



Application made by the Solicitors Regulation Authority Board to the Legal Services Board under Part 3 of Schedule 4 of the Legal Services Act for the approval of the Qualified Lawyers Transfer Scheme Regulations

Proposed Alteration

1. It is proposed that the Qualified Lawyers Transfer Regulations 2009¹ be replaced with the Qualified Lawyers Transfer Scheme Regulations [2010].
2. The purpose of both the new and old Regulations is to:
 - provide qualified lawyers, who are not solicitors admitted in England and Wales, with a shorter, 'fast-track' route to qualification to the domestic route (as set out in the Training Regulations)
 - set out the means by which certain lawyers can seek admission by virtue of Directive 2005/36/EC and Directive 98/5/EC
3. The new Regulations alter:
 - the criteria which determine which lawyers can apply
 - the outcomes on which applicants will be assessed
 - the means by which the outcomes will be assessed
4. A table setting out the key differences between the QLTR and the QLTS is at Annex A.

Nature and effect of the existing Qualified Lawyers Transfer Regulations 2009

Eligibility to apply

5. The Qualified Lawyers Transfer Regulations (QLTR) allow certain overseas lawyers and other UK qualified lawyers to become qualified as solicitors in England and Wales. In the past the SRA has assessed the law, nature of the legal profession and legal training to determine whether a jurisdiction/particular

¹ The QLTR 2009 replaced the QLTR 1990 on 1 July 2009 as part of a general updating of the regulations and in particular in order to replace appeals to the Master of the Rolls with appeals to the High Court as provided for in the Legal Services Act 2007.

professional qualification should be acceptable. However the criteria has never been published and in practice this has meant that the list has been largely confined to Commonwealth countries.

6. This is a key area where the current scheme differs from the new scheme. Under the new scheme, all qualified lawyers from jurisdictions which meet the transparent criteria will be eligible to apply (see Section 3 below).
7. Applications are assessed on the basis of the applicant's primary (first) jurisdiction and professional title. This requirement has its origins in the EU Directives, the theory being that admitting authorities should be able to check that the applicant has unrestricted practising rights in their initial jurisdiction and in any subsequent jurisdictions in which they have qualified.
8. To be eligible to apply a lawyer must be a person to whom any of Regulations 5 to 14² apply. These Regulations permit EU lawyers (including those from Northern Ireland and Scotland) and lawyers from countries which broadly equate to those from Commonwealth countries operating a common law system, to apply. In addition, the Regulations provide two further, infrequently used, routes for Distinguished Specialist Practitioners and Academic Lawyers. The SRA receives very few applications from academic and specialist lawyers³ and therefore decisions made in relation to these lawyers are more subjective and opaque. These two routes are therefore not replicated in the new regulations.
9. Before applicants can sit the QLTT assessments, they must apply to the SRA for a Certificate of Eligibility. Under the current scheme the Certificate of Eligibility serves as an initial character and suitability check and also enables the SRA to confirm the heads of the test that the candidate must pass and any experience requirement which they must fulfil⁴.
10. The current QLTR Certificate of Eligibility costs £400 and is valid for 3 years. The QLTS Certificate of Eligibility will serve a similar purpose but will be valid for 5 years to bring it in line with the domestic student enrolment process.

The test and experience requirements

11. Most lawyers⁵ who are eligible to qualify through the QLTR are required to pass between one and four of the QLTT 'heads' (as specified in the QLTR 2009).
12. The subjects or 'heads' that make up the QLTT are
 - Professional Conduct and Accounts
 - Litigation
 - Property, and
 - The principles of Common Law.
13. For example, the Schedule to the QLTR states that solicitors qualified in Hong Kong do not need to take any of the tests, that Attornies at Law from the Cayman

² www.sra.org.uk/sra/regulatory-framework/3024.article

³ 7 in the last 5 years.

⁴ The experience requirement does not apply to those applying via the EU Directives.

⁵ Lawyers qualifying by virtue of Directive 98/5, or by virtue of being a solicitor qualified in Northern Ireland or Ireland are not required to take any Heads of the QLTT. Distinguished specialist practitioners and Academic Lawyers may not be required to take any of the Heads of the QLTT.

Islands must only take Professional Conduct and Accounts, that Nigerian Barristers and Solicitors must take Property, Litigation, and Professional Conduct and Accounts and that Pakistani Advocates must take all of the 'heads'.

14. There are various problems with this structure. For example, common areas of law which are assessed during the domestic route, such as business law, are not assessed. Furthermore, as legal systems across the world are constantly evolving, it is becoming increasingly difficult to assess which lawyers should take which assessments. There is therefore a clear public interest argument, in order to ensure that all those gaining admission as solicitor of England and Wales are of the requisite standard, for the SRA to move away from this structure and towards a more universal approach to assessment.
15. Lawyers applying by virtue of being an English/Welsh barrister (Regulation 6), Northern Irish barrister (Regulation 10) or overseas lawyers (Regulation 11) are required to show that they have gained two years' experience of working in legal practice in a common law jurisdiction. At least one year must have been gained by practising the law of England and Wales. Such experience:
 - must have been undertaken in three areas of common law, and
 - must have covered contentious and non-contentious areas of practice.
16. In September 2008, the guidance given to candidates was amended to provide greater clarity and certainty to candidates, to facilitate greater consistency in decision-making and to ensure that all those who qualify have some prior experience of practising the law of England and Wales.
17. Whilst anecdotal evidence suggests that the guidance has made some improvements, it is still a process which is fraught with operational difficulties. The evidence available to the SRA to verify the experience gained is very difficult to quality assess given that the experience will not have been gained in supervised, regulated training establishments (as with the training contract). There is therefore the risk that applicants are being admitted without the necessary skills and experience and consequently the SRA is proposing a much more objective test of skills to meet its statutory obligations in this respect.
18. Applicants can choose to take the tests at any one of five providers⁶. Most providers require candidates to pay a registration fee of £2-300. Each head costs approximately £100-300 to take, although costs vary according to the provider. Under the new scheme initially there will be only one provider. This will enable the SRA to develop the new scheme closely with the new provider and ensure that the assessments and quality assurance mechanisms are carefully developed.
19. The appeals process set out in the 2009 Regulations is replicated in the new draft Regulations.

