

Consultation on the separate business rule and on activities within recognised bodies and RSPs

Annex 2 Proposed rule changes

Other minor and consequential changes may be made as necessary.

Amendment to SRA Practice Framework Rules 2011

(Amendments are shown in strikethrough and underline)

13.2 The business of a *recognised body* may consist only of the provision of:

(a) professional services of the sort provided by individuals *practising as solicitors and/or lawyers* of other jurisdictions; and
(b) professional services of the sort provided by notaries public, but only if a notary public is a *manager or employee* of a *recognised body*, and
(c) the following services (whether or not they are also included in paragraph (a))

- (i) alternative dispute resolution;
- (ii) financial services;
- (iii) estate agency;
- (iv) management consultancy;
- (v) company secretarial services;
- (vi) other professional and specialist support services to business including human resources, recruitment, systems support, outsourcing, transcription and translating;
- (vii) acting as a parliamentary agent;
- (viii) practising as a lawyer of another jurisdiction;
- (ix) acting as a bailiff;
- (x) accountancy services;
- (xi) education and training activities; and
- (xii) authorship, journalism and publishing

~~but this does not prevent a *recognised body* providing services within Chapter 12 (Separate businesses) of the *SRA Code of Conduct*, or holding an interest in a *company* which is a *separate business*.~~

Guidance note (ii) will be replaced by

(ii) Rule 13.2 lists the services that can be carried out within a recognised body, either solicitor services, notary services, services of a lawyer of another jurisdiction or as exceptions to these services under section 9 (1A) of the Administration of Justice Act 1985. Professional services 'of the sort that can be carried out by solicitors' include any legal activity under the LSA.

New definition (for SRA Glossary)

The current definition of 'separate business' is deleted and replaced with the following:

separate business

means a business, wherever situated, which is not any of the following:

(i) an *authorised body*, a *recognised sole practitioner*, an *authorised non-SRA firm*, or an *overseas practice*, or;

(ii) an *in-house practice* or practice overseas which is permitted by the *SRA Practice Framework Rules*

Other defined terms (in italics) in the draft have the same meaning as in the SRA Glossary 2012.

Draft chapter 12 of the SRA Code of Conduct 2011

This will replace the current version of Chapter 12.

Outcomes

You must achieve these outcomes:

O (12.1) where you *own*, are *owned by*, *actively participate in* or are *connected with a separate business* you must:

(a) ensure, and have safeguards in place to ensure, that *clients* are clear about the extent to which the services that you and the *separate business* offer are regulated;

(b) not represent directly or indirectly the *separate business* as being regulated by the *SRA* or any of its activities as being carried on by an individual who is regulated by the *SRA*;

O (12.2) you must not *own*, be *owned by*, *actively participate in* or be *connected with a separate business* that carries on:

(a) reserved legal activities; or

(b) *immigration work* unless that work is regulated by the Office of the Immigration Services Commissioner;

O (12.3) you may only refer a *client* to the *separate business* when it is in the *client's* best interests to do so and when the *client* has given informed consent to the referral and has been informed of your connection with the separate business;

O (12.4) if instructed by a *client* in relation to a grant of probate, you must not refer the *client* to the *separate business* for the administration of the estate;

O (12.5) you must not refer a *client* to the *separate business* to provide any of the following services to that *client* in the same matter:

- a) administration services in relation to conveyancing;
- b) litigation support services involving *legal activity*; or

- c) pre litigation services involving *legal activity* in family disputes (except mediation);

O (12.6) you must not hold yourself out explicitly or implicitly as a *solicitor* (including as a 'non- practising solicitor') when providing services to the public or a section of the public in a *separate business*.