



Regulation of Practices (Recognised Bodies) Rules 2009 Arrangement of Rules

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Regulation of Practices (Recognised Bodies) Rules 2009

Made on 21 January 2009 by the Council for Licensed Conveyancers with the concurrence of the Secretary of State pursuant to Sections 32 and 38(1) of and paragraph 8(3) of schedule 6 to the Administration of Justice Act 1985.

Part 1 Introductory

1. Citation, Commencement and Transitional

- 1.1 These Rules may be cited as the Council for Licensed Conveyancers' Regulation of Practices (Recognised Bodies) Rules 2009 and shall come into force on 31 March 2009 on which date the Council for Licensed Conveyancers' Recognised Bodies Rules 2000 and the Council for Licensed Conveyancers' Limited Liability Partnership Rules 2008 shall cease to have effect.
- 1.2 These Rules shall not affect the validity of a Certificate current at the date of the coming into effect of these Rules.
- 1.3 Any body which is not a Recognised Body immediately before the coming into force of these Rules, but which becomes a Recognised Body on the coming into force of these Rules, shall be deemed to have had issued to it a Certificate which remains in force until expiry on 31 October 2009.
- 1.4 Any covenant made in accordance with rule 15 of the Council for Licensed Conveyancers Recognised Bodies Rules 2000 will cease to have effect on the coming into force of these Rules.

2. Interpretation

2.1 In these Rules:-

"the 1985 Act"	the Administration of Justice Act 1985;
"the 2007 Act"	the Legal Services Act 2007;
"Articles"	has the meaning given by section 744 of the Companies Act 1985;
"Certificate"	a certificate of recognition issued by the Council under section 32(6) of the 1985 Act;
"the Council"	the Council for Licensed Conveyancers established under section 12 of the 1985 Act

“Council’s Rules”	the Council for Licensed Conveyancers’ Regulation of Practices (Recognised Bodies) Rules 2009 and any other rules made by the Council;
“Company”	has the meaning given by section 735(1) of the Companies Act 1985;
“Control”	strategic management, risk management, accounting and financial controls (including supervisory and audit functions);
“Conveyancing Services”	the preparation of transfers, conveyances, contracts and other documents in connection with, and other services ancillary to, the disposition or acquisition of estates or interests in land;
“Durable Medium”	the means by which information is stored in a way accessible for future reference for no less than the period prescribed by the Council and which allows the unchanged reproduction of the information stored;
“Indemnity Rules”	rules made by the Council under section 21 of the 1985 Act;
“Legal Regulators”	the Council, the Law Society, the General Council of the Bar, the Master of the Faculties, the Institute of Legal Executives, the Chartered Institute of Patent Attorneys, the Institute of Trade Mark Attorneys, the Association of Law Costs Draftsmen and such other bodies which may be authorised to regulate providers of Reserved Legal Services;
“Licence”	a licence to practise as a Licensed Conveyancer issued by the Council;
“Licensed Conveyancer”	a person who holds a Licence;
“Limited Liability Partnership”	a body corporate formed by being incorporated under the Limited Liability Partnerships Act 2000;
“Limited Liability Partnerships Act 2000”	the Limited Liability Partnerships Act 2000, the Limited Liability Partnerships Regulations 2001 and any other regulations made under that Act;
“LLP Member”	a member of a Limited Liability Partnership;
“Manager”	in relation to a Recognised Body, means a person who is: <ul style="list-style-type: none"> (a) a member of the Recognised Body, if the Recognised Body is a Company and its affairs are managed by its members; (b) a director of the Recognised Body, if the Recognised Body is a Company and paragraph (a) does not apply; (c) a partner, if the Recognised Body is a partnership; (d) a LLP member, if the Recognised Body is a Limited Liability Partnership;

- (e) a member of its governing body, if the Recognised Body is an unincorporated body (other than a partnership); and
- (f) a Licensed Conveyancer, if sub-paragraphs (a)-(e) do not apply and the affairs of the Recognised Body are not managed by another Licensed Conveyancer;

“Memorandum” has the meaning given by section 744 of the Companies Act 1985;

“Permitted Person” a solicitor regulated by the Solicitors Regulation Authority, a barrister regulated by the Bar Standards Board, a fellow regulated by the Institute of Legal Executives, a notary public regulated by the Master of the Faculties, a patent attorney regulated by the Chartered Institute of Patent Attorneys, a trade mark attorney regulated by the Institute of Trade Mark Attorneys, a law costs draftsman regulated by the Association of Law Costs Draftsmen and such other individuals authorised by any other Legal Regulator to provide Reserved Legal Services;