Admission

20. Once the criteria set out in the certificate of eligibility have been satisfied, the applicant can apply to the SRA for admission in the normal way.

⁶ Currently Kaplan Altior, BPP Professional Education, Central Law Training, College of Law and Oxford Institute of Legal Practice.

Nature and effect of the Qualified Lawyers Transfer Scheme Regulations

21. The new QLTS will be open to lawyers qualified in a far greater number of jurisdictions than the QLTR. It will be open, transparent and robust. The inconsistencies of the current QLTR will be replaced with a clear structure which will assess all candidates against the same Day One Outcomes as are used as a core curriculum for domestic candidates for admission. Through this approach, the SRA will be able to assure consumers and the legal market that those admitted via the QLTS are suitable for admission as solicitors of England and Wales.
22. The eligibility criteria are set out below. The criteria seek to ensure that only regulated lawyers with a professional role broadly similar to that of a solicitor are eligible for admission via this route.
23. The SRA will set the standards for the assessments and set the specific requirements for the assessment scheme. There will be one assessment provider appointed for the first 3 years of operation, after which the SRA will consider whether the QLTS should be open to other providers. The SRA has chosen to appoint one provider initially to enable it to work closely on the development of the new scheme, ensure that robust quality assurance measures are put in place and ensure that equality and diversity and monitoring provisions are carefully established.
24. The SRA will require candidates⁷ to evidence that they have met the Common European Framework of Reference (CEFR) Level 2 before attempting the QLTS assessment. The English language test has been proposed for a number of reasons:
 - as a means of assessing candidates to the same level as domestic candidates, who are tested over a number of years and in many different settings
 - as a means of ensuring that consumers of legal services receive an appropriate level of service
 - as a cost-effective filter for candidates. Those who cannot pass the English language test would not have a high enough level of English to pass the QLTS assessments
 - to enable examiners of the QLTS to concentrate on the candidates knowledge and application of law.
25. Candidates will be able to evidence they have met the required standard in the following ways:
 - By passing an approved English language test at CEFR Level C2 or above, within 2 years of the candidate applying for their Certificate of Eligibility.
 - By holding a degree which has been assessed by UK NARIC as being taught in English and equivalent to a UK H-Level (e.g. Bachelors) degree via their English Language Assessment service.
 - By holding a H-Level (e.g. Bachelors) degree or higher from a university recognised by NARIC in a country where NARIC has stated that all higher education in that country takes place in English

⁷ By law the SRA cannot test candidates applying via the EU Directives.

- By holding a H-Level (e.g. Bachelors) degree or above from a recognised UK university

Eligibility to apply

26. To be eligible to apply, an applicant must:

- Be a Qualified Lawyer in a Recognised Jurisdiction
- Have followed the Full Route to qualification in the Recognised Jurisdiction
- Be entitled to practise as a Qualified Lawyer of the Recognised Jurisdiction
- Have satisfied the English Language requirements published by the SRA
- Be of the Character and Suitability to be admitted as a solicitor

27. The SRA will recognise a jurisdiction if:

- The professional qualification requires completion of specific education and training at a level that is at least equivalent to that of an English/Welsh Bachelor's degree
- Members of the profession are bound by an ethical code that requires them to act without conflicts of interest and to respect their clients' interests and confidentiality
- Members of the profession are subject to disciplinary sanctions for breach of their ethical code, including the removal of the right to practise.

28. The SRA will recognise a legal professional qualification if the qualification:

- Gives the lawyer rights of audience
- Makes the lawyer an officer of the court in that jurisdiction
- Is awarded as a result of a generalist (non-specialised) legal education and training

29. Once the eligibility criteria have been satisfied and the English language requirements evidenced, an applicant will be issued with a QLTS Certificate of Eligibility. They will then be eligible to sit the QLTS assessments.

30. The QLTS Certificates of Eligibility will be valid for 5 years. This reflects the validity of student enrolment under the domestic route. Applicants will need to pass all the assessments within this 5 year period and no more than 3 attempts at each assessment will be permitted during the validity of the Certificate of Eligibility. These requirements reflect those in place for the LPC and should ensure that candidates who fail on numerous occasions improve their knowledge and skills before returning for further attempts at the assessments. These restrictions are in keeping with those of other regulators.

The test requirements

31. The QLTS assessments will be a compressed version of the assessments which test the outcomes against which domestic candidates are assessed during the domestic qualification route⁸. The assessments will comprise written examinations and practical assessments, where our preference is for

⁸ Qualifying Law Degree, Legal Practice Course, training contract, Professional Skills Course

assessments modelled on the Objective Structured Clinical Examinations (OSCEs) used by other regulators⁹.

32. The new scheme will take a much simpler and therefore much more consistent approach to assessment:

- EEA, Swiss and UK Qualified Lawyer applicants will have their qualifications and experience individually assessed. On the basis of this assessment, the SRA will decide which assessments will need to be passed.
- All other applicants will need to take all the assessments.

Admission

33. Once the criteria set out in the Certificate of Eligibility have been satisfied, the applicant can apply to the SRA for admission in the normal way.

