

## Part 4: Qualification Rules

### Part 4 - A. Application

Rules

rQ1

Section 4.B applies to all individuals who wish to be called to the Bar and to become qualified to practise as a barrister and to Authorised Education and Training Organisations (AETOs). Until 1 January 2020, for the purposes of any proceedings of the Inns Conduct Committee, Part 4 applies as if version 3.5 of the BSB Handbook were in force.

rQ2

Section 4.C applies to all practising barristers.

### Part 4 - B. Bar Qualification Rules

Rules

#### Part 4 - B1. Purpose of the Bar Qualification Rules

Outcomes

oC1

To provide routes for the qualification of barristers that enable them to meet the Professional Statement and to provide for the regulation of AETOs.

#### Part 4 - B2. Routes to Qualification as a barrister and authorised person

Rules

rQ3

To be called to the Bar by an Inn an individual must have successfully completed the following:

- .1 academic legal training;
- .2 vocational training;
- .3 the number of qualifying sessions as a student member of an Inn as prescribed from time to time by the BSB; and
- .4 pay such fee or fees as may be prescribed.

rQ4

To obtain a provisional practising certificate a barrister must:

- .1 have successfully completed a period of pupillage satisfactory to the BSB;
- .2 pay such fee or fees as may be prescribed.

rQ5

To obtain a full practising certificate a barrister must:

- .1 have successfully completed a further period of pupillage satisfactory to the BSB;
- .2 pay such fee or fees as may be prescribed.

rQ6

The BSB shall set out in writing:

- .1 the requirements to be met by an Inn in admitting student members and calling individuals to the Bar;
- .2 the manner in which an Inn shall assess whether such individuals are fit and proper; and
- .3 the minimum requirements for the delivery of qualifying sessions by an Inn.

rQ6A

Where it is alleged that the call declaration made by a barrister on call was false in any material respect or that the barrister has engaged before call in conduct which is dishonest or otherwise discreditable to a barrister and which was not, before call, fairly disclosed in writing to the Inn calling them or where any undertaking given by a barrister on call to the Bar is breached in any material respect that shall be treated as an allegation of a breach of this Handbook and will be subject to the provisions of Part 5.

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**Exemptions****Rules****rQ7**

The BSB may grant exemptions from all or part of the requirements set out in rQ3 to rQ5 above.

**rQ8**

In deciding whether to grant an exemption from part or all of any component of training, the BSB will determine whether the relevant knowledge and experience of the applicant make it unnecessary for further training to be required.

**rQ9**

An exemption from part or all components of training may be granted unconditionally or subject to conditions, which may include in an appropriate case:

- .1 a requirement to do training instead of the training prescribed by this Section; and/or
- .2 a condition that the applicant must pass a Bar Transfer Test.

**rQ10**

Where the BSB exempts an individual pursuant to rQ7 above, it may also:

- .1 grant exemption in whole or in part from the requirement to attend qualifying sessions; and
- .2 specify the period within which any requirement to attend qualifying sessions must be fulfilled, which may be a period ending after the individual concerned has been called to the Bar.

**rQ11**

An application for exemption under this Section must be in such form as may be prescribed by the BSB and contain or be accompanied by the following:

- .1 details of the applicant's educational and professional qualifications and experience that meets the standards required of candidates;
- .2 evidence (where applicable) that the applicant is or has been entitled to exercise rights of audience before any court, specifying the rights concerned and the basis of the applicant's entitlement to exercise such rights;
- .3 any other representations or evidence on which the applicant wishes to rely in support of the application;
- .4 verified English translations of every document relied on which is not in the English language; and
- .5 payment of such fee or fees as may be prescribed.

**rQ12**

Before deciding whether to grant any exemption under this Section, the BSB may make any further enquiries or require the applicant to provide any further information that it considers relevant.

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**Full exemption****Rules****rQ13**

If the BSB is satisfied that an applicant falls within Rule Q14, the BSB will:

- .1 exempt the applicant from any component of training prescribed by this Section which the applicant has not fulfilled; and
- .2 authorise the applicant to practise as a barrister on their being admitted to an Inn and called to the Bar subject to complying with the Handbook.