“Probate Services” services limited to the drawing or preparation of any papers on which to found or oppose a grant of probate or grant of letters of administration and the administration of the estate of a deceased person;

“Qualified Person” (a) a Licensed Conveyancer; or
(b) a Permitted Person;

“Recognised Body” a body recognised by the Council under section 32 of the 1985 Act to provide Regulated Services to the public;

“Regulated Services” Conveyancing Services and such other services, including Probate Services, regulated by the Council;

“Reserved Legal Services” the right to conduct litigation, rights of audience, probate services, administration of oaths, notarial activities and conveyancing services.

2.2 Unless the contrary intention appears, words importing the masculine gender include the feminine and neuter, words in the singular include the plural and words in the plural include the singular.

2.3 Other expressions have the meanings given to them by the 1985 Act and the 2007 Act.

2.4 A reference to any provision of an Act of Parliament or Rules made under such Act shall include reference to any amendment, modification or re-enactment of that provision for the time being in force.

Part 2 Regulated Services

3. Restrictions on Regulated Services

- 3.1 When determining an application for a Certificate or during the currency of a Certificate, if it is satisfied that one or more of the circumstances specified under rule 5,1 is applicable, the Council may, as an alternative to a refusal to recognise an applicant as a Recognised Body or a refusal to continue to recognise a Recognised Body, direct that the Certificate be subject to conditions which may:
- (i) include conditions as to the kinds of Regulated Services that may be undertaken by a Recognised Body;
 - (ii) be imposed by reference to criteria of general application published by the Council in such form and in such manner as the Council may determine; and
 - (iii) require the Recognised Body to take any specific steps that will in the opinion of the Council be conducive to that Recognised body carrying on an efficient business.
- 3.2 The Council may impose conditions despite the fact that they may result in expenditure being incurred by the Recognised Body.
- 3.3 Control of a Recognised Body shall, at all times, be maintained in accordance with the Council's Rules.

Part 3 Eligibility for Recognition

4. Provisions for Recognition by the Council

- 4.1 These Rules shall at all material times be complied with by a Recognised Body.
- 4.2 A Recognised Body which is a Company shall be registered in England and Wales under the Companies Acts.
- 4.3 The registered office of such a Recognised Body shall be in England and Wales and at the place of business or one of the places of business of the Company.
- 4.4 At least one of the Managers of a Recognised Body shall at all times be a Licensed Conveyancer and, if the Recognised Body is a Company, one of their number who may or may not be a Qualified Person shall be appointed Chairman.
- 4.5 A Limited Liability Partnership shall be registered in England and Wales under the Limited Liability Partnerships Act 2000.
- 4.6 The registered office of a Limited Liability Partnership shall be in England and Wales and at its place of business or one of its places of business.
- 4.7 A Limited Liability Partnership must have at least two LLP Members provided that at least one of the LLP Members is a Licensed Conveyancer and provision has been made that in the event of deadlock in all matters a Qualified Person has a deciding vote.

5. **General Grounds for Refusal of Recognition**

5.1 Where it is not satisfied that a condition should be imposed as provided by rules 3.1 and 3.2, the Council may refuse to recognise an applicant as a Recognised Body or refuse to continue to recognise a Recognised Body if it is not satisfied there is compliance with rule 4 or if:

