

## PRACTISING RULES

### COSTS LAWYERS

**Regulator: Costs Lawyer Standards Board**

**Effective date: 24 April 2013**

#### **Introduction**

These Rules (“Rules”) were made pursuant to the Legal Services Act 2007 (“LSA”). On the effective date above, the Association of Costs Lawyers (“ACL”) as an Approved Regulator delegated its regulatory function to the Costs Lawyer Standards Board (“CLSB”). These Rules govern the practice of Costs Lawyers and replace any other practising rules, regulations or bye-laws issued by the ACL.

#### **Interpretation of terms within these Rules**

ACL	The Association of Law Costs Draftsmen, known with effect from 1 January 2011 as the Association of Costs Lawyers
CLSB	Costs Lawyer Standards Board
Costs Lawyer	A person who holds a current Practising Certificate and is therefore authorised to carry on the following reserved legal activities: <ul style="list-style-type: none"><li>• The exercise of a right of audience</li><li>• The conduct of litigation</li><li>• The administration of oaths</li></ul>
Conduct Committee	The committee established by CLSB to consider Costs Lawyer conduct matters, as defined in the Disciplinary Rules & Procedures
CPD	Continuing Professional Development
CPD Year	1 January to 31 December
LSA	Legal Services Act 2007
Practising Certificate	Certificate issued annually allowing a Costs Lawyer to practice under the title of Costs Lawyer and carry on reserved legal activities
Practising Certificate Fee	The annual fee payable to practice as a Costs Lawyer as approved by the Legal Services Board
Register	The Register of Costs Lawyers who hold a current Practising Certificate as defined in Rule 3

### **RULE 1: Right to practice as a Costs Lawyer**

- 1.1 No person shall be entitled to practice as a Costs Lawyer unless:
- (a) they have fully qualified as a Costs Lawyer; and
  - (b) they have a current Practising Certificate issued in accordance with the provisions of these Rules; and
  - (c) they have and continue to comply with CPD requirements set out in Rule 8; and
  - (d) they have professional indemnity insurance in accordance with Rule 9.

### **RULE 2: Right to a Practising Certificate**

- 2.1 Subject to the powers set out herein to refuse a Practising Certificate a Costs Lawyer is entitled to a Practising Certificate provided:
- (a) they return their applications for a Practising Certificate by the deadline stipulated; and
  - (b) they have paid the Practising Certificate Fee in full within the deadline stipulated; and
  - (c) they have provided evidence that they fulfil the requirements of Rule 1(a)(c) and (d).
- 2.2 CLSB must notify its reasons in writing to the applicant in the event CLSB:
- (a) Refuses an application.
  - (b) Makes a Practising Certificate subject to a condition or conditions.
  - (c) Refuses to remove a condition imposed on a Practising Certificate.

### **RULE 3: Register of Costs Lawyers**

- 3.1 The Register may be kept in electronic form.
- 3.2 The name of all Costs Lawyers will be entered onto the Register upon:
- (a) Compliance with Rule 2.1.
  - (b) Production of an order lifting any suspension of their name from the Register.
  - (c) Upon restoration of their name to the Register.
- 3.3 The Register will contain the following information in respect of each Costs Lawyer who holds a Practising Certificate:
- (a) Their full name.
  - (b) Their date of birth.
  - (c) Their registration number.
  - (d) Their date of admission as a Costs Lawyer.
  - (e) Details of their practising address (name and address of firm).
  - (f) Other contact details including telephone number, email address and website address.
  - (g) Any condition on their Practising Certificate.
  - (h) Any other information required by law or deemed appropriate to be held.

- 3.4 A short version of the Register which shows the full names of all Costs Lawyers, the date they were admitted as a Costs Lawyer, the firm in which they work (if applicable) and any conditions on their Practising Certificate will be made available in an electronic format for public inspection through both the ACL and CLSB website. No other information will appear on this public access Register e.g. works address, works telephone numbers unless the Costs Lawyer gives permission that it may so appear.