Rationale for replacing the Qualified Lawyers Transfer Regulations 2009 with the Qualified Lawyers Transfer Scheme Regulations

34. The Qualified Lawyers Transfer Regulations route was in need of review for the following reasons:

- To bring it up to date and in line with the domestic route. The domestic route to qualification has been reviewed during recent years. The domestic route has, and continues to be, updated and reformed to place a stronger emphasis on what people who complete the route know and can do before they are awarded the qualification. We are focusing increasingly on the standard of achievement (outcomes) rather than on the detail of the learning process. The review of the transfer route to qualification has been underpinned by a commitment to introduce a similar emphasis for the scheme for qualified lawyers seeking to qualify as solicitors and to achieve parity in the standard of the two routes to qualification.
- To reflect the establishment of the SRA with its core duty to regulate the solicitors' profession in the public interest and in accordance with the principles of good regulation
- To seek to address the disproportionate number of regulatory actions relating to QLTT transferees. A significant proportion of lawyers who qualify as solicitors under the provisions of the QLTR never actually practise as solicitors. Of those who do take out a practising certificate, most practise successfully. There is evidence, however, that solicitors who have qualified using the transfer route are statistically more likely than those who have followed the domestic route to be the subject of regulatory procedures. One possible explanation for this is that the current transfer arrangements do not adequately assess applicants' knowledge, skills and understanding of law and legal practice in England and Wales. The proposals for more rigorous assessment, that are a feature of the new scheme, should help ensure this is not the case in the future.
- To ensure that the SRA complies with the UK's WTO obligations to afford no less favourable treatment to some WTO members than others
- To make improvements based on the Law Society and SRA's experience of operating the QLTR since 1990 as there has been no systematic review of the scheme since its inception.

⁹ GMC, GDC, RCVS.

Statement in respect of the Regulatory Objectives

Protecting and promoting the public interest

35. The QLTS will ensure that those Qualified Lawyers transferring into the solicitors' profession are competent to practise. It is in the public interest that individuals holding themselves out as solicitors have been assessed by their regulator as competent to practise and that the consumer should not need to be concerned about a solicitor's route to qualification. The new QLTS will therefore promote this regulatory objective.

Supporting the constitutional principle of the rule of law

36. Only those applicants who are qualified in a jurisdiction which has been deemed by the SRA to be sufficiently similar to that of England and Wales will be eligible to apply under the QLTS. It is therefore expected that applicants will have an intellectual understanding of the constitutional principle of the rule of law.

37. The QLTS will test applicants' knowledge and application of professional values, behaviours, attitudes and ethics, together with the legal system which underpins the rule of law in England and Wales.

38. The QLTS will therefore promote this regulatory objective.

Improving access to justice

39. The QLTS will allow Qualified Lawyers from a wide range of jurisdictions to re-qualify as solicitors of England and Wales. It is therefore foreseeable that clients who would like their solicitor to be dual qualified in an international jurisdiction as well as in England and Wales, or who speaks languages other than English as well as being qualified in England and Wales, will be more likely to find a solicitor who meets these requirements.

40. We therefore consider that the QLTS will promote access to justice.

Protecting and promoting the interests of consumers

41. We know from the SRA's consumer workshop that consumers are primarily concerned with the quality of the service they receive, regardless of the route to qualification of the solicitor. The QLTS will give consumers increased assurance that those who hold themselves out as a solicitor have been assessed against the same high competency standards. In addition, consumers can be confident that those solicitors who have qualified via the QLTS have met sufficiently high English language requirements to enable them to take accurate instructions from, and give clear and accurate advice, to clients in English, to understand and draft legal documents in English and to exercise rights of audience.

42. We therefore consider that the QLTS will protect and promote the interests of consumers.

Promoting competition in the provision of services

43. The QLTS will allow lawyers from other jurisdictions to enter the market for legal services in England and Wales as solicitors of England and Wales¹⁰. As a result there should be new opportunities for QLTS transferees who can capitalise on their dual qualification to the benefit of consumers and businesses, and for employers who will be able to attract overseas talent on the basis that they will be able to assist individuals to become qualified as solicitors in England and Wales.
44. The Treasury's Professional Services Global Competitiveness Group (PSGCP) report¹¹ advocated a "flexible system that allows lawyers wherever they first qualified to have access to proportionate and reasonable transfer arrangements and permits UK law firms to compete internationally for the best talent to complement our domestic talent" and commented on how large commercial law firms had benefited from the "relative ease" with which international lawyers can become admitted in England and Wales.
45. There is no doubt that the QLTS assessments will be more wide-ranging and more demanding than the current QLTT in order to bring about parity with the domestic route. There will also be some jurisdictions which will not be recognised by the SRA. However, the QLTS will allow a much greater number of lawyers access to the transfer route and the assessment regime will be clear and transparent. It is also likely that an overly light touch approach to admissions would in fact be counter-productive in terms of global competitiveness given that it could devalue the title of solicitor of England and Wales and have a significant impact in terms of quality of service for the consumer.
46. We therefore consider that the QLTS will promote open competition in the provision of services and that the QLTS will, on balance, have a much more positive impact on global competitiveness than the current QLTR.

Encouraging an independent, strong, diverse and effective legal profession

47. Applicants will only be permitted to apply if they are already qualified in a jurisdiction which is sufficiently similar to that of England and Wales. The QLTS assessments will ensure that those qualifying via this route will be of the requisite standard and will be effective solicitors. The diversity of the profession should be increased by the recognition of further jurisdictions.
48. We therefore consider that the QLTS will promote an independent, strong, diverse and effective legal profession.

