

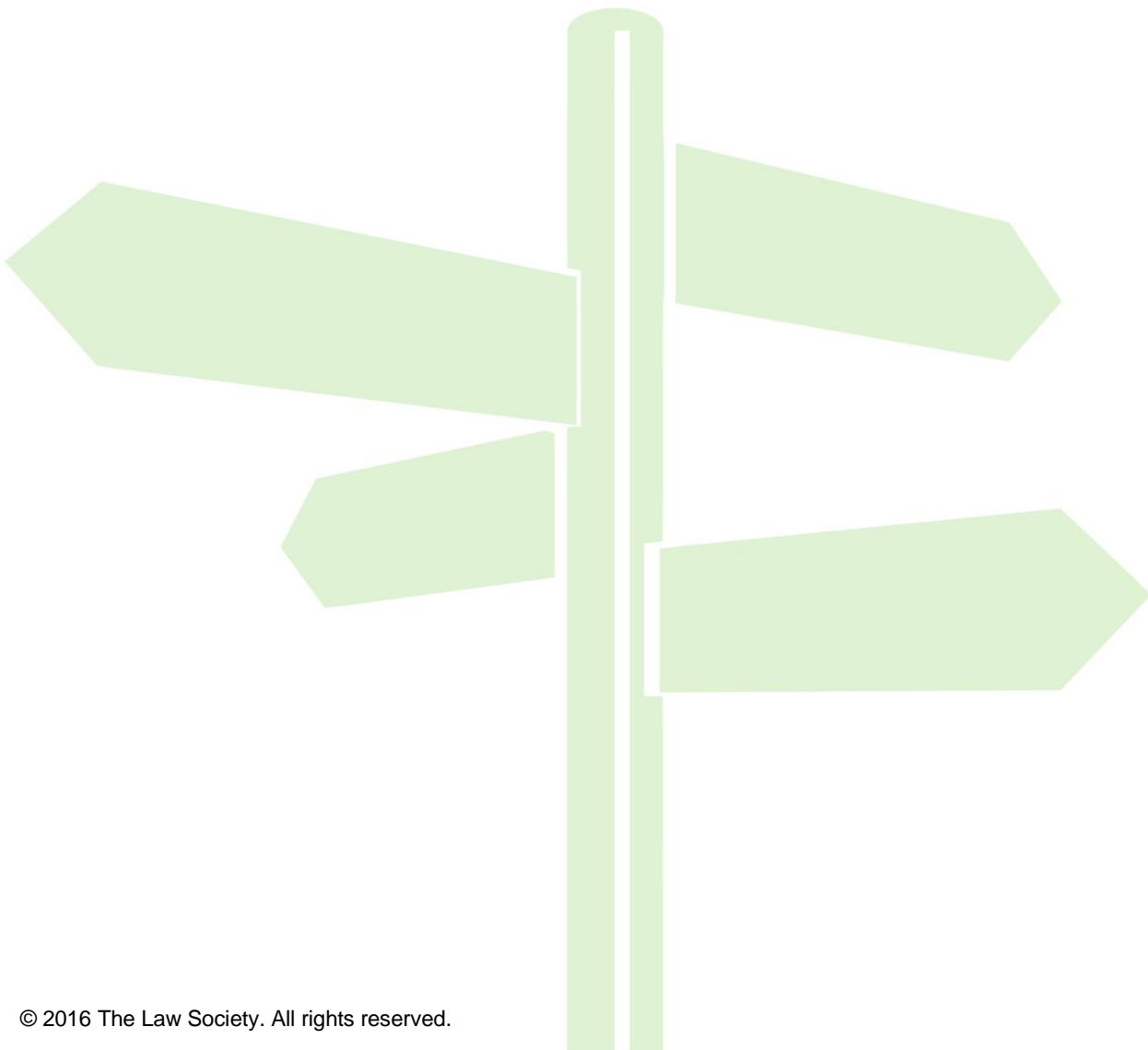


The Law Society

Exemptions for qualified lawyers from outside the UK from the Qualified Lawyers Transfer Scheme in the event of a no-deal Brexit

Junior Lawyers Division response to SRA consultation

January 2019



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In December 2018 the SRA issued a consultation seeking views on their recommended approach in relation to qualified lawyers from outside the UK and part-qualified EU candidates in the event of a no-deal Brexit. The Junior Lawyers Division response to this consultation is set out below.

