

## **Direction 122 issued under Part 3 of Schedule 4 to the Legal Services Act 2007 to the Bar Standards Board (BSB)**

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

*Two sets of consequential corrections to the BSB Handbook following changes to definitions concerning enforcement action*

### **Background**

4. The BSB made changes to its Handbook in 2014 to regulate entities. It made further changes to the terminology relating to authorised persons as part of its application to become a licensing authority, and these came into force in Version 3.0 of the Handbook in April 2017. The purpose of these changes was so that the BSB could use terminology relating to authorised persons that was consistent with definitions in the Legal Services Act 2007 (the Act). These definitional amendments were not substantive.
5. It has since transpired that some consequential amendments were omitted when the definitions were changed in 2017. The impact of these omissions was that it created an unintentional risk of rendering a limited number of decisions made by the BSB's Professional Conduct Committee invalid. Such decisions would only be in relation to barristers without practising certificates.

### **Proposed amendments and purpose**

There are two sets of changes submitted with the application:

- The part A set of changes deals with consequential alterations that were missed when the BSB made a number of definition changes as part of its application to be designated as a licensing authority. They raise no issues of policy and are intended to ensure the Handbook has the effect of changes already made.
- The part B set of changes deal with minor alterations that have been identified as a result of further checks following the BSB's identification of the issues dealt with in the part A set of changes. They raise no issues of policy and are intended to clarify the meaning of certain provisions. They will not lead to any change in the BSB's approach to enforcement.

### **Reason for exemption direction**

6. The amendments to the BSB Handbook are not alterations to regulatory policy or approach. They are tightening consequential amendments to give full effect to earlier

changes made to the Handbook definitions that were approved by the Board and correction of related anomalies.

7. In making this decision, the Board only has an interest in the proposed amendments in so far as the BSB Handbook falls within section 21 of the Act as regulatory arrangements. Through this decision the Board confirms that it has no remit to endorse the BSB's approach to unregulated persons with respect to the BSB's disciplinary arrangements. Unregulated persons are contemplated within the proposed alterations to the BSB Handbook because an "unregistered barrister", as defined by the BSB, falls outside of the definition of an "authorised person" under section 18(1) of the Act and is therefore unlikely to be "a regulated person" under section 21(3) of the Act. Nonetheless, as some of the drafting changes proposed relate to authorised persons, the rules fall within the Board's remit and the Board therefore has a statutory obligation to consider approval under Schedule 4. In considering such approval, and as noted in paragraph 3 above, the Board has concluded that the proposed alterations to the BSB Handbook are exempt from the full approval process set out in part 3 of Schedule 4 to the Act.
8. A copy of the alteration was submitted to the Board on 10 May 2018.
9. This direction is to be deemed made on and to be effective from 22 May 2018.

**For and on behalf of the Legal Services Board**  
**22 May 2018**