

Application to the Legal Services Board for Approval of a Rule Change

Amendments to the Bar Training Regulations

This application is made in accordance with the requirements set out in the Legal Services Board's Rules for Rule Change Applications.

Any queries about this application should be made to:

Joanne Dixon
Manager, Qualification Regulations
Bar Standards Board
289-293 High Holborn
London
WC1V 7HZ

Tel: 020 7611 1306

Email: jdixon@barstandardsboard.org.uk

Proposed Alterations

1. The Bar Standards Board wishes to make the following amendments to its Bar Training Regulations:
 - a) Removal of the minimum length for a Qualifying Degree and for a Qualifying Law Degree
 - b) Change of name of the "Bar Vocational Course" to the "Bar Professional Training Course"
 - c) Addition of a right for an Inn of Court to request a review of a decision by the Inns' Conduct Committee
 - d) Removal of the right to appeal to the Visitors to the Inns of Court against a decision of the Qualifications Committee on review of a decision of the Inns' Conduct Committee
2. The actual amendments are marked as "tracked changes" to the existing Bar Training Regulations, which are attached as Annex A.

Details of Existing Regulatory Arrangements

3. Prior to 31 August 2009, the requirements for qualification as a barrister were set out in the Consolidated Regulations of the Inns of Court and the General Council of the Bar. These were replaced by the Bar Training Regulations from 1 September 2009.
4. The existing regulatory arrangements in respect of each of the requested amendments are as follows:
 - a) A "Qualifying Law Degree" is a degree that is recognised by the Bar Standards Board as fulfilling the Academic Stage of training for qualification as a barrister in full. A "Qualifying Degree" is a degree that is recognised by the Bar Standards Board as a sufficient basis for completion of the Academic Stage of training through a Common Professional Examination or Graduate Diploma in Law. "Qualifying Law Degrees" are validated as such by the Joint Academic Stage

Board, a joint Board of the Bar Standards Board and the Solicitors Regulatory Authority. However, each professional body can set additional requirements for what it recognises as a Qualifying Law Degree. Under the Consolidated Regulations, the only additional requirement of the Bar Standards Board was that the degree was passed with at least second class honours. The Bar Training Regulations added an additional requirement, that the degree was awarded following a course of study of at least three years.

- b) Following completion of the Academic Stage of training, a student must complete the Vocational Stage in order to qualify for Call to the Bar. The current course through which the Vocational Stage is completed is the Bar Vocational Course.
- c) All those qualifying as barristers must be a members of one of the four Inns of Court. Members of an Inn of Court who have not yet been called to the Bar are referred to as “students”. Under the Consolidated Regulations, each Inn of Court was responsible for its own procedures for the admission and discipline of students. The Bar Training Regulations established a new Inns’ Conduct Committee, which oversees the admission and disciplinary procedures of all of the Inns of Court. Students have the right to request a review of a decision of the Inns’ Conduct Committee by the Bar Standards Board.
- d) Under the Consolidated Regulations, a student unhappy with a decision of an Inn of Court relating to admission or discipline could appeal to the Visitors to the Inns of Court. The Bar Training Regulations introduced an appeal to the Inns’ Conduct Committee, followed by a review by the Bar Standards Board. However, as the Bar Training Regulations allow for an appeal to the Visitors against any review decision taken by the Bar Standards Board, there is then a further such appeal in these cases.

