

# **SRA Qualified Lawyers Transfer Scheme Regulations**

## **[2010]**

Regulations dated [*date of approval*] made by the Solicitors Regulation Authority Board under sections 2 and 28 of the Solicitors Act 1974 with the approval of the Legal Services Board.

Regulations to provide Qualified Lawyers, who are not solicitors admitted in England and Wales, with a shorter alternative route to qualification to the domestic route (as set out in the Solicitors' Training Regulations). These Regulations also set out the means by which certain lawyers can seek admission by virtue of Directive 2005/36/EC and Directive 98/5/EC.

### **1. Eligibility**

- 1.1. Subject to 1.2 and 1.4 below, a person seeking to establish eligibility to apply for admission under these Regulations must provide such evidence as the SRA may require to show that the applicant:
  - (a) is a Qualified Lawyer in a Recognised Jurisdiction;
  - (b) has followed the Full Route to qualification in the Recognised Jurisdiction;
  - (c) is entitled to practise as a Qualified Lawyer of the Recognised Jurisdiction;
  - (d) has satisfied any applicable English Language requirements published by the SRA; and
  - (e) is of the Character and Suitability to be admitted as a solicitor
- 1.2. For the avoidance of doubt, any lawyer applying for admission pursuant to European Communities Directive 2005/36/EC or any legislation implementing that Directive in the UK is deemed to have satisfied 1.1(d) above.
- 1.3. The SRA shall acknowledge receipt of an applicant's application under Directive 2005/36/EC within one month of receipt, and shall inform the

applicant if any document is missing.

- 1.4. Any lawyer applying for admission pursuant to Directive 98/5/EC or any legislation implementing that Directive in the UK, is deemed to have satisfied 1.1(b) and (d) above.
- 1.5. If the SRA is satisfied that an applicant is eligible, it must issue a QLTS Certificate of Eligibility to that effect.
- 1.6. A person who does not hold a QLTS Certificate of Eligibility cannot register with the Assessment Organisation to take any of the QLTS Assessments.
- 1.7. A QLTS Certificate of Eligibility shall remain valid for a period of five years from the date of its issue. Applicants cannot apply for a second or subsequent QLTS Certificate of Eligibility before the expiry of any existing Certificate of Eligibility.

## **2. QLTS Assessments**

- 2.1. The SRA shall:
  - (a) publish guidelines and outcomes in relation to the QLTS Assessments,
  - (b) validate and authorise the provision of the QLTS Assessments by the Assessment Organisation, and
  - (c) monitor the provision of the QLTS Assessments by the Assessment Organisation.
- 2.2. International Lawyers must pass all the QLTS Assessments.
- 2.3. Any lawyer applying for admission pursuant to European Communities Directive 2005/36/EC or any legislation implementing the Directive in the UK, or any UK Qualified Lawyer, may be required to pass one or more QLTS Assessments, as the SRA shall determine.

### **3. Review of lists of Recognised Jurisdictions and Qualified Lawyers**

- 3.1. The SRA will review the lists of Recognised Jurisdictions and Qualified Lawyers every five years or whenever written evidence is received which suggests the need for a jurisdiction or qualification to be reviewed.
- 3.2. For the avoidance of doubt, individuals who have not qualified in a Recognised Jurisdiction and/or who are not Qualified Lawyers for the purposes of these Regulations, have no right to appeal this designation by the SRA.

### **4. Lawyers seeking admission under Directive 98/5/EC (the Establishment Directive)**

- 4.1. Any lawyer seeking to establish eligibility pursuant to Directive 98/5/EC or any legislation implementing that Directive in the UK must prove to the SRA that they have met the requirements of the Directive and implementing legislation and in particular that they have:
  - (a) satisfied the nationality requirements set out in the legislation; and
  - (b) satisfied the SRA's registration requirements; and either
  - (c) effectively and regularly pursued for a period of at least three years a professional activity in the United Kingdom in the law of the United Kingdom including Community Law in accordance with article 10.1 of Directive 98/5/EC; or
  - (d) effectively and regularly pursued a professional activity in the United Kingdom for a period of at least three years where the professional activity in the law of the United Kingdom has been for a period of less than three years, under the conditions set out in article 10.3 of Directive 98/5/EC.