**rQ14**

The following categories of individual fall within this Rule:

- .1 an individual who has been granted rights of audience by an approved regulator and who is entitled to exercise those rights in relation to all proceedings in all courts of England and Wales;
- .2 subject to Rule Q15, an individual who has been granted rights of audience by an approved regulator and who is entitled to exercise those rights in relation to either all proceedings in the High Court or all proceedings in the Crown Court of England and Wales (but not both);
- .3 a barrister of Northern Ireland who has successfully completed pupillage in accordance with the rules of the Bar of Northern Ireland;
- .4 subject to Rule Q16, a Qualified European Lawyer.

rQ15

The BSB may exceptionally require an applicant who falls within Rule Q14.2 to do part of pupillage if it considers this necessary having regard particularly to the knowledge, professional experience and intended future practice of the applicant.

rQ16

Subject to Rules Q18 to Q20, the BSB may require a Qualified European Lawyer to pass a Bar Transfer Test if the BSB determines that:

- .1 the matters covered by the education and training of the applicant differ substantially from those covered by the academic legal training and the vocational training; and
- .2 the knowledge acquired by the applicant throughout their professional experience does not fully cover this substantial difference.

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## Registered European Lawyers

### Rules

rQ17

The Rules governing registration as a Registered European Lawyer are in Section 3.D of this Handbook.

rQ18

The BSB may not require an applicant who is a Registered European Lawyer and who falls within Rule Q20 or Q21 to pass a Bar Transfer Test unless it considers that the applicant is unfit to practise as a barrister.

rQ19

In considering whether to require an applicant who falls within Rule Q21 to pass a Bar Transfer Test, the BSB must:

- .1 take into account the professional activities the applicant has pursued while a Registered European Lawyer and any knowledge and professional experience gained of, and any training received in, the law of any part of the United Kingdom and of the rules of professional conduct of the Bar; and
- .2 assess and verify at an interview the applicant's effective and regular pursuit of professional activities and capacity to continue the activities pursued.

rQ20

To fall within this Rule an applicant must have:

- .1 for a period of at least three years been a Registered European Lawyer; and
- .2 for a period of at least three years effectively and regularly pursued in England and Wales under a Home Professional Title professional activities in the law of England and Wales.

rQ21

To fall within this Rule an applicant must have:

- .1 for a period of at least three years been a Registered European Lawyer; and
- .2 for a period of at least three years effectively and regularly pursued in England and Wales professional activities under a Home Professional Title; and
- .3 for a period of less than three years effectively and regularly pursued in England and Wales under a Home Professional Title professional activities in the law of England and Wales.

rQ22

For the purpose of this Section, activities are to be regarded as effectively and regularly pursued if they are actually exercised without any interruptions other than those resulting from the events of everyday life such as absence through illness or bereavement, customary annual leave or parental leave.

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**Partial exemption****Rules****rQ23**

If the BSB is satisfied that an applicant falls within Rule Q24, the BSB will exempt the applicant from the academic legal training and the vocational training and, if the BSB thinks fit, from part or all of pupillage.

**rQ24**

If the BSB is satisfied that an applicant falls within Rule Q24, the BSB will exempt the applicant from the academic legal training and the vocational training and, if the BSB thinks fit, from part or all of pupillage. The following categories of individual fall within this Rule:

- .1 an individual who has been granted rights of audience by another Approved Regulator and is entitled to exercise those rights in relation to any class of proceedings in any of the Senior Courts or all proceedings in county courts or magistrates' courts in England and Wales;
- .2 a Qualified Foreign Lawyer who has for a period of at least three years regularly exercised full rights of audience in courts which administer law substantially similar to the common law of England and Wales;
- .3 a teacher of the law of England and Wales of experience and academic distinction.

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**Temporary call to the Bar of Qualified Foreign Lawyers****Rules****rQ25**

A Qualified Foreign Lawyer ("the applicant") who falls within Rule Q24.2 may apply to be called to the Bar by an Inn on a temporary basis for the purpose of appearing as counsel in a particular case before a court of England and Wales without being required to satisfy any other requirements of this Section if the applicant has:

- .1 obtained from the BSB and submitted to an Inn a Temporary Qualification Certificate specifying the case for the purposes of which the applicant is authorised to be called to the Bar;
- .2 duly completed and signed a call declaration in the form prescribed by the BSB from time to time; and
- .3 paid such fee or fees as may be prescribed.

**rQ26**

The BSB will issue a Temporary Qualification Certificate if the applicant submits to the BSB:

- .1 evidence which establishes that the applicant is a Qualified European Lawyer or falls within Rule Q24.2;
- .2 a certificate of good standing; and
- .3 evidence which establishes that a professional client wishes to instruct the applicant to appear as counsel in the case or cases for the purposes of which the applicant seeks temporary call to the Bar.

