comply with the principles of the Act and such rules as the Board may make from time to time

	What is required	Section of Act	Possible Evidence
	functions would not be prejudiced by any of its representative functions		
14.	The rules made for the purposes of sub-paragraph 2(c) must in particular require the Board to be satisfied that decisions relating to the exercise of the Applicant's regulatory functions would so far as reasonably practicable be taken independently from decisions relating to the exercise of the Applicant's representative functions	Sch. 10, paragraph 11(3)(b)	See Item 13

Part 2 – Licensing Rules Requirements

What is required	Section of Act	Guidance
<p>SECTION 83 REQUIREMENTS</p> <p><i>For all these points, Applicants must explain how their licensing rules are likely to achieve the outcomes and other requirements that may be specified in any Guidance issued by the LSB. If the LA’s rules are inconsistent with the Guidance, there should be an explanation together with evidence to explain why.</i></p> <p><i>We will publish a cross referenced updated version of this part of the schedule once we have finalised our guidance on licensing rules.</i></p>		
1.	Licensing Rules of a Licensing Authority MUST contain appropriate qualification regulations in respect of Licensable Bodies to which the Licensing Authority proposes to issue licences	Section 83(5)(a)
2.	Licensing Rules of a Licensing Authority MUST contain provision as to how the Licensing Authority, when considering the Regulatory Objectives (in compliance with its duties under Section 3(2) or 28(2)) in connection with an application for a licence, should take account of the objective of	Section 83(5)(b)

What is required		Section of Act	Guidance
	improving access to justice		
3.	Licensing Rules of a Licensing Authority MUST contain appropriate arrangements (including conduct rules, discipline rules and practice rules) under which the Licensing Authority will be able to regulate the conduct of bodies licensed to it, and their managers and employees	Section 83(5)(c)	—
4.	Licensing Rules of a Licensing Authority MUST contain appropriate indemnification arrangements	Section 83(5)(d)	
5.	Licensing Rules of a Licensing Authority MUST contain appropriate compensation arrangements	Section 83(5)(e)	
6.	Licensing Rules of a Licensing Authority MUST contain the provision required by	Section 83(5)(f)	

	What is required	Section of Act	Guidance
	Sections 52 and 54 (resolution of regulatory conflict) (including those provisions as applied by Section 103)		
7.	Licensing Rules of a Licensing Authority MUST contain the provision required by Sections 112 and (145) (requirements imposed in relation to the handling of complaints)	Section 83(5)(g)	
8.	Licensing Rules of a Licensing Authority MUST contain any other provision required to be contained in Licensing Rules by the Act	Section 83(5)(h)	—
SCHEDULE 11 REQUIREMENTS			
<i>Applications for licences</i>			
9.	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 be accompany any application	Sch.11, paragraph1 (1)	

What is required	Section of Act	Guidance
10.	Licensing Rules MAY make provision about: <ul style="list-style-type: none"> the information which applications must contain; and the documents which must accompany applications 	Sch. 11, paragraph 1(2)
<i>Determination of applications</i>		
11.	Licensing Rules MUST make provision for those items set out in Schedule 11, paragraph 2	Sch. 11, paragraph 2(1)
<i>Review of determination</i>		
12.	Licensing Rules MUST make provision for review by the Licensing Authority of: <ul style="list-style-type: none"> a decision to refuse an application for a licence; if a licence is granted, the terms of the licence 	Sch. 11, paragraph 3

What is required				Section of Act		Guidance	
<i>Period of licence and renewal</i>							
13.	<p>The Licensing Rules MAY make provision:</p> <ul style="list-style-type: none"> limiting the period for which any licence is (subject to the provision of Part 1 of Schedule 11 and of the Licensing Rules) to remain in force; about the renewal of licences, including provision about the form and manner in which an application for renewal is to be made, and the fee (if any) which is to accompany an application 	Sch. 11, paragraph 4(1)					
14.	<p>The Licensing Rules MAY make provision about:</p> <ul style="list-style-type: none"> the information which applicants for renewal must contain; and 	Sch. 11, paragraph 4(2)	—				

	What is required	Section of Act	Guidance
	<ul style="list-style-type: none"> the documents which must accompany applications. 		
15.	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	Sch. 11, paragraph 4(3)	—
<i>Continuity of licences</i>			
16.	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	Sch. 11, paragraph 5(1)	
17.	Such provision referred to above 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	Sch. 11, paragraph 5(2)	

What is required				Section of Act		Guidance	
	whole of its business.						
<i>Modification of licences</i>							
18.	Licensing Rules MUST make provision about the form and manner in which applications are to be made for modifications of the terms of a licence under Section 86, and the fee (if any) which is to accompany the application	Sch.11, paragraph 6(1)					
19.	Licensing Rules 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	Sch. 11, paragraph 6(2)					
20.	Licensing Rules MUST make provision for review by the Licensing Authority of: <ul style="list-style-type: none"> • a decision to refuse an application for modification of the terms of a licence; 	Sch. 11, paragraph 6(3)					