Increasing public understanding of the citizen's legal rights and duties

49. The SRA considers that the QLTS will be neutral towards this objective.

Promoting and maintaining adherence to the professional principles

50. In order to become a Recognised Jurisdiction, a jurisdiction must have a binding ethical code that requires lawyers to act without conflicts of interest and to respect their clients' interests and confidentiality. This is to ensure that candidates are qualified in a jurisdiction which is sufficiently similar to our own.

¹⁰ There are other ways in which lawyers who have not qualified in England and Wales can practise, namely as a Registered European Lawyer (REL), as a Registered Foreign Lawyer (RFL) or under their home title. They can also qualify via the domestic route.

¹¹ March 2009. www.hm-treasury.gov.uk/press_27_09.htm

51. All candidates will be assessed against the Day One Outcomes and this will include being assessed on their understanding and application of the professional principles¹². We therefore consider that the QLTS will promote and maintain adherence to the professional principles.

Statement in respect of the Better Regulation Principles

Proportionality

52. The QLTS permits Qualified Lawyers from Recognised Jurisdictions to benefit from a fast-track route to qualification as a solicitor of England and Wales. The domestic route is challenging and there is tough competition for training contracts to enable students to qualify. Once qualified, a solicitor of England and Wales has rights of audience and is permitted to carry out reserved legal activities. A solicitor can also set up as a recognised sole practitioner once they have met certain criteria¹³ which for lawyers qualifying via the QLTT or QLTS could be on admission.

53. Given the rights and responsibilities which follow the solicitor qualification, and the significant regulatory risks if unsuitable applicants are permitted to gain admission, it is proportionate that the QLTS requirements ensure equivalence with the domestic route.

54. The QLTS ensures parity with the domestic route by:

- Assessing applicants against the Day One Outcomes
- Only permitting Qualified Lawyers to apply
- Introducing equivalent character and suitability checks
- Introducing an English language requirement

55. We believe that it is proportionate to restrict the scheme to Qualified Lawyers from Recognised Jurisdictions in order to ensure that only those lawyers whose training and regulatory background are sufficiently similar to that of solicitors in England and Wales are eligible to apply. Without this filter, the SRA could be inadvertently allowing individuals to be admitted who would not normally be considered lawyers in England and Wales.

56. We believe it is proportionate to make all international applicants take all of the assessments and not to permit exemptions. The alternative of allowing applicants to seek exemptions from the assessments would lead to a less robust admission process. Just as the LPC and training contract sign-off provides the SRA with the necessary assurance of knowledge and competence prior to admission with the domestic route, the QLTS assessments will provide the SRA with the necessary assurance for applicants coming through the transfer route.

¹² Candidates applying under Directive 2005/36 or UK Qualified Lawyers may gain exemptions from particular assessments if they can show that their qualifications or experience justify such an exemption. However there would be a presumption that the vast majority of applicants would need to be assessed on professional conduct and accounts.

¹³ A Recognised Sole Practitioner must meet certain criteria including that they must be 'qualified to supervise'. A solicitor is 'qualified to supervise' if they have met certain training requirements and they have been entitled to practise as a lawyer for at least 36 months within the last 10 years. Entitlement to practise in another jurisdiction is valid for this purpose.

57. Although theoretically the SRA could assess the detail of every qualification route for every legal qualification in every jurisdiction, the results of such a wide-ranging analysis would not give rise to the consistency in approach which is desirable in these circumstances, particularly given the regulatory risks involved. Arguably it would be impossible to make direct comparisons with many if not most international qualifications and there would be a significant risk that the SRA would inadvertently allow exemptions where in reality the candidate's level of knowledge and understanding in an area is not at the requisite level.
58. The proportion of solicitors who qualify through transfer is significant – in 2008-09 26% of new admissions to the roll were transferees, which equates to 2,211 individuals¹⁴. This has risen steadily for a number of years.

Accountability

59. The SRA will be accountable for the QLTS by putting robust monitoring processes in place, this will include our commitment to monitoring under the Equality Impact Assessment.
60. It is proposed that a single assessment provider is appointed initially for a period of 3 years. This is primarily so that we ensure that this new system of assessment is closely monitored by the SRA in its start-up phase and that the SRA can establish practices and procedures in relation to the provision of the assessments that will ensure the validity, consistency and fairness of the assessments.
61. The list of Recognised Jurisdictions and Qualified Lawyers which will be developed by the SRA will be compiled using open and transparent criteria. Individuals will be able to request for the SRA to review whether a qualification or jurisdiction should be on the list, and the SRA will itself review the list every 5 years or when evidence arises that suggests that the list should be revised.
62. All criteria and guidance will be published on the SRA website. In particular, the following information will be published:
- Regulations (including appeals procedure)
 - Application form
 - Guidance on completing the application form
 - List of Recognised Jurisdictions and Qualified Lawyers (and the criteria for reviews of the lists)
 - Assessment information – blueprint, outcomes, example questions/scenarios
 - Benchmarks for assessing Directive 2005/36 and UK Qualified Lawyers
63. The assessment organisation will be required to have systems in place, e.g. external moderators and academic decisions validated by assessment boards, to ensure the quality of their assessment processes. These requirements will be consistent with other SRA-validated assessment providers.