Nature and Effect of the Proposed Alteration

- 5. The nature and effect of each proposed alteration is as follows:
 - a) Removing the minimum study requirement for Qualifying Law Degrees will mean that, provided that the Joint Academic Stage Board is content, as part of its validation process, that a degree of less than three years meets the requirements for a Qualifying Law Degree, such a degree will automatically be accepted as satisfying the Academic Stage of training for the Bar, provided that it is passed with at least second class honours. It will also allow graduates of other disciplines with degrees of less than two years to complete the Academic Stage through the Common Professional Course. (In fact, graduates of two-year degrees are already accepted, through waiver provisions, so that the practical change will not be significant.)
 - b) Changing “Bar Vocational Course” to “Bar Professional Training Course” in the Bar Training Regulations will make the Regulations consistent with the actual name of the course, which will be “Bar Professional Training Course” from September 2010.
 - c) Allowing an Inn of Court a right to request a review of a decision of the Inns Conduct Committee will create parity between the Inn and the student.
 - d) Removing the right of appeal to the Visitors to the Inns of Court against review decisions of the Inns Conduct Committee will mean that the review by the Bar Standards Board will be the final appeal, subject to judicial review.

Why the Bar Standards Board wishes to make the alterations

6. The reasons for each proposed amendment is as follows:
 - a) The Joint Academic Stage Board has approved a number of two-year degrees as “Qualifying Law Degrees”. These are usually “accelerated programmes”, which comprise the same number of credits as a three-year degree, but are compressed down into two years, usually by extending the academic year into traditional vacation periods. The Bar Standards Board is content that it should be for the Joint Academic Stage Board to check that such a degree adequately satisfies all requirements for a Qualifying Law Degree. The amendment will increase the pool of both law and non-law graduates who are eligible to go on to qualify as barristers.
 - b) In July 2008, a working-group chaired by Derek Wood QC published its report on the Bar Vocational Course. The Bar Standards Board accepted various improvements to the course, to take effect from 1 September 2010, including the renaming of the course as the “Bar Professional Training Course”. The purpose of this change is to shift the focus to the needs and interests of the client.
 - c) The Council of the Inns of Court has requested that Inns, as well as students, have a right of review against a decision of the Inns’ Conduct Committee to the Bar Standards Board. The Bar Standards Board accepts that this is reasonable and has agreed to it.
 - d) The draft Civil Law Reform Bill removes the jurisdiction of the Visitors to the Inns of Court and replaces it with an appeal to the High Court. The new jurisdiction will not include an appeal against decisions regarding the admission and discipline of student members of an Inn of Court. The reason for this is that a student’s case will already have been considered by his Inn, by the Inns Conduct Committee and by the Qualifications Committee, so that a further tier of appeal would be unnecessary. During the consultation on the Civil Law Reform Bill, there was a suggestion that the appeal should remain, subject to the permission of the Qualifications Committee being granted in individual cases. However, the Judicial Executive Board decided not to follow this suggestion, on the basis that judicial review provides an adequate safeguard. The Bar Training Regulations therefore need amendment in time for the coming into force of the Civil Law Reform Bill. Further, the Council of the Inns of Court has requested, and the Bar Standards Board has agreed, that the right of appeal to the Visitors in such cases should be removed in the mean time.

Regulatory Objectives

7. The Bar Standards Board believes that the amendments have the following relevance to the Regulatory Objectives:
 - a) Removing the requirement for a minimum length of degree is likely to promote objective (f), “encouraging an independent, strong, diverse and effective legal profession”, in that it will allow students from a more diverse range of degree programmes to qualify as barrister. Its effect is likely to be neutral in respect of all other regulatory objectives.
 - b) Changing the name of the “Bar Vocational Course” to the “Bar Professional Training Course” is unlikely to have either a positive or detrimental effect on any of the regulatory objectives.

- c) Allowing an Inn of Court an appeal against a decision of the Inns' Conduct Committee is likely to promote objectives (a), (b) and (f) in that it will create fairness between the Inns of Court and students where a decision of the Inns' Conduct Committee is in dispute and allow an Inn of Court to question whether a particular individual is suitable to qualify as a barrister and to represent members of the public.
- d) The removal of the right of appeal to the Visitors/High Court against decisions of the Inns' Conduct Committee will promote objective (c) access to justice, in that it will prevent unmeritorious applications from taking up court time. Where a student does have good grounds to challenge a decision taken against him, it will still be open to him to apply for judicial review. The effect of this amendment is likely to be neutral in respect of all other regulatory objectives.

