



## Qualified Lawyers Transfer Regulations 1990

### Education and Training Unit October 2007

Made on the 4<sup>th</sup> day of October 1990 and amended on the 13<sup>th</sup> day of December 1990 and the 11<sup>th</sup> day of November 1993 and the 6<sup>th</sup> day of October 1994 and the 19<sup>th</sup> day of October 1995 and the 16<sup>th</sup> day of July 1998 and the 21<sup>st</sup> day of October 1999 by the Council of the Law Society under Sections 2 and 80 of the Solicitors Act 1974 with the concurrence of the Lord Chancellor, the Lord Chief Justice and the Master of the Rolls. Amended on the 23<sup>rd</sup> day of October 2007 to incorporate statutory amendments to EU Directives and implementing Regulations.

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|----|---|---------------------------------------|
| 1. | (1) These Regulations may be cited as the Qualified Lawyers Transfer Regulations 1990 and save as provided In paragraph (2) come into force on the 23 <sup>rd</sup> day of December 1998. | <b>Title and commencement</b>         |
|    | (2) Regulation 11 shall come into force on the coming Into force of paragraph 11(1) of the 19 <sup>th</sup> Schedule to the Courts and Legal Services Act 1990.                           |                                       |
| 2. | (1) The Interpretation Act 1978 applies to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.   | <b>Interpretation and Definitions</b> |
|    | (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:-  |                                       |
|    | “training contract” bears the same meaning as in the Training Regulations 1990;   |                                       |
|    | “eligible applicant” means a person eligible to attempt a Qualified Lawyers Transfer Test who has obtained a certificate from the Society to that effect;                                 |                                       |
|    | “overseas lawyer” means a member of one of the professions listed in the Schedule to these Regulations;   |                                       |
|    | “Society” means the Law Society;  |                                       |

“Society’s agent” means a body, firm, company or individual authorised by the Society from time to time for the provision and assessment of the test; “Test” means the Qualified Lawyers Transfer Test which is an assessment of competence in the subjects specified in these Regulations;

“Training Regulations” means the Training Regulations made from time to time by the Council of the Society.

3. The Marginal Notes do not form part of these Regulations **Marginal Notes**
4. The subjects assessed by the Test are: **Subjects assessed**
- (a) Property;
  - (b) Litigation;
  - (c) Professional Conduct & Accounts
  - (d) Principles of Common Law
5. (1) A person seeking to establish eligibility under these Regulations to apply for admission must provide such evidence as the Society may require that the applicant: **Eligibility**
- (a) is a person to whom any of Regulations 6 to 15 applies; and
  - (b) is suitable to be admitted as a solicitor.
- (2) If the Society is satisfied that an applicant is so eligible it must issue a certificate to that effect stating any subjects in the Test which the applicant is required to pass and in respect of applications to whom Regulations 6, 10, 11 or 15 apply any other conditions which the applicant must satisfy. A person who does not hold such a certificate may not attempt the Test.
- (3) In making any determination under Regulations 6 to 15, the Society shall have regard to the nature and extent of the applicant’s practical experience in the law of England and Wales and any other academic or other qualification.
- (4) “A Certificate of Eligibility shall remain valid for a period of three years from the date of its issue.”
6. Unless the Society otherwise determines a member or former member of the English Bar (“an English barrister”) must have, prior to applying for admission, passed the Test in Professional Conduct & Accounts and **Barristers qualified in England**
- (a) satisfactorily completed 12 months pupillage and 12 months legal practice acceptable to the Society; or
  - (b) completed two years legal practice acceptable to the Society; or
  - (c) been employed in a way consistent with service under a training contract for such a period not exceeding two years as the Society may determine.