### **5. Review of decisions on eligibility**

- 5.1. Subject to regulation 3.2, a person seeking to establish eligibility under regulation 1 (including regulation 4) may, within one month of receiving notification from the SRA of any decision to refuse to issue a QLTS Certificate of Eligibility, ask for the application to be reviewed.

- 5.2. Where an applicant is seeking to establish eligibility (other than pursuant to Directive 2005/36/EC or Directive 98/5/EC) and the SRA has:
- (a) refused the initial application on the ground that the applicant is not suitable to be admitted as a solicitor, and
  - (b) has determined not to reverse that refusal on review;

the applicant has the right, within three months of receiving notification from the SRA of its decision on the review, to appeal to the High Court under regulation 4 of the Solicitors' Admission Regulations.

- 5.3. Where an applicant is seeking to establish eligibility pursuant to Directive 2005/36/EC and the SRA:
- (a) fails to take a decision on the initial application and notify it to the applicant within four months of receipt of all the relevant documents; or
  - (b) refuses the initial application; or
  - (c) has determined not to reverse that refusal on a review;

the applicant has the right, within four months of receiving notification or deemed notification of the SRA's decision, to appeal to the High Court under regulation 36 of the European Communities (Recognition of Professional Qualifications) Regulations 2007.

- 5.4. Where in the case of an applicant seeking to establish eligibility pursuant to Directive 98/5/EC the SRA:
- (a) fails to take a decision on the initial application and notify it to the applicant within four months of receipt of all the relevant documents; or
  - (b) refuses the initial application; or
  - (c) has determined not to reverse that refusal on a review;

the applicant has the right, within three months of receiving notification or deemed notification of the SRA's decision, to appeal to the High Court under regulation 35 of the European Communities (Lawyer's Practice) Regulations 2000.

## **6. Character and Suitability of prospective solicitor**

- 6.1. If at any time the SRA is not satisfied as to the Character and Suitability to become a solicitor of any person to whom it has granted a QLTS Certificate of Eligibility under regulation 1 it may on such terms as it determines prohibit any attempt at any or all of the QLTS Assessments.
- 6.2. If the SRA imposes a prohibition under regulation 6.1, the unadmitted person may within one month of receiving notification from the SRA of its decision, ask for the matter to be reviewed.
- 6.3. If the unadmitted person has been authorised to apply other than pursuant to Directive 2005/36/EC, he or she has the right to appeal to the High Court under regulation 5 of the Solicitors' Admission Regulations within three months of receiving notification from the SRA of its decision on a review under regulation 6.2.
- 6.4. When in the case of an applicant who has been authorised to apply pursuant to Directive 2005/36/EC, the SRA:
  - (a) prohibits any attempt at any or all of the QLTS Assessments under regulation 6.1; or
  - (b) refuses to lift that prohibition on an application for review;

the applicant has the right, within four months of receiving notification of the SRA's decision, to appeal to the High Court under regulation 36 of the European Communities (Recognition of Professional Qualifications) Regulations 2007.
- 6.5. Any unadmitted person may make up to three applications to the SRA to remove a prohibition after intervals of not less than twelve months from the final determination as to the imposition of the prohibition, or from the final determination of the unadmitted person's previous application for review, as the case may be.
- 6.6. The unadmitted person has the right to appeal to the High Court under regulation 5 of the Solicitors' Admissions Regulations within three months

of receiving notification from the SRA of its decision on an application for the removal of a prohibition under 6.5.