	What is required	Section of Act	Guidance
	<ul style="list-style-type: none"> if the Licensing Authority makes Licensing Rules under sub-paragraph 6(2), a decision under those rules to modify the terms of a licence 		
<p><i>Modifications under section 106 – the LSB has proposed in its consultation on guidance licensing rules that the transitional arrangements for Special Bodies should remain in place for 12 months after other ABS have been permitted. We do not, therefore, expect LAs’ licensing rules to incorporate consideration of special Bodies. We will consult separately on this issue, depending on the outcome of the consultation on our guidance.</i></p>			
<p><i>Management</i></p>			
21.	Licensing Rules MUST require a Licensed Body to comply with the requirements set out in Schedule 11, paragraph 9	Sch.11, paragraph 9(1)	—
22.	Licensing Rules MAY make further provision as to: <ul style="list-style-type: none"> the managers of licensed bodies; and the arrangements for the management by them of the Licensed Body and its 	Sch. 11, paragraph 10(1)	

What is required				Section of Act	Guidance
	activities				
23.	Licensing Rules MUST NOT require all managers of a Licensed Body to be authorised persons in relation to Reserved Legal Activity	Sch. 11, paragraph 10(2)		—	
<i>Head of Legal Practice</i>					
24.	Licensing Rules MUST include the requirements set out in Schedule 11, paragraph 11	Sch. 11, paragraph 11(1)		—	
25.	Licensing Rules MUST make provision: <ul style="list-style-type: none"> about the procedures and criteria that will be applied by the Licensing Authority when determining under Schedule 11, paragraph 11(4) whether an individual is a fit a proper person; for a review by the Licensing Authority of a determination 	Sch. 11, paragraphs 12(1) and (2)			

What is required	Section of Act	Guidance
	<p>under Schedule 11, paragraph 11(4) that an individual is not a fit and proper person;</p> <ul style="list-style-type: none"> • about the procedures and criteria that will be applied by the Licensing Authority under Schedule 11, paragraph 11(6) whether to withdraw its approval; • for a review by the Licensing Authority of a determination under Schedule 11. paragraph 11(6) to withdraw its approval; • about the procedure which is to apply where a Licensed Body ceases to comply with the requirement imposed by virtue of Schedule 11, paragraph 11(2). Rules made MAY in particular provide that the requirement imposed by virtue of Schedule 11, paragraph 11(2) is suspended until such time as may be 	

	What is required	Section of Act	Guidance
	specified by the Licensing Authority if the Licensed Body complies with such other requirements as may be specified in the rules		
<i>Head of Finance and Administration</i>			
26.	Licensing Rules MUST include the requirements set out in Schedule 11, paragraph13	Sch. 11, paragraph13(1)	—
27.	<p>Licensing Rules MUST make provision:</p> <ul style="list-style-type: none"> • about the procedures and criteria that will be applied by the Licensing Authority when determining under Schedule 11, paragraph13(4) whether an individual is a fit and proper person; • for a review by the Licensing Authority of a determination under Schedule 11, paragraph13(4) that an individual is not a 	Sch. 11, paragraph14(1)	

What is required	Section of Act	Guidance
<p>fit and proper person;</p> <ul style="list-style-type: none"> • about the procedures and criteria that will be applied by the Licensing Authority in determining under Schedule 11, paragraph13(6) whether to withdraw its approval; • for a review by the Licensing Authority of a determination under Schedule 11, paragraph13(6) to withdraw its approval; • about the procedure which is to apply where a Licensed Body ceases to comply with the requirement imposed by virtue of Schedule 11, paragraph13(2). Rules made MAY in particular provide that the requirement imposed by virtue of Schedule 11, paragraph13(2) is suspended until such time as may be specified by the Licensing Authority if 		

	What is required	Section of Act	Guidance
	the Licensed Body complies with such other requirements as may be specified in the rules		
<i>Practising address</i>			
28.	<p>Licensing Rules MUST require a Licensed Body at all times to have a practising address in England and Wales.</p> <p>The above does not apply to a Licensed Body:</p> <ul style="list-style-type: none"> • which is a company or limited liability partnership; and • the registered office of which is situated in England and Wales (or in Wales) 	Sch. 11, paragraph 15(1)	
<i>Licensed activities</i>			
29.	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	Sch. 11, paragraph 16	

	What is required	Section of Act	Guidance
	activity.		
<i>Compliance with regulatory arrangements etc</i>			
30.	Licensing Rules MUST include the requirements set out in Schedule 11, paragraph 17	Sch. 11, paragraph 17(1)	—
<i>Disqualified employees</i>			
31.	Licensing Rules MUST include the requirement that a Licensed Body may not employ a person who under Part 3 of Schedule 11 is disqualified from being an employee of a Licensed Body	Sch. 11, paragraphs 18(1) and (2)	
<i>Indemnification arrangements and compensation arrangements</i>			
32.	For the purpose of giving effect to indemnification arrangements and compensation arrangements, Licensing Rules MAY : <ul style="list-style-type: none"> • authorise or require 	Sch. 11, paragraph 19(1)	