Better Regulation Principles

- 8. The Bar Standards Board believes that the proposed alterations fulfils its obligations to have regard to the Better Regulation Principles as follows:
 - a) The current requirement that a Qualifying Law Degree be of a minimum length is unnecessary. Validation by the Joint Academic Stage Board is sufficient to ensure that a degree satisfies all requirements for a Qualifying Law Degree. Removing this requirement will therefore make the regulations more proportionate. It will also make them consistent with the Solicitors Regulation Authority which removed its own three-year requirement some years ago. Currently, students with two-year law degrees are permitted to proceed to the Bar Vocational Course through the granting of a waiver, which is less transparent than the requirement simply being removed.
 - b) It is not essential to change the name of the "Bar Vocational Course" to the "Bar Professional Training Course" in the Bar Training Regulations, since the definition of "Bar Vocational Course" would still cover the new course. However, it would be far clearer to students for the name of the course they attend to be the same as that referred to in the Regulations, so promoting transparency and consistency.
 - c) Allowing the Inns of Court to request a review of a decision of the Inns Conduct Committee will lead to consistency between the positions of students and their Inns.
 - d) The current arrangements whereby students have an automatic appeal to the Visitors to the Inns of Court in addition to a right to review by the Bar Standards Board is excessive. Removing this right will make the appeal arrangements more proportionate. The resulting arrangements will differ from those of the Solicitors Regulation Authority, where students do have a right of appeal to the High Court. However, students refused admission by the Solicitors Regulation Authority will not have been through the same appeal procedures as applicants to an Inn, whose cases will have been considered by both their Inn and the Inns' Conduct Committee, before reaching the Bar Standards Board.

Desired Outcomes

- 9. The desired outcomes for the proposed amendments are as follows:
 - a) The purpose of the amendment is to remove an unnecessary restriction and to allow for the possibility for students from wider pool of degrees to qualify as barristers. This outcome will be achieved whether or not students from a wider pool of degrees do in fact go on to qualify as barristers. The Bar Standards Board does not therefore intend to undertake any assessment of the outcome of the proposed amendment.

- b) The purpose of changing “Bar Vocational Course” to “Bar Professional Training Course” in the Bar Training Regulations is simply to update the Regulations to correspond to the actual name of the course. The outcome will therefore be achieved as soon as the change is made. There will not therefore be any follow-up assessment required.
- c) The purpose of allowing the Inns of Court a review of a decision of the Inns’ Conduct Committee is to create parity between the Inns and students. The numbers of applications for such a review will be assessed on an annual basis to ensure that this outcome has been met.
- d) The desired outcome of the removal of the right to the appeal to the Visitors is that any outstanding appeals to the Visitors against decisions of the Inns Conduct Committee will have been resolved in time for the coming into force of the Civil Law Reform Bill and the abolition of the Visitors’ jurisdiction. The progress of the Civil Law Reform Bill will be monitored to ensure that this takes place.

Other Approved Regulators

- 10. Details of the proposed alterations have been sent to all of the other Approved Regulators. The Solicitors Regulation Authority has confirmed that removal of the minimum length for a Qualifying Degree and for a Qualifying Law Degree will make the BSB’s approach consistent with that of the SRA. None of our other proposed amendments are of relevance to any of the other Approved Regulators.

Implementation

- 11. The Bar Standards Board hopes for the alterations to take effect from 1 September 2010.

Consultation

- 12. The Council of the Inns of Court has been consulted on and has approved all of these changes. The change of name of the “Bar Vocational Course” to the “Bar Professional Training Course” was included in the consultation on the Wood Report. The removal of the right for a student to appeal against an admission or discipline decision from the jurisdiction that is to be passed from the Visitors to the Inns of Court to the High Court was included in the consultation on the Civil Law Reform Bill. All of the proposed amendments were published on the Bar Standards Board, with comments invited. None have been received.

Joanne Dixon
Manager, Qualification Regulations
Bar Standards Board
22 July 2010