- (a) the applicant has at any time had made against it:
 - (i) one or more of the orders referred to in paragraphs 4(2), 4(2D) and 5(4) of Schedule 6 to the 1985 Act;
 - (ii) an order of the High Court made under paragraph 6(1) or 6(1A) of Schedule 6 to the 1985 Act.;
- (b) any Manager or employee who is or was a Licensed Conveyancer has had an order made against him whether under section 26(2) or 26(7) of the 1985 Act;
- (c) any Manager or employee has had made against him:
 - (i) an order under paragraph 4(2B) or 4(2D) of Schedule 6 to the 1985 Act;
 - (ii) an order of the High Court under paragraph 6(1) or 6(1A) of Schedule 6 to the 1985 Act;
- (d) any Manager, employee or shareholder has been convicted of a criminal offence involving fraud, dishonesty, deception or violence or some other indictable offence.
- (e) any Manager is not a suitable person to be engaged in the direction or ownership of a Recognised Body, by reason of that person's character, conduct or associations, and in particular:
 - (i) has been in breach of any statutory requirements regarding the payment of tax or the payment for a licence;
 - (ii) has failed to meet a civil judgment within the time limited;
 - (iii) has made a composition or arrangement with creditors;
 - (iv) has been the subject of an order appointing a receiver or an administrator over his property;
 - (v) has been an officer of a limited company which has gone into liquidation on the grounds of insolvency;
 - (vi) has been the subject of an order disqualifying him from holding office as a Manager;
 - (vii) has been a Licensed Conveyancer in, or Manager of, a Recognised Body which has had a Certificate refused, revoked or made subject to conditions;
 - (viii) is or has been a Manager of a Recognised Body which has had an order made against it under any of the paragraphs 4(2) to 7(1) inclusive of Schedule 6 to the 1985 Act;
 - (ix) has had an order made against him by a Legal Regulator;

- (x) was, in relation to an body which is the subject of an order made by a Legal Regulator, a Licensed Conveyancer or a Manager at the time of the act or omission complained of;
 - (xi) has been found guilty of professional misconduct as a member of another profession;
 - (xii) lacks capacity (within the meaning of the Mental Capacity Act 2005) and powers under sections 15-20 or section 48 of that Act have been exercised in relation to him;
- (f) the applicant fails to pay the fee required by Rule 7.4(a) of these Rules;
 - (g) the applicant fails to provide evidence of compliance with The Council for Licensed Conveyancers' Compensation Fund Rules;
 - (h) for any other reason having regard to the public interest it is satisfied it should not do so

6. **Duty to Notify Circumstances**

- 6.1 Every Manager of the Recognised Body shall be responsible for ensuring that he is informed promptly of any circumstance referred to in rule 5.1.
- 6.2. Every Manager of the Recognised Body shall be responsible for notifying the Council of any circumstance referred to in rule 5.1 within 14 days of the occurrence or within 14 days after the circumstance has come to his notice (if he is not immediately aware of the occurrence).

Part 4 Application for Certificate of Recognition and Fees

7. **Application and Fees**

- 7.1 Any applicant which seeks to become or remain a Recognised Body shall apply for a Certificate in the manner set out in this Part.
- 7.2 Save as provided under rule 7.3, every application for a Certificate shall include:
 - (a) a written application in such form as the Council may from time to time determine which has been correctly completed without amendment and signed by a Manager who must be a Qualified Person and where the applicant is a Company also signed by the company secretary and where an individual acts in more than one capacity he must sign in each capacity;
 - (b) where the applicant is a Company, a copy of its Memorandum and Articles together with a declaration that they comply with these Rules; and
 - (c) where the applicant is a Company or a Limited Liability Partnership, its certificate of incorporation.
- 7.3 Where a Company is applying for a second or subsequent Certificate because its current Certificate is due to expire, a Manager shall deliver to the Council at least 21 days before the expiry of the current Certificate:
 - (a) a statement and an application in the forms determined by the Council; and
 - (b) where the applicant is a Company a declaration that the Memorandum and Articles of the Company continue to comply with these Rules;

- (c) where the applicant is a Company a copy of the register of directors and members of the Company; and
- (d) where the applicant is a Limited Liability Partnership, a copy of the register of LLP Members.

7.4 Whenever an application for a Certificate is delivered there shall at the same time be delivered to the Council:

- (a) the fee payable in respect of the application as specified in The Council for Licensed Conveyancers Fees Rules;
- (b) evidence of current compliance with the Indemnity Rules;
- (c) any contribution which the Council may require towards its compensation fund.

8. Form, Issue and Ownership of Certificate of Recognition

8.1 Where the Council grants recognition it may issue to the applicant:-

- (a) a Certificate free of conditions; or
- (b) a Certificate which imposes one or more conditions as directed under rules 3.1 and 3.2.

8.2 A condition imposed by rule 8.1(b) shall take effect immediately or at such time as the Council may direct and the Council may direct that a condition is not to have effect until the conclusion of any appeal in relation to it.

8.3 A Certificate issued under these Rules shall remain the property of the Council and shall be in such form as the Council may prescribe and if the Council imposes conditions the Certificate shall be endorsed with particulars of them.

