

By email only (under s203 of the Legal Services Act 2007)



**LEGAL SERVICES
BOARD**

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Paul Philip,
Solicitors Regulation Authority,
The Cube,
199 Wharfside Street,
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9 February 2015

Dear Paul,

Decision notice for the Solicitors Regulation Authority (SRA) application for approval of changes to its regulatory arrangements relating to the Qualified Lawyers Transfer Scheme Assessment

Please find enclosed our final decision notice granting the SRA's application for approval of changes to regulatory arrangements relating to the Qualified Lawyers Transfer Scheme Assessment.

This decision notice should be considered effective as of today, 9 February 2015.

A copy of the decision notice will be published on our website within two working days.

I have sent an identical letter to Enid Rowlands and copied this letter to Mark Stobbs and Simon Garrod at The Law Society.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Richard Moriarty', written in a cursive style.

Richard Moriarty
Chief Executive

E richard.moriarty@legalservicesboard.org.uk

Enclosures



Decision notice

Issued by the Legal Services Board under Part 3 of Schedule 4 to the Legal Services Act 2007

The Solicitors Regulation Authority's application for approval of changes to its regulatory arrangements in respect of the Qualifying Lawyers Transfer Scheme

The Legal Services Board (LSB) has granted an application from the Solicitors Regulation Authority (SRA) approving alterations to the regulatory arrangements in respect of the Qualifying Lawyers Transfer Scheme (QLTS) and additional reference to the Welsh language in the QLTS and Training Regulations. The Law Society is an approved regulator and the SRA is the regulatory arm to which The Law Society has delegated its regulatory functions.

This decision notice sets out the decision taken, including a brief description of the changes. The notes at the end of this notice explain the statutory basis for the decision. The chronology for the LSB's handling of this application is set out at the end of this decision notice.

Purpose of notice
To grant an application from the SRA approving alterations to its regulatory arrangements in respect of the Qualifying Lawyers Transfer Scheme (QLTS) and additional reference to the Welsh language in the QLTS and Training Regulations.
Main changes being made by SRA
Removal of requirements for lawyers who qualified overseas to have a certificate issued by the SRA confirming their eligibility to sit the SRA QLTS assessment and other related amendments. The application also made reference to minor amendments to the QLTS Regulations and Training Regulations to ensure that Welsh speakers are treated no less favourably than English speakers.
Why the LSB is granting the application in full
The changes are a sensible removal of an unnecessary level of bureaucracy in the QLTS assessment process as part of the SRA's Red Tape initiative. The amendments to the

QLTS in respect of the Welsh language is in order to comply with the Welsh Language (Wales) Measure 2011 Act.

LSB Decision

Having fully assessed the application against the refusal criteria in the Legal Services Act 2007, the LSB sees no reason to refuse this application.

Proposed changes

1. The proposed changes are to remove
 - the requirement for lawyers who qualified overseas to have a certificate issued by the SRA confirming their eligibility to sit the SRA QLTS assessment
 - the requirement for non-European Economic Area international applicants to undertake a separate English Language test
 - the restriction on the maximum number of assessment attempts permitted in a five year period.
2. The application also makes reference to minor amendments to the QLTS Regulations and Training Regulations to comply with the Welsh Language (Wales) Measure 2011 Act which is designed to ensure that Welsh speakers are treated no less favourably than English speakers.

Issues considered in the assessment of the application

3. The LSB generally welcomes the changes which will mean that the suitability assessment is made at the QLTS admission stage (rather than assessment) which is consistent with the domestic transfer procedures. The alteration is part of the SRA's ongoing Red Tape initiative.

Decision

4. The LSB has considered the SRA's application against the criteria in paragraph 25(3) of Schedule 4 to the Legal Services Act 2007 (the Act). It considers that there is no reason to refuse this application; accordingly, the application is granted.
5. The change in respect of the insertion of "Welsh" in the QLTS Outcomes section was included in the SRA application for approval of alterations to regulatory arrangements (Continuing Professional Development and miscellaneous) Rules 2015, which the LSB has approved separately on the same date as this notice.
6. The Annex to this decision notice contains the SRA Amendments to regulatory arrangements (QLTSR) Rules 2015 that have been approved by the LSB.