## **7. Forms and fees**

- 7.1. A person wishing to sit the QLTS Assessments must give notice to the Assessment Organisation in the prescribed form and pay the prescribed fee.
- 7.2. A person wishing to make an application or give notice to the SRA in accordance with these regulations must do so in the prescribed form and pay the prescribed fee.
- 7.3. If at the time of making an application or giving a notice, no form has been prescribed by the SRA or the Assessment Organisation, the application or notice must be in writing, signed by the applicant or the person giving it and provide such information as is necessary to enable the SRA or the Assessment Organisation to deal with the application.
- 7.4. Whether or not the application is made or notice given on a prescribed form the SRA may, in its absolute discretion, require the applicant, or the person giving notice, to furnish such further information as it considers necessary.
- 7.5. The SRA may require any application to be supported by such evidence as it considers necessary and it may require facts relevant to any application to be accompanied by statutory declaration and may require the attendance of the applicant for an interview.
- 7.6. For the avoidance of doubt, no applicant may apply to the SRA for a review of a decision by an Assessment Organisation that he or she has failed one or more QLTS Assessment.

## **8. Admission as a solicitor**

- 8.1. Admission as a solicitor takes place under Part 3 of the Solicitors'

Admission Regulations.

## **Schedule 1**

### **Commencement and repeal**

These Regulations will come into force on such date as the SRA may determine (the Commencement Date) on which date the Qualified Lawyers Transfer Regulations 2009 shall cease to have effect for new applications but will continue in force for candidates holding valid QLTR Certificates of Eligibility or candidates who have submitted an application for a QLTR Certificate of Eligibility prior to the Commencement Date of the QLTS.

## **Schedule 2**

### **Transitional arrangements**

- (1) On the Commencement Date, the SRA will cease to issue QLTR Certificates of Eligibility and will instead issue QLTS Certificates of Eligibility.
- (2) The Qualified Lawyers Transfer Test will continue to be available until the expiry of all QLTR Certificates of Eligibility.

## **Schedule 3**

### **Interpretation and definitions**

- (1) The Interpretation Act 1978 applies to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.
- (2) Words and phrases not expressly defined in these Regulations unless the context otherwise requires bear the same meaning as they bear in the Solicitors Act 1974.
- (3) In these Regulations:

**Assessment Organisation** means the assessment organisation awarded the initial three year contract to provide the QLTS Assessments, together with any other assessment organisations subsequently authorised to provide the QLTS



Assessments after the initial three year period has expired.

**QLTR Certificate of Eligibility** means a Certificate issued under the QLTR 2009 (or earlier Regulations).

**QLTS Certificate of Eligibility** means a Certificate of Eligibility to take the QLTS Assessments under these Regulations, or an authorisation under these Regulations to apply for admission as a solicitor without taking any of the QLTS Assessments.

**Qualified Lawyers Transfer Regulations (QLTR)** means the Qualified Lawyers Transfer Regulations 1990 and 2009.

**Qualified Lawyers Transfer Test (QLTT)** means the tests which some lawyers are required to pass under the Qualified Lawyers Transfer Regulations 1990 and 2009.

**Character and Suitability** has the meaning given to it in Guidelines issued from time to time by the SRA.

**Commencement Date** means the date on which the SRA Board brings these Regulations into force.

**Entitled to practise** means having the right to practise without restrictions or conditions as a Qualified Lawyer of the Recognised Jurisdiction.

**Full Route** to qualification means that the applicant has completed the full route to qualification in the Recognised Jurisdiction and is not basing the application on the completion of a shortened or fast-track route completed in the Recognised Jurisdiction.

**International Lawyers** means lawyers who are not basing their application on a professional qualification as a Qualified Lawyer gained within the UK or within the EEA or Switzerland.

**QLTS Assessments** means the suite of assessments approved by the SRA and provided by the Assessment Organisation.

**Qualified Lawyer** means a lawyer with a professional title which the SRA has recognised as broadly similar to that applying to solicitors of England and Wales. The list of Qualified Lawyers and relevant criteria are available on the SRA's website.

**Recognised Jurisdiction** means a jurisdiction which the SRA has recognised as having a regulatory system which is broadly similar to that applying to solicitors of England and Wales. The list of Recognised Jurisdictions and relevant criteria are available on the SRA's website.