	What is required	Section of Act	Guidance
	<p>the Licensing Authority to establish and maintain a fund or funds;</p> <ul style="list-style-type: none"> authorise or require the Licensing Authority to take out and maintain insurance with authorised insurers; require Licensed Bodies or Licensed Bodies or any specific description to take out and maintain insurance with authorised insurers. 		
<i>Accounts</i>			
33.	<p>The Licensing Rules MUST make provision:</p> <ul style="list-style-type: none"> as to the treatment of 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; and 	Sch. 11, paragraph 20(1)	—

	What is required	Section of Act	Guidance
	<ul style="list-style-type: none"> the keeping of accounts in respect of such money. 		
<i>Fees</i>			
34.	The Licensing Rules MUST require Licensed Bodies to pay periodical fees to the Licensing Authority	Sch. 11, paragraph 21(1)	
35.	The Licensing Rules MAY provide for the payment of different fees by different descriptions of Licensed Body.	Sch. 11, paragraph 21(2)	
<i>Financial penalties</i>			
36.	<p>The Licensing Rules MUST make provision as to:</p> <ul style="list-style-type: none"> the acts and omissions in respect of which the Licensing Authority may impose a penalty under Section 95; the criteria and 	Sch.11, paragraph 22	

	What is required	Section of Act	Guidance
	<p>procedure to be applied by the Licensing Authority in determining whether to impose a penalty under that section, and the amount of any penalty</p>		
<i>Disqualifications</i>			
37.	<p>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</p>	Sch. 11, paragraph 23(1)	
38.	<p>Licensing Rules MUST make provision:</p> <ul style="list-style-type: none"> • for a review by the Licensing Authority of a determination by the Licensing Authority that a person should be disqualified; • as to the criteria and procedure to be applied by the 	Sch. 11, paragraph 23(2)	

	What is required	Section of Act	Guidance
	<p>licensing authority in determining whether a person's disqualification should cease to be in force; and</p> <ul style="list-style-type: none"> requiring the Licensing Authority to notify the Board of any determination by the Licensing Authority that a person should be disqualified, of the result 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. 		
<i>Supervision or revocation of licence under section 101</i>			
39.	Licensing Rules MUST make provision for the items set out in Schedule 11, paragraph. 24	Sch. 11, paragraph 24(1)	—
40.	Licensing Rules MAY make provision about other circumstances in which the Licensing	Sch. 11, paragraph 25	

	What is required	Section of Act	Guidance
	Authority may exercise its powers under Section 101 to suspend or revoke a licence		
41.	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	Sch. 11, paragraph 26(1)	
42.	Licensing Rules MUST make provision for a review by the Licensing Authority of a decision by the Licensing Authority to suspend or revoke a licence.	Sch. 11, paragraph 26(2)	

Part 3 – How the Board expects to treat Applications

1. The Board expects carefully prepared documentation which the executives and/or honorary officers of the Applicant (and the Applicant's independent advisors when applicable) confirm that the information supplied is accurate or, in the case of forecast data, is a best estimate based on good research and informed professional judgement. If the Applicant cannot demonstrate this level of executive and advisory confidence then it is not appropriate for an Application to be made.
2. The Board expects that some parts of the Schedule would be less relevant to an Applicant that is already a Licensing Authority which is applying to add an additional Reserved Legal Activity to its competences. Hence, the Board will take a proportionate view of risk in deciding precisely how much information to seek in any given case.
3. All documents supplied will be subject to publication and to the scrutiny of the Consultees whom the Act prescribes must consider Applications. Consequently Applicants should have regard to this in relation, in particular, to supplying information which might be commercially sensitive and/or contain personal data. The Board will consider limited requests for redaction of information from documents that are published on these grounds but will not be able to redact information from materials sent to the Mandatory Consultees. The Board requires Applicants to maintain a publicly accessible internet space containing all of the materials that are submitted by the Applicant in its Application.
4. The Board reserves the right to retain advisors to consider the information supplied. The retention of advisors may result in an increase to the Prescribed Fee as described in Rule 13. Applicants are encouraged to consider how in preparing, presenting and in certifying the information that they submit, they can minimise the need for the Board to take external advice.
5. The Board's decision will take account of professional guidance, Consultee responses received and on the overall competence, completeness and executive and advisor endorsement of the Applications received. The Board, as an oversight regulator, will not usually reanalyse the information supplied unless there are compelling reasons for doing so.
6. Board approval of a new body as a Licensing Authority, or of an existing Licensing Authority as a Licensing Authority in relation to an additional Reserved Legal Activity represents an assessment that:

- the Applicant appears well prepared and appears to understand the roles and responsibilities granted to Licensing Authorities under the Act; and
- no valid objections have been made to the Applicant's Application by the Consultees.