Consistency

¹⁴ Law Society Annual Statistical Report 2009
<http://www.lawsociety.org.uk/aboutlawsociety/whatwedo/researchandtrends/statisticalreport.law>

64. There will be a considerable degree of consistency with the domestic route to qualification and the aim of establishing a fast-track route which has parity with the domestic route has been a major driver in the development of the new scheme:
- Each applicant (other than those coming through Directive 98/5) will be assessed against the Day One Outcomes
 - The assessments will be based on exactly the same detailed outcomes as are set out for the Qualifying Law Degree, LPC, training contract and Professional Skills Course.
 - Most applicants will be required to sit the full suite of assessments¹⁵.
 - The same character and suitability criteria will be applied
 - The validity of the QLTS Certificates of Eligibility will mirror the student enrolment process and the validity periods of the assessments themselves will mirror LPC procedures
65. Obviously there are differences with the domestic route otherwise there would be no difference between the two routes and the QLTS would not be 'fast-track'. The two main areas where there are differences in relation to the domestic route are in relation to the removal of the experience requirement in the new scheme and the addition of a stand-alone English language test.
66. The removal of the experience requirement has been motivated by:
- Difficulties in robustly assessing the experience requirement operationally under the current Qualified Lawyers Transfer Regulations (as set out in Section 2 above), to the extent that the regulatory objective of assessing the practical competencies of the applicant cannot be adequately assessed by this means¹⁶.
 - Consideration of practices and assessments used by other regulators as a proxy for experience and the better regulatory outcomes which can be achieved from these more robust tests of practical competence.
67. There are also differences in the means by which the Day One Outcomes will be assessed, but these can be justified in terms of legality (for EU applicants) and proportionality (for intra-UK applicants). The key objective with regard to the means of assessment is for the SRA to introduce a system whereby it can be assured, as objectively as possible, that the applicant has achieved the Day One Outcomes:
- With lawyers wishing to transfer via Directive 2005/36, the SRA is legally obliged to individually assess applicants' qualification and experience and determine which assessments it would be appropriate for the applicant to take.
 - With intra-UK transfers¹⁷, given the overlap in the legal systems and case law, and the fact that a training contract can be completed in Northern Ireland, we have concluded that the SRA is in a position to determine which assessments it would be appropriate for intra-UK transferees to take, and that it would be

¹⁵ All applicants who are not basing their transfer route on Directives 2005/36 or 98/5, or by virtue of being a UK Qualified Lawyer, will take all the QLTS Assessments. Had the QLTS been in place in 2007, this would have meant that 74.9% of those admitted would have taken all of the assessments, in 2008 it would have meant 72.8% of those admitted would have taken all of the assessments.

¹⁶ The Better Regulation Commission suggests that regulations should be systematically reviewed to test whether they are still necessary and effective. If not, they should be modified or eliminated.

www.archive.cabinetoffice.gov.uk/brc/upload/assets/www.brc.gov.uk/principles.pdf

¹⁷ Approximately 19.3% of transferees in 2008.

disproportionate, given the similarities in the legal and educational systems, for intra-UK transferees to be required to take all the assessments or for the SRA to pre-determine which assessments such applicants should take given the high probability of a significant number of applicants having had part of their legal education in England and Wales

- All International lawyers¹⁸ will need to take all the QLTS assessments. This will help assure us that all applicants will have been assessed to the same standard.

Transparency

68. The Better Regulation Commission¹⁹ considers it to be best practice to consult stakeholders before proposals are developed to ensure stakeholders' views and expertise are taken into account. The proposals were developed by a working group chaired by a lay SRA Board member which included representatives from the City of London Law Society, the Law Society and the British Indian Lawyers Association.
69. The consultation document clearly set out the rationale and objectives of the scheme. The SRA carefully considered the consultation responses and made significant changes to the proposals. Full details of the SRA's response are set out in the Summary of responses. Further details on the SRA's stakeholder engagement are set out below.

Targeted

70. There are a disproportionate number of regulatory actions taken in relation to solicitors who have entered the profession via the QLTT route. This is therefore an area which the SRA needs to tackle. The Better Regulation Commission suggests that regulators should consider educational rather than punitive approaches to regulation where possible. It is therefore logical to tackle this problem at the qualification stage and through the provision of a new assessment regime.
71. Some responses to the consultation suggested that the SRA should allow international applicants to claim exemptions from some assessments. This suggestion was rejected because one of the core principles of the QLTR review was to develop a scheme which assessed applicants against the same basic standards of knowledge, skills and abilities as required of those who follow the domestic route to qualification. If we individually assess the qualifications of all international applicants, this would reduce the rigour of the scheme. Inevitably, when making any comparison of international qualifications there is an element of subjectivity. However, the SRA needs to be able to reach an objective judgement as to whether the international qualification is sufficiently similar to the domestic qualifications and this is best achieved through an all-encompassing assessment scheme.

Statement in relation to desired outcomes

72. The SRA seeks to establish a scheme which:
- Ensures that all solicitors, however they have qualified and wherever they work, are competent to practise

¹⁸ Approximately 75% of transferees.

¹⁹ www.archive.cabinetoffice.gov.uk/brc/upload/assets/www.brc.gov.uk/principles.pdf

- Is open to lawyers from a larger number and wider range of jurisdictions
- Helps bring the proportion of transferees subject to regulatory procedures in line with the proportion of practising transferees.
- Ensures parity with the domestic route

73. These outcomes will be measured in the following ways:

- The assessments will be reviewed quarterly during the first year of operation to ensure they are fit for purpose
- The list of Recognised Jurisdictions and Qualified Lawyers will be reviewed after 5 years, or earlier if evidence is received which suggests that a review is required
- A full review will take place in 2013 to consider whether the scheme should be opened up to other assessment providers, and to consider any consequential changes to the assessment arrangements if other providers are permitted
- As the current QLTT will run until approximately 2013, it will be difficult to assess whether the QLTS has had any impact on the proportion of transferees involved in regulatory procedures before 2015 at the earliest. However, the data will be monitored each year.