8.4 Where conditions are imposed by the Council during the currency of a Certificate, the Recognised Body shall immediately upon being requested, submit its Certificate to the Council for endorsement.

8.5 Every Certificate may be sent by the Council by post to the applicant at its registered address or to such other address as may be specified in writing by the Recognised Body to the Council.

8.6 The Recognised Body may apply either whilst a Certificate is in force or at the time an application is made for renewal of the Certificate:

- (a) for the removal of one or more conditions subject to which the Certificate has effect; or
- (b) for the variation of one or more conditions in the manner described in the application.

8.7 An application made under rule 8.6 whilst a Certificate is in force shall be made in writing delivered to the Council in the form prescribed by and obtained from the Council, correctly completed and signed by a Manager together with the fee payable.

9. Refusal and Deemed Refusal of Application

- 9.1 Subject to the provisions of rule 9.2 of these Rules, in any case where the Council decides to refuse an application for recognition, it shall notify the applicant of the refusal of the application and of the grounds on which the application has been refused.
- 9.2 Where an application for a Certificate has been made in accordance with these Rules and the Council has within 42 days beginning with the date when the application was received by the Council neither issued a Certificate in pursuance of the application nor refused the application then the application shall be deemed to have been so refused by the Council and the applicant shall be deemed to have been notified of the refusal at the end of that period.
- 9.3 Where rules 8.1(b), 9.1 or 9.2 apply the applicant may appeal under paragraph 8(1) of schedule 6 to the 1985 Act.

10. Duration of Certification of Recognition

- 10.1 Subject to the provisions of the 1985 Act and these Rules, the period for which a Certificate shall be in force shall be:-
- (a) the period of 12 months beginning with the date of its issue; or
 - (b) such other period as may be specified in the Certificate.
- 10.2 If an application for a Certificate is made in accordance with these Rules and at the date of the application the Recognised Body already holds a current Certificate but no new Certificate is issued to it in pursuance of the application before the time when its existing Certificate would, apart from this rule, expire in accordance with rule 10.1 the existing Certificate shall not expire at that time but shall continue in force:
- (a) until a new Certificate is issued to it; or
 - (b) if the application is refused by the Council, or is deemed to have been so refused, until the end of the period within which an appeal may be brought against the refusal under paragraph 8(1) of Schedule 6 to the 1985 Act; or
 - (c) if such an appeal is brought, until the appeal is determined or abandoned.
- 10.3 When an applicant for a Certificate has held such a Certificate at any time within the period of twelve months ending with the date of its application, any Certificate granted to it in pursuance of the application shall, unless the Council directs otherwise, be deemed to have been issued on the day following the date when its previous Certificate expired in accordance with rule 10.1 (or would have so expired but for rule 10.2) and accordingly to have been held by it as from that day.

11. Provisions for Automatic Cessation of Recognition

- 11.1 The Certificate of a Recognised Body shall automatically cease to have effect if in accordance with rule 5.1 the Council refuses to recognise an applicant as a Recognised Body or refuses to continue to recognise a Recognised Body.
- 11.2 Where the Recognised Body is a Company or a Limited Liability Partnership, it shall automatically cease to be recognised, where a winding-up order or an administration order under Part II of the Insolvency Act 1986 is made in respect of the Recognised Body or where a

resolution for voluntary winding-up is passed by the Recognised Body or where a person is appointed administrative receiver of the body.

11.3 Further, the Certificate of a Limited Liability Partnership shall automatically cease to have effect where the Limited Liability Partnership ceases to be registered as a Limited Liability Partnership under the Limited Liability Partnerships Act 2000.

11.4 In a Limited Liability Partnership with two LLP Members, if one of them:

- (a) is committed to prison in civil or criminal proceedings;
- (b) is unable, because of incapacity caused by illness, accident or age, to attend to the practice of the Limited Liability Partnership for a period of more than 14 days (or such other period as the Council may determine);
- (c) lacks capacity (within the meaning of the Mental Capacity Act 2005) and powers under sections 15-20 or section 48 of that Act have been exercised in relation to him;
- (d) abandons the practice of the Limited Liability Partnership;
- (e) has a licence issued by the Council subject to a condition which would be breached by continuing as a LLP Member; or
- (f) is not a Licensed Conveyancer; or
- (g) dies

providing the remaining LLP Member is a Permitted Person, where an additional person (who must be a Licensed Conveyancer if the remaining LLP Member is not a Licensed Conveyancer) becomes a LLP Member within 28 days of such occurrence (or the end of any time period determined under paragraphs (b)) the Limited Liability Partnership will be deemed to have remained in compliance with rule 4.7, failing which its Certificate shall automatically cease to have effect.

