

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.

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.

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.

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.

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.

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.

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.

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.

Part 4 - C. The CPD Rules

Rules

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*.

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*.

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.

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.

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.

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.

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.