Statement in relation to impact on other Approved Regulators

74. The QLTS will have an impact on the Bar Standards Board as it entitles barristers to re-qualify as solicitors.

75. The QLTS will close the current loop-hole which allows barristers who have not completed pupillage (and who are not therefore qualified), to benefit from the QLTR route to qualification. The new QLTS makes it clear that applicants must be fully qualified as a Qualified Lawyer before they can apply through the QLTS. The Bar Standards Board was consulted as part of the public consultation in 2008 and their response confirmed the SRA's approach, namely that they are not qualified and should not be treated as such.

76. We are working with the Bar Standards Board on an ongoing basis in relation to the scheme, and in particular in relation to discussions around English language testing.

Implementation timetable

March 2010	Application for approval of new Regulations submitted to LSB
March-May 2010	Tender process for Assessment Provider takes place Survey international Bars and Law Societies and benchmark EEA and UK qualifications
End May 2010	Assessment Provider appointed
Summer 2010 – end 2010	Development work takes place to develop the QLTS Assessments
September - November 2010	Commencement Date – QLTR Certificates of Eligibility cease to be issued, QLTS Certificates of Eligibility issued for QLTS Assessments. First assessment dates announced.
January 2011	First QLTS assessments available

End 2013	Final QLTT assessments

Stakeholder engagement

77. The consultation paper and questionnaire were published on the SRA's website on 11 November 2008. The consultation closed on 6 February 2009.

78. Over 2000 stakeholders were emailed to notify them of the consultation. In addition, particular stakeholders representing specific interest groups were sent emails inviting them to respond to the consultation.

79. Stakeholder engagement has continued to be an important factor in the development of the scheme:

- In October 2009, the Chair of the SRA Board dedicated his column in the Law Society's Gazette to the scheme
- Stakeholders were provided with an update on developments at the SRA's October 2009 Conference 'Quality, Values, Standards – the future legal landscape'
- Presentations have been made to the black and minority ethnic groups represented at Lord Ouseley's External Implementation Group and the Law Society's Education & Training Committee.
- The SRA has met with the Department of Business, Innovation and Skills (DBIS) in relation to the UK's WTO obligations
- Input has been sought from the DBIS Qualification Reform Division in relation to the SRA's EU obligations (specifically in relation to Directive 2005/36).
- Existing and potential assessment providers attended a roundtable meeting in July to discuss the proposals and have been invited to provide comments on the draft Regulations
- Links with specialist groups e.g. Lawyers with Disabilities Division and the Association of Women Solicitors, have been established and will be developed as work on the detail of the assessment scheme progresses
- The SRA has met with the OFT to gain their input into the proposals
- In December 2009, the SRA consulted on the draft Regulations

Further explanatory information

- Consultation Paper 'Arrangements for qualified lawyers transferring to become solicitors in England and Wales' (11 November 2008)²⁰
- Summary of responses to the consultation and the response of the SRA²¹
- Equality Impact Assessment²²
- Key differences between QLTR and QLTS (Annex A)
- Draft QLTS Outcomes (Annex B)

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²⁰ www.sra.org.uk/sra/consultations/1454.article

²¹ www.sra.org.uk/sra/consultations/qualified-lawyers-transfer-scheme-november-2008.page

²² www.sra.org.uk/sra/equality-diversity/impact-assessments/QLTR-consultation.page

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Key differences between the QLTR and QLTS

	Qualified Lawyers Transfer Regulations 2009	Qualified Lawyers Transfer Scheme [2010]
1	Only those lawyers with a listed qualification from a listed country can apply. This essentially restricts applicants to those from the EU and from Commonwealth countries.	Scheme is open to all lawyers whose qualification ²³ and jurisdiction ²⁴ meet specific criteria. The criteria aim to ensure that only those lawyers who perform a role broadly similar to that of solicitors in England and Wales can apply.
2	<p>The QLTR requires some applicants to take one or more tests (e.g. applicants from Pakistan must take 4 tests, whereas applicants from India must take 2).</p> <p>Applicants from some jurisdictions are exempt from the tests (e.g. Irish solicitors).</p> <p>All EEA candidates are dealt with in accordance with the relevant directive (2005/36 or 98/5). Essentially that means that candidates transferring under Directive 2005/36 are individually assessed as to which tests they need to take, and those transferring under 98/5 have their 3 years experience assessed. This is with the exception of Ireland which currently has special arrangements.</p>	<p>All EEA candidates will continue to be individually assessed in accordance with Directive 2005/36 and there will be no change for candidates applying under Directive 98/5. For Irish applicants, there will now be an assessment of their knowledge and experience (as with other EEA candidates), rather than an automatic assumption that they meet the SRA's requirements.</p> <p>Intra-UK candidates will be individually assessed as if they were applying under Directive 2005/36.</p> <p>All other international candidates will need to pass the full suite of assessments.</p>
2	Candidates must base their application on the first jurisdiction in which they qualified	Candidates may base their application on the basis of them being a Qualified Lawyer in any Recognised Jurisdiction as long as they qualified via the full route to qualification and not via a fast-track route.
3	Most applicants are required to satisfy a work experience requirement of up to 2 years. Part of this experience	No experience requirement. However the practical assessment will be difficult to pass without some

²³ lawyers who on qualification have rights of audience, are officers of the court and have received a generalist (non-specialised) legal education and training prior to admission.

²⁴ A jurisdiction will be recognised if: the professional qualification requires completion of specific education and training at a level that is at least equivalent to that of an English/Welsh degree; members of the profession are bound by an ethical code that requires them to act without conflicts of interest and to respect their clients' interests and confidentiality and members of the profession are subject to disciplinary sanctions for breach of their ethical code, including the removal of the right to practise.