The Junior Lawyers Division of the Law Society of England and Wales (the "JLD") represents LPC students, LPC graduates, trainee solicitors, and solicitors up to five years qualified. With a membership of approximately 70,000, it is important that we represent our members in all matters likely to affect them either currently and in the future.

Question 1: Do you agree that, in the event of a no-deal Brexit, we amend the QLTS regulations with effect from EU exit day:

- (a) so as to entitle all non-UK qualified lawyers who are seeking admission as an English solicitor to exemptions from the QLTS, where they can demonstrate equivalent qualifications or experience to the Day One Outcomes; provided that
- (b) These exemptions may only be granted from the whole of the multiple choice test or objective structured clinical examination or both.

Response: The JLD agree that in the event of a no-deal Brexit, the QLTS regulations should be amended with effect from exit day to entitle all non-UK qualified lawyers to apply for exemptions from the QLTS. However, the JLD are unclear as to why the exemption should be changed as per paragraph 12 and now require any exemption to be from the entirety of the MCQ or the structured clinical examination, rather than part of the test on particular legal knowledge / skills that the candidate can demonstrate equivalent qualifications or experience (as is the way currently).

We do however understand that once the SQE has been implemented, this position is likely to change.

Question 2: Are there any potential impacts arising from these recommendations that we have not already identified?

Response: The main impact the JLD can anticipate at this stage is the need for greater understanding, and most likely resource, in order for the SRA to be able to properly consider qualifications and experience equivalency from all jurisdictions around the world.

Further, as alluded to in our response to question 1 above, we are concerned that if the SRA amend the exemptions in line with paragraph 12 of the consultation paper, this may appear to be an unnecessarily high barrier to qualification in the UK and decrease the number of non-UK lawyers wishing to qualify in the UK. The JLD is unsure of the implications this may have on the UK legal system in the event of a no-deal Brexit but do not anticipate this would have a positive impact of the profession in the UK.

Conversely, if the equivalent qualifications and/or experience are not considered properly, there is a concern that the quality of a solicitor in England and Wales might be wide ranging. The JLD understands that this is one of the reasons the SRA has introduced the SQE (i.e. for consistency of quality).

Question 3: Do you agree with our approach to Morgenbesser candidates under the current training regulations?

Response: Under the current training regulations, the JLD fully supports the use of equivalent means to allow candidates to apply to the SRA for exemptions from the different requirements on the route to qualification. The JLD believes that equivalent means requires the candidate to demonstrate, with evidence, in a significant amount of detail, the reasons why they believe they should be granted an exemption from one or more of the requirements. The JLD also agrees with paragraph 27 of the consultation paper that, following Brexit, the SRA should allow candidates from all jurisdictions to apply under this principle. However as set out in our response to Question 2, it is important that there are sufficient resources and understanding of the relevant jurisdiction when making such an assessment.

Question 4: In relation to the new Authorisation of Individual regulations, do you agree with our approach to Morgenbesser candidates?

Response: The JLD is not entirely clear from the content of paragraph 28, whether the option is for:

- (a) the provision to be removed in its entirety and be unavailable to all candidates, EU and non-EU; or
- (b) the provision be amended to no longer reference that the candidate must be part-qualified under the rules of an EU member state.

The JLD does not agree with the proposed approach in paragraph (a) and would instead suggest that the SRA consider paragraph (b) and allow all part-qualified candidates from across the world to apply under the Morgenbesser principle – as per paragraph 27 of the consultation paper. The JLD does not understand why this principle should not be available to all candidates from both EU and non-EU jurisdictions following Brexit. Whilst there will no longer be specific educational requirements under the new SQE, the candidate may have obtained the equivalent of an LLB degree, or passed examinations equivalent to SQE 1 and/or 2 and therefore the JLD believes that the Morgenbesser principle should be available to candidates to demonstrate they have the equivalent part-qualified requirements and that any such applications be considered on an individual basis.

Question 5: Do you agree that this wording gives effect to the recommended approach?

Response: The JLD is unsure about the proposed wording because it could be read to suggest that a candidate may be granted exemptions from individual assessments which form the MCQ or the structured clinical examination. Please provide clarity.

Junior Lawyers Division
January 2019