All European jurisdictions to which Directives 2005/36/EC and 98/5/EC apply are Recognised Jurisdictions for the purposes of these Regulations.

**SRA** means the Solicitors Regulation Authority.

**UK Qualified Lawyer** means solicitors and barristers qualified in Northern Ireland, solicitors and advocates qualified in Scotland and barristers qualified in England and Wales

## **Schedule 4**

### **Consequential amendments**

#### *Solicitors' Admission Regulations 2009*

1. The Solicitors' Admission Regulations 2009 are amended in accordance with paragraphs 2 to 11.
2. In Part 2, Regulation 4 (iii), after "regulation 4 of the Qualified Lawyers Transfer Regulations" insert "or regulation 1 of the Qualified Lawyers Transfer Scheme Regulations", and after "regulation 16(1) of", omit "those regulations" and insert "the Qualified Lawyers Transfer Regulations or, where appropriate, regulation 5.1 of the Qualified Lawyers Transfer Scheme Regulations".

3. In Part 2, Regulation 4 (iv), after “see 16(3) and (4) of the Qualified Lawyers Transfer Regulations” insert “or, where appropriate, regulations 5.3 and 5.4 of the Qualified Lawyers Transfer Scheme Regulations”.
4. In Part 2, Regulation 5 (i),(b), after “regulation 4 of the Qualified Lawyers Transfer Regulations” insert “or regulation 1 of the Qualified Lawyers Transfer Scheme” and after “regulation 17(2) of the Qualified Lawyers Transfer Regulations” insert “or regulation 6.2 of the Qualified Lawyers Transfer Scheme Regulations.”
5. In Part 2, Regulation 5 (i)(d), after “regulation 17(5) of the Qualified Lawyers Transfer Regulations” insert “or regulation 6.5 of the Qualified Lawyers Transfer Scheme Regulations”.
6. In Part 2, Regulation 5(ii)(a), after “an attempt at the Test” insert “any attempt at any or all of the Qualified Lawyers Transfer Scheme Assessments”.
7. In Part 2, Regulation 5(ii)(b), after “see regulation 17(4) of the Qualified Lawyers Transfer Regulations” insert “or 6.4 of the Qualified Lawyers Transfer Scheme Regulations”.
8. In Part 3, Regulation 6, after “Qualified Lawyers Transfer Regulations” insert “or the Qualified Lawyers Transfer Scheme Regulations”.
9. In Part 3, Regulation 8(i)(a), after “Qualified Lawyers Transfer Regulations” insert “ or the Qualified Lawyers Transfer Scheme Regulations”.
10. In Part 3, Regulation 8(iv), after “regulation 4 of the Qualified Lawyers Transfer Regulations” insert “regulation 1 of the Qualified Lawyers Transfer Scheme Regulations”.
11. In Part 3, Regulation 10(iii), after “regulation 4 of the Qualified Lawyers Transfer Regulations” insert “regulation 1 of the Qualified Lawyers Transfer Scheme Regulations”.

### *Higher Rights of Audience Regulations 2009*

1. The Solicitors' Higher Rights of Audience Regulations 2010 are amended in accordance with paragraph 2 below.

2. In Regulation 1.3 after –

“Scotland, Northern Ireland, Republic of Ireland and those jurisdictions listed in paragraphs 1 and 2 of the Schedule to the Qualified Lawyers Transfer Regulations 1990”

insert –

“together with all Recognised Jurisdictions as defined in the Qualified Lawyers Transfer Scheme Regulations, and from time to time published by the SRA.”

### *Solicitors' Training Regulations 2009*

1. The Solicitors' Training Regulations 2009 are amended in accordance with paragraphs 2 and 3 below.

2. In Part I, Regulation 3, after “Qualified Lawyers Transfer Regulations” insert “and the Qualified Lawyers Transfer Scheme Regulations”.

3. In Part IV, Regulation 30(1), after “Qualified Lawyers Transfer Regulations” insert “and the Qualified Lawyers Transfer Scheme Regulations”.