	Qualified Lawyers Transfer Regulations 2009	Qualified Lawyers Transfer Scheme [2010]
	must be gained practising the law of England and Wales.	experience of working in legal practice in England and Wales.
4	Candidates can apply for admission by virtue of being a Distinguished Specialist Practitioner (DSP) or academic lawyer.	Removal of DSP and academic lawyer routes because these routes are rarely used and prone to subjectivity.
5	English tested as part of legal knowledge tests	To be eligible to sit the QLTS assessments, non-EEA candidates will need to evidence that they can speak English to Level C2 of the Common European Framework of Recognition.
6	Barristers are eligible to apply for admission via the QLTR before they have completed their pupillage i.e. before they have full practising rights.	Only those who have completed the relevant qualification process and have full practising rights, will be eligible to apply under the scheme.

Qualified Lawyers Transfer Scheme Outcomes

- If the Day One Outcome adequately expresses the outcomes set out at the academic stage, LPC, Training Contract or PSC, then no further detail is added.
- Where it is thought helpful to provide candidates with some of the main topics for a particular area this is set out.
- The table also states where further specific details about the context and potential scope of the assessments can be found, namely in the specific detail supporting the 4 stages to qualification in the domestic route (Academic stage, LPC, Training Contract and PSC). These references are either in square brackets or in the further comments column
- **Knowledge** is demonstrated by the ability to explain, in relation to a particular area: key principles, facts, rules, methods and procedures.
- **Understanding** requires demonstration of higher level skills: working with, manipulating and applying knowledge in familiar and unfamiliar situations
- **Academic stage** refers to the Learning Outcomes from the Joint Statement²⁵.
- **LPC** refers to the Legal Practice Course outcomes 2007²⁶
- **Training Contract** refers to the Training Contract Handbook
- **PSC** refers to the Professional Skills Course Guidelines and written standards

Day One Outcome A – Core knowledge and understanding of the law applied in England and Wales			
	Topics to include:	Essential/non-essential	Further comments
A 1 Knowledge of the jurisdiction, authority and procedures of the legal institutions and professions that initiate, develop, interpret and apply the law of England and Wales and the European Union	<ul style="list-style-type: none"> • Knowledge of sources of law, legal concepts, values, principles and rules of English/Welsh law and ability to explain relationship between them [Academic stage] • Basic structure of civil and criminal courts [LPC] 	Essential	
A 2 Knowledge of applicable constitutional law and judicial review processes	<ul style="list-style-type: none"> • Knowledge of public law, administrative law [Academic stage] 	Essential	
A 3 Knowledge of the rules of professional conduct, including the Solicitors' Accounts Rules	<ul style="list-style-type: none"> • Rules which apply to the employing entity [LPC/PSC] • Mortgage fraud [PSC] • Rules in relation to advocacy [LPC/PSC] 	Essential	See also Training Contract
A 4 Knowledge of the regulatory and fiscal	<ul style="list-style-type: none"> • Money-laundering [LPC/PSC] 	Essential	

²⁵ www.sra.org.uk/documents/students/academic-stage/academicjointstate.pdf

²⁶ <http://www.sra.org.uk/documents/students/lpc/info-pack.pdf>

frameworks within which business, legal and financial services transactions are conducted	<ul style="list-style-type: none"> • FSMA and associated legislation (including Scope Rules) [LPC/PSC] • Investment products (including tax implications) [PSC] • Tax (Income Tax, Capital Gains Tax, Inheritance Tax, Corporation Tax, VAT) [LPC/PSC] 		
A 5 Understanding of Contract law	<ul style="list-style-type: none"> • Formation of contracts • Formalities of written contracts • General principles concerning implied terms • Misrepresentation • Discharge • Remedies for breach of contract 	Essential	The specific detail states the preliminary knowledge which students are expected to have before starting the LPC.
A 6 Understanding of Torts	<ul style="list-style-type: none"> • Elements of common causes of action • Issues affecting who should be appropriate parties to litigation (e.g. vicarious liability) • Common defences 	Essential	The specific detail states the preliminary knowledge which students are expected to have before starting the LPC.
A 7 Understanding of Criminal Law	<ul style="list-style-type: none"> • Elements of common offences • Issues affecting who should be appropriate parties to litigation (e.g. vicarious liability) • Common defences 	Essential	The specific detail states the preliminary knowledge which students are expected to have before starting the LPC.
A 8 Understanding of Property law	<ul style="list-style-type: none"> • Nature of legal estates and interests • Equitable interests, easements, covenants, mortgages, joint ownership • Registered and unregistered land (including registration of charges) 	Essential	The specific detail states the preliminary knowledge which students are expected to have before starting the LPC.
A 9 Understanding of Equitable rights and obligations	<ul style="list-style-type: none"> • Nature of fiduciary relationships and the duties of fiduciaries • Powers and duties of trustees 	Essential	The specific detail states the preliminary knowledge which students are expected to have before starting the LPC.
A 10 Understanding of Human Rights		Essential	Knowledge of human rights is preliminary knowledge expected of students before starting

