

## Release notes for SRA Handbook, Version 8

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1 October 2013

The eighth version of the Handbook was published on 1 October 2013.

The changes contained in Version 8 came into effect on 1 October 2013 (unless otherwise stated below) and the key changes are summarised in these Release notes. The notes give a brief update only and you will need to refer to the Handbook itself for full details. Any sets of rules or regulations not referred to below remain substantially unchanged in this version.

There are five groups of changes contained in Version 8:

- The SRA Indemnity Insurance Rules 2013 - 14. (For further information see below.)
- The new SRA Quality Assurance Scheme for Advocates (Crime) Regulations 2013, implementing the new SRA quality assurance scheme for criminal advocates, which came into effect on 30 September 2013. Consequential amendments are made to the SRA Higher Rights of Audience Regulations 2011, with one minor change to the SRA Practice Framework Rules 2011. The SRA Quality Assurance Scheme for Advocates (Crime) Notification Regulations 2012 are repealed.
- Changes to the SRA Authorisation Rules, SRA Practising Regulations and SRA Accounts Rules to implement the proposals in the Red Tape Initiative – Second Phase. Broadly, these amendments remove the duty of the COLP/COFA in a "traditional" law firm to report non-material breaches of the rules, and simplify the practising certificate renewal process following certain events, such as the imposition of disciplinary sanctions.
- The SRA Overseas Rules 2013 introduce a new section to the SRA Handbook containing new overseas provisions. Consequential amendments have been made to a number of other sets of rules, in particular the SRA Principles, SRA Code of Conduct (which now includes a new Chapter 13A dealing with practice overseas), and the definitions relating to overseas practice in the Glossary. It should be noted that certain consequential amendments to the SRA Authorisation Rules and SRA Practice Framework Rules, which implement the notification and reporting requirements for the new 'overseas practice' vehicle, will come into effect from 1 October 2014. Given their delayed implementation, these amendments will be included in a future version of the Handbook, but are effected by the [SRA Amendment to Regulatory Arrangements \(Overseas Rules\) Rules 2013 \(PDF 13 pages, 117K\)](https://www.sra.org.uk/globalassets/documents/solicitors/handbook/appendices/amendment-regulatory-arrangements-overseas-rules-2013.pdf) [https://www.sra.org.uk/globalassets/documents/solicitors/handbook/appendices/amendment-regulatory-arrangements-overseas-rules-2013.pdf].
- A set of miscellaneous amendments. Broadly, these seek to achieve general clarification; better alignment of certain provisions with the Legal Services Act (e.g. the changes to the SRA Disciplinary Procedure Rules); the correction of minor mistakes; and the updating of terminology and references (e.g. to reflect the changes to the names of the Legal Services



Commission and the Criminal Records Bureau to the Legal Aid Agency and the Disclosure and Barring Service respectively).

- The SRA Suitability Test is updated in line with changes to the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 which introduced 'protected' convictions and cautions.

## **SRA Principles 2011**

The application provisions of the SRA Principles to overseas practice have been amended as a result of the introduction of the new SRA Overseas Rules. Broadly, where a firm or individual is practising overseas (as defined), the Overseas Principles set out in the Overseas Rules will apply.

## **SRA Code of Conduct 2011**

The outcomes which referred to overseas practice have been removed, and a new Chapter 13A, with a new set of outcomes, added in order to cover the conduct requirements when a regulated individual or entity is practising temporarily overseas. This ensures, amongst other things, that the European Cross-border Rules, and any other rules that apply in the jurisdiction in which the legal service is being supplied, also apply to temporary practice. The new definition of "established" in the Glossary explains the distinction between temporary and permanent practice overseas.

## **SRA Accounts Rules 2013**

Amendments have been made throughout the rules following the abolition of the Legal Services Commission and its replacement by the Legal Aid Agency.

An amendment has been made to guidance note (i) to rule 6 as a result of the second phase of the Red Tape Initiative to reflect the removal of the obligation of a COFA of a recognised body/recognised sole practitioner to report non-material breaches to the SRA.

Following changes to the regulation of overseas practice, a number of definitions have been changed in Part 7 of the rules for clarification, in line with amendments to the SRA Handbook Glossary. "Client account (overseas practice)" has been replaced by "client account (overseas)", "client money (overseas practice)" by "client money (overseas)", "firm (overseas practice)" by "firm (overseas)" and "manager (overseas practice)" with "manager (overseas)". In addition, and again for clarification, two references to "overseas practice" have been replaced by "practice from an office outside England and Wales".

## **SRA Practice Framework Rules 2011**

The rules have been updated with consequential amendments flowing from the new overseas provisions and QASA provisions, see above.

## **SRA Authorisation Rules for Legal Services Bodies and Licensable Bodies 2011**

Rule 8.5 has been amended to limit the reporting responsibilities of COLPs and COFAs in recognised bodies.

A new rule 8.11 introduces an obligation on an authorised body entering the Cessation Period not to undertake legal activities, save as required to discharge obligations within the scope of existing instructions, or which is necessary in connection with the discharge of such obligations.

Rule 21 has been expanded to clarify the effective date of a licensed body's authorisation to better reflect the LSA.

Amendments have been made to Rule 34 to clarify the matters that need to be recorded on the register of authorised bodies, for public access, in accordance with the LSB regulation in this area.

For changes in relation to the new overseas provisions, see above.

Guidance notes have been augmented in line with these changes.

## **SRA Practising Regulations 2011**

There have been changes to regulation 3 to remove unnecessary regulation. These are, firstly, limiting the need to disclose insolvency matters under regulation 3.1(k). And, secondly, the removal of the requirement to apply six weeks in advance for a replacement practising certificate, or for renewal of registration in the register of European lawyers, in cases where regulation 3 applies.