7. Unless the Society otherwise determines a person who has been admitted as a solicitor in Scotland must; **Solicitors qualified in Scotland**
- (a) hold or be eligible to hold an unrestricted practising certificate prior to applying for a Certificate of Eligibility; and
  - (b) pass the Test in Property prior to applying for admission
8. Unless the Society otherwise determines a person who has been admitted as a solicitor in Northern Ireland is not required to pass any subject of the Test. **Solicitors qualified in Northern Ireland**
9. Unless the Society otherwise determines a person who has been admitted as an Advocate in Scotland must, prior to applying for admission, pass the Test in: **Advocates qualified in Scotland**
- (a) Professional Conduct and Accounts and
  - (b) Property
10. Unless the Society otherwise determines a person who has been admitted to the Bar of Northern Ireland (“a Northern Ireland barrister”) must have prior to applying for admission: **Barrister qualified in Northern Ireland**
- (a) passed the Test in Professional Conduct & Accounts;
  - (b) satisfactorily completed 12 months pupillage and 12 months legal practice acceptable to the Society; or
  - (c) completed two years legal practice acceptable to the Society; or
  - (d) been employed in a way consistent with service under a training contract for such a period not exceeding two years as the Society may determine.
11. (1) An overseas lawyer who has qualified in one of the professions listed in the Schedule to these Regulations by passing the qualifying examinations required of a person who has not previously qualified for admission in any other jurisdiction must, prior to applying for admission, pass the Test in such subjects as are specified in the Schedule unless in any individual case the Society grants a waiver. **Certain overseas Solicitors**
- (2) An overseas lawyer to whom paragraph (1) of this Regulation applies may also be required to complete such a period of experience in legal practice, not exceeding two years, as the Society may determine, prior to applying for admission.
- (3) Paragraphs (4) and (5) of this Regulation apply to overseas Lawyers who have not passed the qualifying examinations required of a person who has not previously qualified for admission in any other jurisdiction for qualification in one of the professions listed in the Schedule to these Regulations.
- (4) An overseas lawyer to whom paragraph (3) applies must apply to the Society who will determine whether the overseas lawyer is an eligible applicant and if so:

- (a) which subjects (if any) the overseas lawyer must pass in the Test prior to applying for admission; and
- (b) whether the overseas lawyer must complete a period of employment consistent with service under a training contract before applying for admission and if so, for how long the overseas lawyer must be employed.

(5) For the avoidance of doubt, if the Society determines that an overseas lawyer to whom paragraph (3) applies is not an eligible applicant, that overseas lawyer must complete the academic and vocational stages of training in accordance with the Training Regulations.

12. (a) Any lawyer applying for admission pursuant to European Communities Directive No 2005/36/EC or any legislation implementing the Directive in the UK, who in accordance with that legislation is required by the Society to pass an aptitude test, shall be required to pass the Test in such subjects as the Society shall determine. **European Community Lawyers**
- (b) Any lawyer applying for admission pursuant to EC directive 98/5/EC or any legislation implementing the directive in the UK shall be exempt from an aptitude test if they can prove to the Society that they have met the requirements of the directive and in particular that they have effectively and regularly pursued for a period of at least three years an activity in the United Kingdom in the law of the United Kingdom including Community Law.
13. Notwithstanding Regulation 12, unless the Society otherwise determines: **Solicitors and Barristers qualified in Ireland**
- (a) a person who has been admitted as a solicitor in Ireland is not required to pass any subject in the Test;
  - (b) a person who has been admitted to the Bar of Ireland must pass the Test in:
    - (i) Professional Conduct & Accounts
    - (ii) Property
14. A Lawyer: **Distinguished Specialist Practitioners**
- (a) qualified in any jurisdiction outside England and Wales; and
  - (b) having at least 10 years practising experience; and
  - (c) able to demonstrate by references acceptable to the Society, publications or other evidence acceptable to the Society that he has substantial experience and an acknowledged international reputation as a Distinguished Specialist Practitioner in one or more fields of practice commonly Undertaken by solicitors in England and Wales,
- Shall be required to pass the Test in such subjects as The Society shall determine prior to applying for Admission in England and Wales.
15. A person who has taught on courses forming part of the process **Academic**

of qualification as a solicitor for 10 years full-time or a commensurately longer period part-time must have prior to applying for admission:

## **Lawyers**

(a) passed the Test in such subjects as the Society shall determine; and

(b) undertaken legal practice acceptable to the Society and which, unless the Society otherwise determines:

(i) amounts in total to the equivalent of 2 years full-time employment;

(ii) is undertaken over a total period not exceeding 6 years immediately preceding the date of application for admission;

(iii) is undertaken for at least half of the time in blocks of not less than 2 months.