**RULE 4: Applications for a Practising Certificate**

- 4.1 An application for a Practising Certificate must comprise of the following:
- (a) a fully and correctly completed application form as issued by CLSB; and
  - (b) payment of the full current Practising Certificate Fee; and
  - (c) any additional documentation or information reasonably required e.g. details of first-tier complaints handling procedures, number of complaints received.
- 4.2 The applicant must ensure that all the information given by them is correct and complete.
- 4.3 Every application form must be signed and dated by the applicant.
- 4.4 Every application must be received by the date stipulated.
- 4.5 The following must be disclosed by the applicant to the CLSB on any application for a Practising Certificate. The applicant:
- (a) Is an un-discharged or discharged bankrupt.
  - (b) Has entered into an individual Voluntary Arrangement under the Insolvency Act 1986 as amended.
  - (c) Has entered into a partnership Voluntary Arrangement under the Insolvency Act 1986.
  - (d) Has been a director of a company or a member of an LLP which has been wound up or the subject of an administration order, administrative receivership or a voluntary arrangement under the Insolvency Act 1986.
  - (e) Has been disqualified from being a company director.
  - (f) Has been committed to prison in civil or criminal proceedings or has been convicted of an indictable offence (subject to the Rehabilitation of Offenders Act).
  - (g) Has been charged with an indictable offence.
  - (h) Lacks capacity within the meaning of the Mental Capacity Act 2005.
  - (i) Has been removed from the office of charity trustee or trustee for a charity by an order within the terms of section 72(1) (d) of the Charities Act 1993.
  - (j) Is or has been the subject of a money judgement which has been outstanding for more than 28 days.
  - (k) Has been made the subject of an order under section 43 of the Solicitors Act 1974.

- (l) Any other matter that might reasonably be expected to be disclosed as affecting the applicants' fitness to act as a Costs Lawyer.
- 4.6 If any of the matters in Rule 4.5 apply the CLSB may:
- (a) Refuse the application for a Practising Certificate.
  - (b) Impose a condition or conditions upon the Practising Certificate in accordance with Rule 10.

#### **RULE 5: Issuing of Practising Certificates**

- 5.1 The Practising Certificate will be delivered to the address notified to CLSB as the applicants practising address or to such other address as the applicant shall advise the CLSB in writing and may be delivered either by post or electronically.
- 5.2 The commencement date for the Practising Certificate will be the date on which it is entered on the Register and will also appear on the Practising Certificate.
- 5.3 The Practising Certificate will contain the following details:
- (a) The full name of the Costs Lawyer.
  - (b) The commencement date.
  - (c) The date of expiry.
  - (d) Any condition to which the Practising Certificate is subject.
- 5.4 In the event a condition is imposed on a Practising Certificate a new one will be issued stating the condition and the date it was imposed.
- 5.5 A new Practising Certificate will be issued in the event a condition expires, is varied, is successfully appealed or revoked.

#### **RULE 6: Expiration of a Practising Certificate**

- 6.1 A Practising Certificate will expire:
- (a) On the expiry date stated thereon.
  - (b) When a replacement Practising Certificate is issued.
  - (c) On the death of the Costs Lawyer.

#### **RULE 7: Revocation of a Practising Certificate**

- 7.1 A Practising Certificate may be revoked:
- (a) If the Costs Lawyer's name is suspended from the Register.
  - (b) If the Costs Lawyer's name is removed from the Register.
  - (c) Upon the bankruptcy of a Costs Lawyer.
  - (d) Upon the Costs Lawyer entering into an Individual Voluntary Arrangement.

#### **RULE 8: Notification requirements**

- 8.1 A Costs Lawyer is required to notify CLSB within 14 calendar days of any of the following events:
- (a) Their committal to prison in either civil or criminal proceedings.
  - (b) Their being charged with or convicted of an indictable offence.

- (c) Their being made the subject of disciplinary proceedings as a Lawyer of England and Wales other than as a Costs Lawyer.
- (d) Their being made subject to a bankruptcy order.
- (e) Their entering into an individual voluntary arrangement under the Insolvency Act 1986.
- (f) Any change of practising address.
- (g) Their ceasing to practice (in which event the Costs Lawyer is required to supply the CLSB with a new contact address).
- (h) Any other matter that might reasonably be expected to be disclosed as affecting their fitness to act as a Costs Lawyer.