11.5 With the exception of a Limited Liability Partnership as to which rule 11.4 applies, where a Manager who is a Licensed Conveyancer in a Recognised Body:

- (a) is committed to prison in civil or criminal proceedings;
- (b) is unable, because of incapacity caused by illness, accident or age, to attend to the practice of the Recognised Body for a period of more than 14 days (or such other period as the Council may determine);
- (c) lacks capacity (within the meaning of the Mental Capacity Act 2005) and powers under sections 15-20 or section 48 of that Act have been exercised in relation to him;
- (d) abandons the practice of the Recognised Body;
- (e) has a licence issued by the Council subject to a condition which would be breached by continuing as a Manager; or
- (f) dies;

as a result of which the Recognised Body has no Manager who is a Licensed Conveyancer, provided there is a Manager who is a Permitted Person the Recognised Body must ensure that an additional Manager who is a Licensed Conveyancer is in place within 28 days of such occurrence (or the end of any time period determined under paragraph (b)) to comply with rule 4.4, failing which its Certificate shall automatically cease to have effect.

12. Council Register of Recognised Bodies

- 12.1 The Council shall establish and maintain, in such form as it may determine, a register containing the names and principal places of business of all Recognised Bodies for the time being recognised by the Council and such other information as the Council may determine.
- 12.2 Information in the register shall be available for inspection on a Durable Medium by any person during normal office hours at the Council, without payment.

13. Duty to Notify Corporate Changes

- 13.1 Not less than 28 days before the change is implemented a Recognised Body shall notify the Council in writing of any change of:
- (a) its designated registered office address under the provisions of section 86 of the Companies Act 2006, if it is a Company or a Limited Liability Partnership;
 - (b) its principal and other place or places of business.
- 13.2 A Recognised Body shall within 7 days, beginning with the date on which any change takes place, notify the Council in writing of any change in its Managers.

Part 5 Other Rules

14. Requirement for Disclosure

- 14.1 A member of a Recognised Body which is a Company or a Limited Liability Partnership shall disclose to the Council and to the Recognised Body the extent of any charge or third party interest over his interest as a member of the Recognised Body existing at the time an application is made under rule 7.1 or at any time before the Certificate is issued.
- 14.2 A member of a Recognised Body shall not create any charge or other third party interest over his interest as a member in the Recognised Body but this rule shall not affect the rights of a receiver appointed under the Mental Capacity Act 2005 in respect of a member or a Trustee in Bankruptcy.
- 14.3 The Recognised Body shall maintain a record of any disclosure made by a member to it under rule 14.1. The record shall be kept in respect of each charge or third party interest for at least 6 years from the date on which such charge or third party interest ceased to have effect.

15. Mental Health

- 15.1 A Recognised Body shall not have as a Manager a person while that person lacks capacity (within the meaning of the Mental Capacity Act 2005) and no voting powers shall be exercised in respect of any shares registered in the name of such a person.

16. Inspection and Discipline

- 16.1 In order that the Council can ascertain whether or not any rules applicable to a Recognised Body, or to any Manager or employee of such body, in accordance with the powers given by section 32(3)(fb) and (g) of the 1985 Act a Manager must at the time and place fixed by the Council produce to any person appointed by the Council all information held on a Durable Medium relating to the Recognised Body (to include its records, papers, files and financial accounts) reasonably required to enable the preparation of a report to the Council.
- 16.2 A report made following an inspection under rule 16.1 may be used as part of any investigation under section 24 of or paragraph 3 of schedule 6 to the 1985 Act.
- 16.3 If it appears to the Council that there has been a contravention of any of the Council's Rules, a Manager is liable to disciplinary proceedings and sanction under sections 24, 24A and 26 of the 1985 Act if he is a Licensed Conveyancer and under schedule 6 of the 1985 Act whether or not he is a Licensed Conveyancer, and a Recognised Body is liable to disciplinary proceedings under schedule 6 of the 1985 Act.

17. Service of Documents

- 17.1 Any notice or other document authorised or required to be served on a Recognised Body under the provisions of the 1985 Act and these Rules may be served by posting to its principal office.