Chronology

- The LSB confirmed receipt of an application from the SRA on 23 December 2014
- The 28 day initial decision period for considering the application ended on 19 January 2015
- An extension notice was issued on 16 January 2015
- This decision notice is effective from 9 February 2015
- The decision notice will be published on our website on 10 February 2015

Richard Moriarty, Chief Executive

**Acting under delegated authority granted by the Board of the Legal Services Board
9 February 2015**

Notes:

1. The LSB is required by Part 3 of Schedule 4 to the Act to review and grant or refuse applications by approved regulators to make alterations to their regulatory arrangements.
2. Paragraph 25(3) of Schedule 4 to the Act explains that the LSB may refuse an application setting out a proposed change to the regulatory arrangements only if it is satisfied that
 - (a) granting the application would be prejudicial to the regulatory objectives
 - (b) granting the application would be contrary to any provision made by or by virtue of this Act or any other enactment or would result in any of the designation requirements ceasing to be satisfied in relation to the approved regulator
 - (c) granting the application would be contrary to the public interest
 - (d) the alteration would enable the approved regulator to authorise persons to carry on activities which are reserved legal activities in relation to which it is not a relevant approved regulator
 - (e) the alteration would enable the approved regulator to license persons under Part 5 [of the Act] to carry on activities which are reserved legal activities in relation to which it is not a licensing authority, or
 - (f) the alteration has been or is likely to be made otherwise than in accordance with the procedures (whether statutory or otherwise) which apply in relation to the making of the alteration.
3. The designation requirements referred to in paragraph 2(b) above are set out in paragraph 25(4) of Schedule 4 to the Act and are
 - (a) a requirement that the approved regulator has appropriate internal governance arrangements in place
 - (b) a requirement that the applicant is competent, and has sufficient resources to perform the role of approved regulator in relation to the reserved legal activities in respect of which it is designated, and
 - (c) the requirements set out in paragraphs 13(2)(c) to (e) of Schedule 4, namely that the regulatory arrangements are appropriate, comply with the requirements in respect of resolution of regulatory conflict (imposed by sections 52 and 54 of the Act) and comply with the requirements in relation to the handling of complaints (imposed by sections 112 and 145 of the Act).
4. In accordance with paragraphs 20(1) and 23(3) of Schedule 4 to the Act, the LSB has made rules¹ about the manner and form in which applications to alter regulatory arrangements must be made. Amongst other things, the rules highlight the applicant's obligations under section 28 of the Act to have regard to the Better Regulation Principles. They also require applicants to provide information about each proposed change and details of the consultation undertaken.
5. If the LSB is not satisfied that one or more of the criteria for refusal are met, then it must approve the application in whole, or the parts of it that can be approved.

¹ Rules for Rule Change Applications – Version 2 (November 2010)

Draft SRA Amendments to Regulatory Arrangements (QLTSR) Rules [2015]

Rules dated [] made by the Solicitors Regulation Authority Board.

Made under Part I, Part II, sections 79 and 80 of the Solicitors Act 1974 and paragraphs 2 and 3 of Schedule 14 to the Courts and Legal Services Act 1990.

Subject to the approval of the Legal Services Board under paragraph 19 of Schedule 4 to the Legal Services Act 2007 and coming into force on [1 November 2015].