**RULE 9: Continuing Professional Development (CPD)**

- 9.1 A Costs Lawyer must complete a minimum of 12 CPD points in each CPD Year in accordance with current Training & CPD Rules.
- 9.2 A Costs Lawyer must inform the CLSB in such form and at such time as shall be prescribed by the CLSB of whether or not they have complied with CPD requirements.
- 9.3 A Costs Lawyer must keep a record of CPD undertaken and must produce it to the CLSB on demand.
- 9.4 CLSB may refuse to renew a Practising Certificate or may issue the Practising Certificate subject to conditions where the Costs Lawyer has failed to provide satisfactory evidence of compliance with current rules in the Training & CPD Rules.

**RULE 10: Indemnity insurance**

- 10.1 With the exception of those who are employees of a Solicitors firm, Costs Lawyer firm, Insurance firm or other alternative business structure on a PAYE basis, a Costs Lawyer shall ensure that:
  - (a) professional indemnity insurance is in place at all times with minimum cover of £100,000 together with loss of documents cover;
  - (b) there are no gaps between policies;
  - (c) policy fees are paid in accordance with payment terms set out by the insurer to ensure cover is in place.
- 10.2 A Costs Lawyer will provide a copy of their professional indemnity insurance policy or declaration from the insurer or broker upon request from a client, CLSB or the Legal Ombudsman within 14 calendar days of the request being made.

**RULE 11: Conditions on Practising Certificates**

- 11.1 CLSB may impose on a Practising Certificate any condition it thinks fit including conditions imposed as a result of a disclosure under Rules 4 & 7 or as a result of any findings under the Disciplinary Rules & Procedures.

- 11.2 CLSB may remove a condition on a Practising Certificate should it consider it appropriate to do so, on written application of the Costs Lawyer e.g. change of circumstances.
- 11.3 If CLSB decides to impose a condition during the currency of a Practising Certificate it must, unless it is satisfied on reasonable grounds that it is not in the public interest to do so, give 21 calendar days written notice with reasons to the Cost Lawyer in question.

#### **RULE 12: Lapsed Practising Certificate / Retired Costs Lawyers**

- 12.1 A Costs Lawyer is encouraged, during a career break for whatever reason, to retain their Practising Certificate therefore keeping up to date with CPD requirements. However, in the event a Costs Lawyer has not done so, then they may re-apply by completing the required reinstatement form and paying an administrative fee of £30.00 together with the Practising Certificate Fee on a pro-rata basis.
- 12.2 On re-issue of a Practising Certificate, the Costs Lawyer will be required to undertake CPD on a pro-rata basis for what remains of the practising year.
- 12.3 A Costs Lawyer who has retired may continue to receive the Costs Lawyer Journal, diary and may attend the National Conference (but not the AGM) on payment of an administrative fee of £50.00 a year to the ACL. They may not however title themselves a Costs Lawyer or Retired Costs Lawyer.

#### **RULE 13: Appeals**

- 13.1 There is a right of appeal under this Rule in respect of:
- (a) Refusal of CLSB to issue a Practising Certificate.
  - (b) Imposition of a condition or conditions upon a Practising Certificate.
  - (c) Refusal of CLSB to remove a condition or conditions imposed on a Practising Certificate.
  - (d) Revocation of a Practising Certificate.
- 13.2 An appeal must be made within 21 calendar days of the date of the letter notifying the decision which the Costs Lawyer intends to appeal.
- 13.3 The appeal must be in writing to the CLSB and must set out the grounds on which the appeal is being made.
- 13.4 The only grounds for making an appeal are that the decision was flawed because:
- (a) There was a material error in law.
  - (b) There was a failure to take into account material information.
  - (c) The decision was irrational.
  - (d) The decision was one which could not be made.
  - (e) New evidence has been obtained which could not have been made available when the decision was made.
- 13.5 An appeal shall be by way of review by the Conduct Committee and the decision on the appeal shall be made on paper alone.

- 13.6 The Conduct Committee may not impose any decision or condition that is harsher than the original, it may only uphold the decision or lessen it.
- 13.7 There is no right of appeal beyond the Conduct Committee.

**RULE 14: Notification of decisions**

- 14.1 If it is considered in the public interest the CLSB may notify the following of decisions made under these Rules to:
- (a) the ACL; and/or
  - (b) an approved regulator; and/or,
  - (c) the Legal Services Board; and/or
  - (d) a law enforcement agency; and/or
  - (e) the Legal Ombudsman.