**rQ27**

Admission to an Inn and call to the Bar under Rule Q25 take effect when the applicant is given notice in writing by the Inn that the applicant has been admitted to the Inn and called to the Bar under Rule Q26 and automatically cease to have effect on conclusion of the case or cases specified in the applicant's Temporary Qualification Certificate.

**rQ28**

Where an individual is dissatisfied with a decision by either the BSB or an Inn in relation to rQ3 to rQ5 and rQ7 to rQ26 above they may apply to the BSB for a review.

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**Part 4 - B3. Authorised Education and Training Organisations****Rules****rQ29**

Providers of vocational training and pupillage must be authorised by the BSB as an AETO.

rQ30

An application to become an AETO must be made in such form and be accompanied by payment of such fee or fees as may be prescribed by the BSB.

rQ31

In determining an application from an applicant to become an AETO, the BSB will have regard to the Authorisation Framework and in particular the mandatory criteria. The BSB will not approve an application to become an AETO unless it is satisfied that it is:

- .1 able to meet the mandatory criteria set out in the Authorisation Framework relevant to the application; and
- .2 a suitable provider for the purposes of the Authorisation Framework.

rQ32

The BSB may grant authorisation to an AETO on such terms and conditions as it considers appropriate including the period of authorisation.

rQ33

The BSB may vary, amend, suspend or withdraw authorisation of an AETO in the following circumstances:

- .1 the AETO has applied for such variation, amendment, suspension or withdrawal;
- .2 the AETO ceases to exist, becomes insolvent or merges;
- .3 the AETO fails to comply with conditions imposed upon its authorisation;
- .4 the BSB is of the view that the AETO has failed or will fail to fulfil the mandatory requirements set out in the Authorisation Framework;
- .5 the BSB is of the view that the AETO is not providing the training for which it was authorised to an adequate standard or there has been a material change in the training provided; or
- .6 the BSB is of the view that the continued authorisation of the AETO would inhibit the Regulatory Objectives.

rQ34

An AETO which is dissatisfied by a decision in relation to rQ31 – rQ33 above may apply to the BSB for a review.

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## Part 4 - B4. Review and Appeals

### Rules

rQ35

Where provision is made under this Section for a review by the BSB of a decision, any request for such a review must be accompanied by:

- .1 a copy of any notice of the decision and the reasons for it received by the person requesting the review (“the applicant”);
- .2 where the decision is a decision of an Inn or the ICC, copies of all documents submitted or received by the applicant which were before the Inn or the ICC;
- .3 any further representations and evidence which the applicant wishes the BSB to take into account; and
- .4 payment of such fee or fees as may be prescribed.

rQ36

Where the decision under review is a decision of an Inn, the BSB will invite the Inn to comment on any further representations and evidence which the applicant submits under Rule Q35.3.

rQ37

On a review under this Section the BSB:

- .1 may affirm the decision under review or substitute any other decision which could have been made on the original application;
- .2 may in an appropriate case reimburse the fee paid under Rule Q35.4; and
- .3 will inform the applicant and any other interested person of its decision and the reasons for it.

rQ38

Where provision is made under this Section for a review of a decision by the BSB, this review may be delegated to an Independent Decision-Making Panel, where specified by the BSB.

rQ39

Where under this Section provision is made for a review by the BSB of a decision, no appeal may be made to the High Court unless such a review has taken place.

rQ40

An individual who is adversely affected by a decision of the BSB under Section B.2 may appeal to the High Court against the decision.

rQ41-rQ129

Removed.

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## Part 4 - C. The CPD Rules

Rules

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### The mandatory continuing professional development requirements (Rules Q130-Q131)

Rules

rQ130

For the purpose of this Section 4.C:

- .1 “calendar year” means a period of one year starting on 1 January in the year in question;
- .2 “continuing professional development” (“CPD”) means work undertaken over and above the normal commitments of a barrister and is work undertaken with a view to developing the barrister’s skills, knowledge and professional standards in areas relevant to their present or proposed area of practice in order to keep the barrister up to date and maintain the highest standards of professional practice.
- .3 “CPD Guidance” means guidance issued by the Bar Standards Board from time to time which sets out the CPD structure with which an EPP barrister should have regard to.
- .4 “EPP” means the Established Practitioners Programme which requires barristers, once they have completed the NPP, to undertake CPD during each calendar year in accordance with these Rules.
- .5 the “mandatory requirements” are those in Rules Q131 to Q138 below.
- .6 “NPP” means the New Practitioner Programme which requires barristers to complete CPD in their first three calendar years of practice in accordance with these rules.
- .7 a “pupillage year” is any calendar year in which a barrister is at any time a pupil.
- .8 a “learning objective” is a statement of what a barrister intends to achieve through their CPD activities for that calendar year with reference to a specific aim and one or more outcomes.