Regulation 4.8 has been amended to limit the reporting responsibilities of COLPs and COFAs in recognised bodies.

A new regulation 4.15 introduces an obligation on a recognised sole practitioner's firm entering the Cessation Period not to undertake legal activities, save as required to discharge obligations within the scope of existing instructions, or which is necessary in connection with the discharge of such obligations.

Guidance notes have been augmented in line with these changes.

## **SRA Indemnity Insurance Rules 2013**

Changes to the Qualifying Insurer's Agreement and the SRA Indemnity Insurance Rules (including the Minimum Terms and Conditions for compulsory professional indemnity insurance) have been made to implement the third stage of the SRA's Financial Protection Review.

The principal changes are as follows.

## **Change of name**

The name of the agreement has been changed from the Qualifying Insurer's Agreement (QIA) to the Participating Insurer's Agreement (PIA). This reflects the fact that in order to be eligible to be a "participating insurer" an insurer must be an "authorised insurer" as defined by section 87(1A) of the Solicitors Act 1974. The SRA does not impose any additional qualifying criteria.

The term "qualifying insurers" has been replaced by "participating insurers" but policies governed by the agreement are still referred to as "qualifying insurance".

Appropriate changes have been made in the agreement, the SRA Indemnity Insurance Rules and the Glossary.

## **Closure of the ARP**

The assigned risks pool (ARP) has closed from 30 September 2013, save in respect of prior year obligations and any applicable run-off cover. Such obligations will continue pursuant to the terms of the QIA applicable to the relevant indemnity period.

The provisions relating to the ARP have therefore been removed from the PIA and the SRA Indemnity Insurance Rules. Changes have been made in the SRA Indemnity Insurance Rules (rules 9 to 12, 14, 15 and Appendix 2).

## **Backdating of Cover**

Participating insurers that agree to insure a firm that is in the Extended Indemnity Period (EIP) or Cessation Period (CP) with another insurer are required to backdate cover to the commencement of the EIP.

## **Variable Renewal Dates**

Participating insurers are permitted to issue policies of qualifying insurance incepting on or after 1 October 2013 with end dates other than 30 September. Participating insurers are entitled to issue such policies with policy periods of any length (though all policies must still provide for coverage during the EIP and CP).

## **Variations**

Due to the introduction of variable renewal dates, amendments have been made to ensure that any variation to the PIA and MTC introduced must be made to any policy on renewal or extension, and must not be delayed for a period of longer than 12 months.

## **Reporting**

To ensure that the SRA is fully apprised of firms that have entered the EIP and CP, the reporting obligations applicable to both participating insurers and firms

have been expanded. Changes have been made to rule 17 of the SRA Indemnity Insurance Rules.

## **SRA Disciplinary Procedure Rules 2011**

Section 99 of the Legal Services Act 2007 refers to a list of activities that a person can be disqualified from. Introducing "disqualify", "disqualified" and "disqualification" as defined terms in the Rules will avoid any confusion. The words "licensed body", which appear within section 99 of the Legal Services Act 2007, have been removed (in most cases) from the Rules to eliminate duplication and avoid any confusion about the meaning of "licensed body" as in section 99 it means any licensed body and not just a body licensed by the SRA.

## **SRA Overseas Rules 2013**

The SRA Overseas Rules (together with Chapter 13A and the new definitions in the Glossary) create a new regime for international practice by SRA regulated individuals and entities. The Overseas Rules apply to regulated individuals established outside England and Wales and to regulated entities which have established operations under their control outside England and Wales.

These Overseas Rules replace the SRA Principles and SRA Code of Conduct for circumstances in which individuals or entities are 'practising overseas' (as defined in the additions to the Glossary). Instead they apply a set of 'Overseas Principles' which are designed to be proportionate and outcomes focused. The Rules also explain the circumstances in which the full Handbook may apply to an Overseas Practice and what might happen if there were to be a conflict with local rules. The Overseas Rules also contain the full reporting and notification requirements which apply to any individual established overseas or authorised body with one or more overseas practices under its control.

## **SRA Handbook Glossary 2012**

The changes to the SRA Indemnity Insurance Rules have necessitated:

- the insertion of definitions of "participating insurer" and "participating insurer's agreement";
- the amendment of the definitions of "ARP", "cessation period", "difference in conditions policy", "extended indemnity period", "insolvency event", "policy", "policy default", "policy period", "run-off firm", "SIIR" and "SRA Indemnity Insurance Rules";
- the deletion of the definitions of "ARP default premium", "ARP policy", "ARP premium", "ARP run-off policy", "ARP run-off premium", "eligible firm", "firm in default", "period of default", "qualifying insurer", "qualifying insurer's agreement", "special measures" and "successor firm".

The new overseas provisions have introduced a number of new definitions and necessitated amendments to existing ones - see "connected practice", "established", "overseas practice", "practice", "practising overseas",

"regulated individual", "responsible authorised body", "separate business", "SRA Overseas Rules", and "temporary practice overseas". For consequential changes to SRA Accounts Rules definitions in the Glossary, see the Accounts Rules entry above.

The definitions of "appointed person", "employee", "employer", "private legal practice" and "private practice" have been amended to reflect the fact that the Legal Services Commission has become the Legal Aid Agency.

The definition of "related authorised body" has been amended to ensure that the provisions which came into effect on 1 April 2013 permitting a COLP/COFA to be in a related authorised body are fully effective for recognised sole practitioners.

The new SRA Quality Assurance Scheme for Advocates (Crime) Regulations 2013 have necessitated:

- the insertion of definitions for "accreditation", "CAEF", "full accreditation", "provisional accreditation", "QASA", "re-accreditation", and "SRA QASA Regulations";
- the amendment of the definitions of "criminal advocacy" and "you".