

The Licensed Conveyancers' Designated Professional Body Rules 2004

Made on 27 October 2004 by the Council for Licensed Conveyancers with the concurrence of the Secretary of State pursuant to Sections 20 and 38 of the Administration of Justice Act 1985 and Part XX of the Financial Services and Markets Act 2000.

Contents

Citation, Commencement and Interpretation

1. These Rules may be cited as the Licensed Conveyancers Designated Professional Body Rules 2004 and shall come into effect on 14 January 2005.
2. In these Rules:
 - 2.1 Unless the contrary intention appears, words importing the masculine gender include the feminine, words in the singular include the plural and words in the plural include the singular:
 - 2.2 "Authorised Person" a person authorised in accordance with section 31 FSMA;
 - "Council" the Council for Licensed Conveyancers and any of its Committees;
 - "Client" any person with whom a Practice conducts or intends to conduct a Regulated Activity;
 - "Exempt Person" (as defined in section 417(1) FSMA) in relation to a Regulated Activity, a person who is exempt from the General Prohibition in respect of that activity;
 - "FSMA" Financial Services and Markets Act 2000;
 - "General Prohibition" The prohibition imposed by section 19 FSMA which states that no person may carry on a Regulated Activity in the United Kingdom, or purport to do so, unless he is (a) an Authorised Person; or (b) an Exempt Person;
 - "IMD" Insurance Mediation Directive (No 2002/92/EC);
 - "Insurance Intermediaries Register" The record maintained by the Financial Services Authority under section 347 FSMA;
 - "Insurance Mediation Activities" The activities of introducing, proposing or carrying out other work preparatory to the conclusion of contracts of insurance, or of concluding such contracts, or of assisting in the administration and performance of such contracts, in particular in the event of a claim;
 - "Permission" permission given by the Council to any Practice to provide Regulated Activities in accordance with section 327 FSMA;

- "Practice" a licensed conveyancer who is a sole practitioner, two or more licensed conveyancers in partnership, or a Recognised Body each providing legal services to the public regulated by the Council;
- "Principal" a sole practitioner or any partner or director of a Practice;
- "Professional Services" services which do not constitute carrying on a Regulated Activity, and the provision of which is supervised and regulated by the Council;
- "Regulated Activities" any of the activities specified under Part II (Specified Activities) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (SI 2001/544) as amended which is carried on by way of business in relation to an investment of a kind specified in Part III (Specified Investments) of the same Order.
- 2.3** Other expressions have the meanings assigned to them by Section 39(1) of the Administration of Justice Act 1985 by FSMA and secondary legislation made under FSMA or by the IMD.

Rules

- 3.** The Council is a Designated Professional Body under Part XX of FSMA and as such it must make rules to regulate Practices in the provision of Regulated Activities in relation to which the General Prohibition does not apply as a result of section 327 FSMA
- 4.** These Rules do not apply to a Practice that is an Authorised Person.
- 5.** Subject to Rule 7 and provided it complies with these Rules each Practice is permitted by the Council to provide Regulated Activities as specified by the Council by resolution and which are incidental to:-
- 5.1** conveyancing services provided by the Practice to a Client; and
- 5.2** legal services (other than conveyancing services) regulated by the Council and provided by the Practice to a Client.
- 6.** Each Practice providing Regulated Activities must:-
- 6.1** appoint a Principal as the person who:-
- 6.1.1** is responsible for ensuring the Practice has procedures and practices to enable it to comply with these Rules;
- 6.1.2** will supply to the Council or its agents information as required by the Council; and
- 6.2** notify the Council immediately and in any event no later than seven days after each such appointment is made.

7. There must not be in force any order or direction of the Financial Services Authority under sections 328 or 329 FSMA in respect of any Practice and where such order is in force the Council may withdraw Permission without notice.
8. The manner of the provision by a Practice of any service in the course of carrying on a Regulated Activity must be incidental to the provision by that Practice of Professional Services.
9. The Regulated Activities carried on by a Practice must not be of a description, or relate to an investment of a description, specified in an order made by the Treasury under section 327(6) FSMA.
10. The Regulated Activities must be the only Regulated Activities carried on by the Practice (other than Regulated Activities in relation to which it is an Exempt Person).
11. If a Practice is in breach of these Rules the Council may impose a condition on the licence of the Principals of the Practice which may include the withdrawal of Permission.
12. A Practice must not carry on, nor hold itself out as carrying on, a Regulated Activity other than one which is permitted by these Rules or one in relation to which it is an Exempt Person.
13. A Practice must not carry on any Insurance Mediation Activity unless it is included in the Insurance Intermediaries Register.
14. A Practice and all of its Principals must at all times comply with FSMA, secondary legislation made under FSMA and the IMD, so far as they apply to them.
15. A Practice and all of its Principals must comply with the terms and provisions of the Code of Practice issued by the Council.
16. If it appears to the Council that there has been a contravention of any of these Rules, a Principal is liable to disciplinary proceedings under sections 24 and 26 of the Administration of Justice Act 1985 (as amended by the Courts and Legal Services Act 1990) and Recognised Bodies are liable to disciplinary proceedings under schedule 6 of the Administration of Justice Act 1985.