16. The Test will be held at such times as the Society may determine.

## **Time of holding The Test**

17. (1) A person seeking to establish eligibility under Regulation 5 may:

## **Review of decisions on eligibility**

(a) within one month of receiving notification from the Society of any decision ask for the application to be reviewed;

And

(b) within three months, or such longer period as may be prescribed by or under statute, of receiving notification from the society of its decision on an application for review under paragraph (a) apply to the Master of the Rolls who may:

(i) affirm the decision of the Society; or

(ii) make such other order as the Master of the Rolls thinks fit

(2) Where in the case of an applicant applying for admission pursuant to European Communities Directive No 2005/36/EC the Society fails to take a decision and notify it to the applicant within four months of receipt of all the relevant documents an appeal may be made to the Master of the Rolls in accordance with Regulation 36 of the European Communities (Recognition of Professional Qualifications) Regulations 2007.

18. (1) If the Society at any time is not satisfied as to the suitability to become a solicitor of any person whom it has certified eligible under Regulation 5 it may on such terms as it determines:

## **Misbehaviour of prospective Solicitor**

(a) prohibit an attempt at the Test; or

(b) refuse to recognise periods of employment as consistent with service under a training contract; or

(c) oppose admission as a solicitor

(2) If the Society imposes a prohibition or other sanction under paragraph (1) the unadmitted person may

(a) within one month of receiving notification

from the Society of its decision, ask for the matter to be reviewed, and

(b) within three months of receiving notification from the Society of its decision on an application for review under paragraph (2) (a) apply to the Master of the Rolls who may:

- (i) affirm the decision of the Society; or
- (ii) make such other order as the Master of the Rolls thinks fit;

(c) make not more than three applications to the Society to remove a prohibition or other sanction at intervals of not less than twelve months of the Society's decision under paragraph (1);

(d) within three months of receiving notification from the Society of its decision on an application for the removal of a prohibition or sanction under paragraph (2)(c), apply to the Master of the Rolls who may:

- (i) affirm the decision of the society; or
- (ii) make such order as the master of the Rolls thinks fit.

19. (1) A person wishing to attempt the Test must give notice to the Society's agent in the prescribed form and pay the prescribed fee. **Forms and Fees**

(2) A person wishing to make an application or give notice to the Society in accordance with these Regulations must do so in the prescribed form and pay the prescribed fee.

(3) When at the time of the making of an application or giving of a notice no form has been prescribed by the Society or the Society's agent the application or notice must be in writing, signed by the applicant or the person giving it and give such information as is necessary to enable the Society or the Society's agent to deal with the application or to comply with the Regulation under which the notice is given.

(4) Whether or not the application is made or notice given on a prescribed form the Society may require the applicant or the person giving notice to furnish such further information as it considers necessary.

(5) The Society 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 deposed to by statutory declaration and may require the attendance of the applicant for interview.

## SCHEDULE

1. Lawyers of the following Courts who wish to be admitted as solicitors in England and Wales are not required to pass any Heads in the Test if they have passed the qualifying examinations required for admission to such Courts of a person who has not previously qualified for admission in any other territory:-

<b><u>Territory</u></b>	<b><u>Eligible Profession</u></b>
Hong Kong	Solicitor
Isle of Man	Advocate
Singapore	Advocate and Solicitor

2. Lawyers of the following Courts who wish to be admitted as solicitors in England and Wales and who have passed the qualifying examinations required for the admission to such Courts of a person who has not previously qualified for admission in any other territory are required to pass the Professional Conduct and Accounts Head of the Test:-

<b><u>Territory</u></b>	<b><u>Eligible Profession</u></b>
Alberta	Barrister and Solicitor
Anguilla	Barrister and Solicitor
Antigua and Barbuda	Barrister and Solicitor
Australian Capital Territory	Solicitor
	Barrister
Bahamas	Counsel and Attorney
Barbados	Attorney at Law
Belize	Attorney at Law
Bermuda	Legal Practitioner
British Columbia	Barrister and Solicitor
British Virgin Islands	Barrister and Solicitor
Cayman Islands	Attorney at Law
Dominica	Barrister and Solicitor
Grenada	Attorney at Law
Guyana	Attorney at Law
Hong Kong	Barrister
*India	Advocate
	Solicitor
Jamaica	Attorney at Law
Malaysia	Advocate and Solicitor
Manitoba	Barrister and Solicitor
Montserrat	Barrister and Solicitor
New Brunswick	Barrister and Solicitor
Newfoundland	Barrister and Solicitor
New South Wales	Solicitor
	Barrister
New Zealand	Barrister and Solicitor
Northern Territory	Barrister and Solicitor
Northwest Territories	Barrister and Solicitor
Nova Scotia	Barrister and Solicitor
Ontario	Barrister and Solicitor
Papua New Guinea	Lawyer
Prince Edward Island	Barrister and Solicitor
Queensland	Solicitor
	Barrister
Saskatchewan	Barrister and Solicitor
South Australia	Barrister and Solicitor
St Lucia	Barrister and Solicitor