rQ131

Any practising barrister who, as at 1 October 2001, had started but not completed the period of three years referred to in the Continuing Education Scheme Rules at Annex Q to the Sixth Edition of the Code of Conduct must complete a minimum of 42 hours of CPD during their first three years of practice.

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#### Guidance to Rule Q131

Guidance

gQ1

Rule rQ131 is intended to apply only in those limited circumstances where a barrister started practice before 1 October 2001 but after the NPP first came into force, left practice before completing the NPP, but has since returned. Rule rQ131 requires them to finish their NPP during whatever is left of their first three years of practice.

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**The mandatory continuing professional development requirements (Rule Q132)**[Rules](#)**rQ132**

Any practising NPP barrister who starts practice on or after 1 October 2001 must during the first three calendar years in which the barrister holds a practising certificate after any pupillage year complete a minimum of 45 hours of CPD.

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**Guidance to Rule Q132**[Guidance](#)**gQ2**

NPP barristers should have regard to rQ137 and the NPP guidance which will note the details of any compulsory courses the NPP barristers must complete. It also provides guidance as to the types of activities that count towards CPD.

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**The mandatory continuing professional development requirements (Rules Q133-Q134)**[Rules](#)**rQ133**

Subject to Rule Q136, any EPP barrister who holds a practising certificate or certificates during a calendar year must undertake CPD.

**rQ134**

An EPP barrister who is required to undertake CPD must:

1. prepare a written CPD Plan setting out the barrister's learning objectives and the types of CPD activities they propose to undertake during the calendar year
2. keep a written record of the CPD activities the barrister has undertaken in the calendar year
3. keep a written record in the CPD Plan for each calendar year of:
  - a. the barrister's reflection on the CPD they have undertaken;
  - b. any variation in the barrister's planned CPD activities; and
  - c. the barrister's assessment of their future learning objectives.
4. Retain a record of the CPD Plan and completed CPD activities for three years.
5. submit to the Bar Standards Board an annual declaration of completion of CPD in the form specified by the BSB.

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**Guidance to Rules Q133-Q134**[Guidance](#)**gQ3**

EPP barristers who are required by these Rules to undertake CPD should refer to the CPD Guidance. The CPD Guidance provides further detailed information which EPP barristers should have regard to when planning, undertaking and recording their CPD. The CPD Guidance is not prescriptive. Its purpose is to provide a structure that would represent good practice for most barristers when considering their CPD requirements.

**gQ4**

The CPD Guidance explains that these Rules do not specify a minimum number of CPD hours which an EPP barrister must undertake in a calendar year: it is the responsibility of the individual barrister to determine the CPD activities they will undertake in order meet the requirements of CPD. The Bar Standards Board will assess and monitor barristers' compliance with CPD.

**gQ5**

The underlying principle behind the requirement to plan CPD and set learning objectives is that barristers consider their own circumstances and development needs when they complete CPD activities. This best ensures that activities completed contribute to the development of the barrister's practice.

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**The mandatory continuing professional development requirements (Rules Q135-Q138)****Rules****rQ135**

Upon the request of the Bar Standards Board, a barrister must produce their CPD Plan and record of CPD activities for assessment.

**rQ136**

Rule Q133 does not apply:

.1 in the case of a barrister to whom Rule Q131 applies, to any calendar year forming or containing part of the period of 3 years referred to in Rule Q131; or

.2 in the case of a barrister to whom Rule Q132 applies, during any pupillage year or during the first three calendar years in which the barrister holds a practising certificate.

**rQ137**

The Bar Standards Board may, by resolution, specify the nature, content and format of courses and other activities which may be undertaken by barristers (or by any category of barristers) in order to satisfy the mandatory requirements.

**rQ138**

The Bar Standards Board may, by resolution and after consultation with the Inns, Circuits and other providers as appropriate, vary the minimum number of hours of CPD which must be completed by an NPP barrister in order to satisfy any of the mandatory requirements.