Rule 1

The SRA Qualified Lawyers Transfer Scheme Regulations 2011 shall be amended as follows:

- (a) insert "for admission" after "Eligibility" in the title of regulation 2;
- (b) delete regulation 2.1(d), replace "." with "; and" at the end of regulation 2.1(e) and renumber 2.1(e) accordingly;
- (c) insert new regulation 2.1(e) as follows:
 - "(e) have passed all *QLTS assessments* subject to any exemptions *we* may agree."
- (d) delete "and (d)" from regulation 2.2 and 2.4;
- (e) delete regulations 2.3, 2.5, 2.6, and 2.8, and renumber 2.7 and 2.9 accordingly;
- (f) replace regulation 6.1 as follows:
 - "6.1 Subject to regulation 4.2, if *you* seek to establish eligibility under regulations 2.1(d) or 5.1(b) to (d) and *we* refuse *your* application *you* may, within one month of receiving notification from *us* of any decision under those regulations, ask for the application to be reviewed."
- (g) replace regulations 7.1 to 7.5 with:
 - "7.1 As required by regulation 2.1(d), *you* must satisfy *us* as to *your* character and suitability to be a *solicitor* before *we* admit *you* to the roll.
 - 7.2 *You* must apply to *us* for admission in writing in the *prescribed* form and support *your* application with such evidence as *we* consider necessary.
 - 7.3 *You* may ask *us* to assess any issue which may cause *you* not to meet the outcomes of the *SRA Suitability Test* before commencement of the *QLTS* assessments. Such determinations will not prejudice *our* ability to take all relevant factors into account when a subsequent admission decision is taken, including the facts giving rise to the earlier determination.

7.4 We may determine on the grounds of *your character and suitability* that you are not eligible for admission, and refuse *your* application. You may make up to three further applications for eligibility to be admitted where there has been a material change in circumstances after intervals of not less than 12 months from the final determination of *your* previous application.

7.5 Regulation 6.1 of these regulations gives you the right to ask us to review a refusal under regulation 7.4. You also have the right to appeal to the High Court under regulation 3 of the *SRA Admission Regulations* against our decision to refuse to admit you as a *solicitor* on the ground of suitability. ”

- (h) in guidance note (i) to regulation 7 replace “Suitability Test” with “*SRA Suitability Test*” and delete guidance note (ii) to regulation 7;
- (i) in regulation 11.3 after “if you have commenced”, insert “on a part-time basis” and delete “on a part time-basis” after “these regulations”;
- (j) insert new guidance note to regulation 11 as follows:

“Guidance note

On 1 November 2015 these regulations were amended to remove the need to hold a certificate of eligibility in order to undertake the *QLTS* assessments. If you held a valid certificate on 1 November 2015, the provisions of those certificates ceased to have effect and you are now eligible to undertake the assessments and, if successful, apply for admission in accordance with regulation 2.”

Rule 2

The *SRA Admission Regulations 2011* shall be amended as follows:

- (a) in the title of regulation 2, delete “and certificates of eligibility for overseas lawyers”;
- (b) delete regulation 2.2 and renumber 2.3 to 2.5 accordingly;
- (c) in regulation 2.3, delete “16(3) and (4) of the *QLTR* or, where appropriate,”;
- (d) delete “or 2.2” from regulations 2.4 and 2.5;
- (e) in regulation 2.5, delete “or to issue a *certificate of eligibility*,”
- (f) replace regulation 3.1(b) with “to refuse to admit you on the ground of suitability under regulation 7.5 of the *QLTSR*.”
- (g) delete regulation 3.1(c);
- (h) delete regulation 3.2 and renumber regulations 3.3 and 3.4 accordingly;
- (i) replace regulation 3.3 with “An appeal under regulation 3.1 a) or (b) above must be brought within three months of you receiving notification of our decision”;

- (j) in regulation 3.4(b), replace “issue a *certificate of eligibility*” with “admit you as a *solicitor*”.

Rule 3

Rule 2 of the SRA Handbook Glossary Rules shall be amended as follows:

- (a) delete the definition of “**certificates of eligibility**”;
- (b) delete the definition of “**QLTR certificate of eligibility**”;
- (c) delete the definition of “**QLTS certificate of eligibility**”.

Rule 4

These amendment rules come into force on 1 November 2015 or the date of approval of the Legal Services Board, whichever is the later.