			the LPC. See LPC.
A 11 Understanding of the laws applicable to business structures and the concept of legal personality		Essential	
Day One Outcome B - Intellectual, analytical and problem-solving skills			
	Topics to include:	Essential/non-essential	Further comments
B 1 The ability to review, consolidate, extend and apply knowledge and understanding		Essential	See academic stage/LPC and Training Contract for further detail.
B 2 The ability to frame appropriate questions to identify clients' problems and objectives, and to obtain relevant information		Essential	Outcome reflected at all stages but in particular in LPC.
B 3 The ability to evaluate information, arguments, assumptions and concepts		Essential	See academic stage/LPC and Training Contract for further detail.
B 4 The ability to identify a range of solutions		Essential	See academic stage/LPC and Training Contract for further detail.
B 5 The ability to evaluate the merits and risks of solutions		Essential	See academic stage/LPC and Training Contract for further detail.
B 6 The ability to communicate information, ideas, problems and solutions to clients, colleagues and other professionals		Essential	Outcome reflected at all stages but in particular on LPC.
B 7 The ability to initiate and progress projects		Non-essential	See LPC/PSC
Day One Outcome C - Transactional and dispute resolution skills			
	Topics to include:	Essential/non-essential	Further comments
C 1 The ability to establish business structures and transfer businesses	<ul style="list-style-type: none"> • Business media [LPC] • Ongoing operations and common transactions [LPC] • Stakeholders [LPC] • Business accounts [LPC] 	Essential	
C 2 The ability to seek resolution of civil and criminal matters	<ul style="list-style-type: none"> • Case analysis [LPC] • Courses of action and funding [LPC] • Procedure [LPC] • Civil Litigation and Dispute Resolution 	Essential	See outcomes for each of the stages.

	<ul style="list-style-type: none"> [LPC] Criminal Law and Practice [LPC] Settlement, mediation, adjudication [Training Contract] 		
C 3 The ability to establish and transfer proprietary rights and interests	<ul style="list-style-type: none"> In relation to domestic and commercial transactions [LPC] In relation to freehold and leasehold property [LPC] 	Essential	
C 4 The ability to obtain a grant of probate and administer an estate	<ul style="list-style-type: none"> Should have general overview of content, format and validity of wills, obtaining grants of representation and administration of an estate [LPC] 	Essential	
C 5 The ability to draft legal documentation to facilitate the above transactions and matters	<ul style="list-style-type: none"> Understanding of the principles of good drafting and editing [LPC] Ability to explain their own and others' drafting [LPC] 	Essential	
C 6 The ability to plan and progress transactions and matters expeditiously and with propriety	<ul style="list-style-type: none"> Producing schedule for a case/transaction [LPC] Planning work including time, cost and risk management [LPC] 	Essential	See detailed outcomes for the LPC and Training Contract.
Day One Outcome D - Legal, professional and client relationship knowledge and skills			
	Topics to include:	Essential/non-essential	Further comments
D 1 Knowledge of the legal services market		Non-essential	See LPC.
D 2 Knowledge of commercial factors affecting legal practice		Non-essential	See LPC and Training Contract.
D 3 The ability to undertake factual and legal research using paper and electronic media	<ul style="list-style-type: none"> From primary sources [Academic stage] Ability to present results of research [LPC] 	Essential	See also Training Contract.
D 4 The ability to use technology to store, retrieve and analyse information		Essential	See academic stage and Training Contract.
D 5 The ability to communicate effectively, orally and	<ul style="list-style-type: none"> Understanding and ability to choose the appropriate method of 	Essential	See outcomes for all stages.

in writing, with clients, colleagues and other professionals	<p>communication [LPC/Training Contract]</p> <ul style="list-style-type: none"> Understanding and ability to apply principles of good writing [LPC/Training Contract] 		
D 6 The ability to advocate a case on behalf of a client	<ul style="list-style-type: none"> understand basic skills in presentation of cases before courts and tribunals [LPC/Training Contract/PSC] ability to formulate and present a coherent submission [LPC/Training Contract/PSC] 	Essential	
D 7 The ability to exercise solicitors' rights of audience	<ul style="list-style-type: none"> civil and criminal courts [PSC] 	Essential	See outcomes for LPC/Training Contract/PSC
D 8 The ability to recognise clients' financial, commercial and personal priorities and constraints		Essential	See outcomes for LPC/Training Contract/PSC
D 9 The ability to exercise effective client relationship management skills	<ul style="list-style-type: none"> dealing with difficult clients [PSC] 	Essential	
D 10 The ability to act appropriately if a client is dissatisfied with advice or services provided.	<ul style="list-style-type: none"> avoiding complaints/identifying potential complaints [PSC] handling complaints [PSC] 	Essential	See also Training Contract.
Day One Outcome E - Personal development and work management skills			
	Topics to include:	Essential/non-essential	Further comments
E 1 The ability to recognise personal and professional strengths and weaknesses		Non-essential	See LPC and Training Contract.
E 2 The ability to identify the limits of personal knowledge and skills		Non-essential	See LPC and Training Contract.
E 3 The ability to develop strategies to enhance professional performance		Non-essential	See Training Contract.
E 4 The ability to		Non-essential	See Training Contract and PSC

manage personal workload			
E 5 The ability to employ risk management skills		Non-essential	See Training Contract and PSC
E 6 The ability to manage efficiently, effectively and concurrently a number of client matters		Non-essential	See LPC/Training Contract/PSC
E 7 The ability to work effectively as a team-member		Non-essential	See Training Contract
Day One Outcome F - Professional values, behaviours, attitudes and ethics			
	Topics to include:	Essential/non-essential	Further comments
F 1 Knowledge of the values and principles upon which the rules of professional conduct have been developed		Non-essential	Non-essential because tested in A3. See outcomes for all stages.
F 2 The ability to behave professionally and with integrity		Essential	
F 3 The ability to identify issues of culture, disability and diversity		Essential	See LPC/PSC.
F 4 The ability to respond appropriately and effectively to the above issues in dealings with clients, colleagues and others from a range of social, economic and ethnic backgrounds		Essential	See LPC/PSC.
F 5 The ability to recognise and resolve ethical dilemmas		Essential	See LPC/Training Contract/PSC.