St Kitts and Nevis	Barrister
St Vincent and the Grenadines	Barrister at Law
Tasmania	Barrister and Solicitor
Trinidad and Tobago	Attorney at Law
Turks and Caicos	Attorney at Law
Victoria	Barrister and Solicitor
Western Australia	Barrister and Solicitor
Yukon Territory	Barrister and Solicitor
Zambia	Advocate

3. Lawyers of the following Courts who wish to be admitted as solicitor in England and Wales and who have passed the qualifying examinations required for the admission to such Courts of a person who has not previously qualified for admission in any other territory are required to pass the written Heads of the Test in Property and Professional Conduct and Accounts:-

<b><u>Territory</u></b>	<b><u>Eligible Profession</u></b>
Ghana	Legal Practitioner
*Israel	Advocate

4. Lawyers of the following Courts who wish to be admitted as solicitors in England and Wales and who have passed the qualifying examination required for the admission to such Courts of a person who has not previously qualified for admission in any other territory are required to pass the written Heads of the Test i.e., Property Litigation and Professional Conduct & Accounts:-

<b><u>Territory</u></b>	<b><u>Eligible Profession</u></b>
Alabama	Attorney at Law
Alaska	Attorney at Law
Arizona	Attorney at Law
Arkansas	Attorney at Law
California	Attorney at Law
Colorado	Attorney at Law
Connecticut	Attorney at Law
Delaware	Attorney at Law
District of Columbia	Attorney at Law
Florida	Attorney at Law
Georgia	Attorney at Law
Hawaii	Attorney at Law
Idaho	Attorney at Law
Illinois	Attorney at Law
Indiana	Attorney at Law
Iowa	Attorney at Law
Kansas	Attorney at Law
Kentucky	Attorney at Law
Louisiana	Attorney at Law
Maine	Attorney at Law
Maryland	Attorney at Law
Massachusetts	Attorney at Law
Michigan	Attorney at Law
Minnesota	Attorney at Law
Mississippi	Attorney at Law
Missouri	Attorney at Law
Montana	Attorney at Law
Nebraska	Attorney at Law

Nevada	Attorney at Law
New Hampshire	Attorney at Law
New Jersey	Attorney at Law
New Mexico	Attorney at Law

<b><u>Territory</u></b>	<b><u>Eligible Profession</u></b>
New York	Attorney at Law
Nigeria	Barrister & Solicitor
North Carolina	Attorney at Law
North Dakota	Attorney at Law
Ohio	Attorney at Law
Oklahoma	Attorney at Law
Oregon	Attorney at Law
Pennsylvania	Attorney at Law
Rhode Island	Attorney at Law
South Carolina	Attorney at Law
South Dakota	Attorney at Law
Tennessee	Attorney at Law
Texas	Attorney at Law
Utah	Attorney at Law
Vermont	Attorney at Law
Virginia	Attorney at Law
Washington	Attorney at Law
West Virginia	Attorney at Law
Wisconsin	Attorney at Law
Wyoming	Attorney at Law

5. Lawyers of the following Courts who wish to be admitted as solicitors in England and Wales and who have passed the qualifying examinations for the required admission to such Courts of a person who has not previously qualified for admission in any other territory are required to pass the written Heads of the Test, Property and Professional Conduct and Accounts and the oral test in the Principles of Common Law:-

<b><u>Territory</u></b>	<b><u>Eligible Profession</u></b>
Botswana	Attorney and Advocate
Namibia	Attorney and Advocate
South Africa	Attorney and Advocate
Zimbabwe	Legal Practitioner

6. Lawyers of the following Courts who wish to be admitted as solicitors in England and Wales and who have passed the qualifying examinations required for the admission to such Courts of a person who has not previously qualified for admission in any other territory are required to pass all four Heads of the Test:-

<b><u>Territory</u></b>	<b><u>Eligible Profession</u></b>
Bangladesh	Advocate
Pakistan	Advocate
Quebec	Avocat
Sri Lanka	Attorney at Law
Switzerland	Rechtsanwalt

- \* Applicants qualified in India and Israel may also be required to pass the Principles of Common Law Head of the Test depending on whether their law degree was taught in English.

