



Legal Services Board – decision notice issued under Part 3 of Schedule 4 to the Legal Services Act 2007

The Solicitors Regulation Authority (SRA) rule change application for the approval of the SRA Training Regulations Part 2 (Training Provider Regulations) Amendment Rule [2012]

The Legal Services Board (LSB) has granted an application from the SRA who sought to make amendments to the SRA Training Regulations 2011 Part 2 - Training Provider Regulations.

This decision notice sets out the basis for the LSB granting the application and the decision taken, including a brief description of the changes.

Introduction

1. The LSB is required by Part 3 of Schedule 4 to the Legal Services Act 2007 (the Act) to review and grant or refuse applications by approved regulators to make alterations to their regulatory arrangements. The Law Society is an approved regulator and the SRA is the regulatory arm to which the Law Society has delegated its regulatory functions.
2. Paragraph 25 of Schedule 4 to the Act explains that the LSB may only refuse an application setting out a proposed change to the regulatory arrangements if it is satisfied that by granting the application one or more of the criteria specified in sub paragraph 25(3) (and listed in the footnote below¹) will be met. For example, the LSB's granting of the application to alter the regulatory arrangements must not be prejudicial to the regulatory objectives overall. Accordingly, 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.
3. As provided for by paragraphs 20(1) and 23(3) of Schedule 4 to the Act, the LSB has made rules² about how the application to alter the regulatory arrangements must be made including the contents of that application. The rules highlight the applicant's

¹ The Board may refuse the application 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 the 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 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.

² [Rules for Rule Change Applications – Version 2 \(November 2010\)](#)

obligations under section 28 of the Act to have regard to the Better Regulation Principles. The rules also require that the applicant provides information about the nature and effect of each proposed change and of appropriate consultation undertaken. Sub paragraph 25(3)(f) of Schedule 4 to the Act requires that each proposed alteration has been made or is likely to be made in accordance with the procedures (whether statutory or otherwise) which apply in relation to the making of the alteration. This therefore includes the LSB's rules.

4. The chronology for the LSB's handling of this application can be found towards the end of this decision notice.

Proposed alterations

5. The proposed change is to Regulation 6.1(g)(i) of the SRA Training Regulations 2011 Part 2 - Training Provider Regulations. Through the SRA Training Regulations Part 2 (Training Provider Regulations) Amendment Rule [2012], it is proposed that reference to the SRA prescribed minimum salary be removed and replaced with a requirement that the trainee be paid a salary equivalent to or exceeding the national minimum wage prescribed by section 1(3) of the National Minimum Wage Act 1998, as amended from time to time.
6. To prevent any potential impact on trainees currently undertaking training contracts, the SRA proposed that the change should come into effect on 1 August 2014.

Decision

7. In reaching its decision, the LSB considered the timing of the introduction of the proposed rule change. The LSB is aware of the concerns raised by some stakeholders in the SRA consultation about introducing the change prior to a wider review of training following the Legal Education and Training Review (LETR), which is due to publish its recommendations in early 2013. The LSB took account of the reasons the SRA provided in its application, namely that the minimum salary should be dealt with separately from the wider discussions about reform of the education and training process, in order to allow stakeholders to focus fully on the education and training issues which may arise out of the LETR. Moreover, the LSB took into account the SRA's view that changes to the training regime arising from the LETR will not take effect for some time, so in the interim the SRA considers it correct to take action to ensure existing arrangements are appropriate or changed as necessary. Bearing these factors in mind, the LSB did not consider that the SRA's proposal to introduce the change prior to the outcome of the LETR was a reason for considering refusal under the criteria in paragraph 25(3) of Schedule 4 to the Act.
8. The LSB also took account of the detailed Economic and Equality Impact Assessment completed by the SRA in relation to the proposed changes. The LSB noted the overall findings that although it was a complex picture and precise impacts were hard to predict, the proposed change on balance would not have a negative impact. The LSB was pleased to see that the application included a commitment to monitor the impact of the change and look forward to seeing the results of this monitoring in due course, possibly

within the context of a wider assessment of the effectiveness of the SRA's regulatory action to improve equality and diversity in the profession.

LSB's decision-making powers: applications to change regulatory arrangements

9. The LSB is satisfied that, having considered the SRA's application against the criteria in paragraph 25(3) of Schedule 4 to the Act, there is no reason to refuse this application; accordingly, the LSB grants this application.

10. Annex A to this decision notice contains the amendments to the SRA Training Regulations 2011 Part 2 - Training Provider Regulations, to be implemented through the SRA Training Regulations Part 2 (Training Provider Regulations) Amendment Rule [2012].

Chronology

- The LSB confirmed receipt of an application from the SRA on 30 November 2012.
- The 28 day initial decision period for considering the application ends on 27 December 2012.
- This Decision Notice is being issued to the SRA on 17 December 2012.
- This Decision Notice will be published on our website on 18 December 2012.

Chris Kenny, Chief Executive
Acting under delegated authority granted by the Board of the Legal Services Board
17 December 2012

Annex A

SRA Training Regulations Part 2 (Training Provider Regulations) Amendment Rule [2012]

Rule dated [to be inserted by SRA on approval by LSB] made by the Solicitors Regulation Authority Board.

Made under Part I, Part II, section 79 and 80 of, and paragraph 6B of Schedule 1 to, the Solicitors Act 1974 and section 9 and 9A of, and paragraphs 14A, 14B and 32 to 34 of Schedule 2 to, the Administration of Justice Act 1985 and section 21(2), 83 and Schedule 11 to and paragraph 6 of Schedule 14 to, the Legal Services Act 2007 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 August 2014].

Rule

- (1) Regulation 6.1(g)(i) of Part 2 of the Training Regulations (Training Provider Regulations) shall be amended as follows:

“Regulation 6: Responsibilities of training establishments

6.1 If you are a training establishment you must:

...

(g) pay:

(i) *the trainee a salary equivalent to or exceeding the national minimum wage prescribed by s.1(3) of the National Minimum Wage Act 1998 as amended from time to time*~~at least the minimum salary prescribed from time to time by us~~; and

(ii) the trainee's PSC fees and expenses for the first attempt...”

- (2) This Rule comes into force on 1 August 2014.

Note: additions are shown in italics, deletions in strikethrough.