

Legal Services Act: New forms of practice and regulation

Consultation paper 9

Draft SRA Practising Regulations [2009]

11 April 2008

Introduction	3
1. Overview and background	5
The existing regulations	5
The need for change	5
Name of a sole practitioner	6
Section 12 of the Solicitors Act.....	6
Conditions	6
2. Regulation 1 – General requirements for applications.....	6
3. Regulation 2 – Applications for practising certificates and registration.....	7
4. Regulation 3 – Application following certain events.....	7
5. Regulation 4 – Application to be a recognised sole practitioner	8
6. Regulation 5 – Applications for reinstatement	9
7. Regulation 6 – Conditions.....	9
8. Regulation 7 – Appeals.....	10
9. Regulations 8 and 9 – Commencement, replacement and renewal dates, and Expiry, revocation and reinstatement.....	10
10. Regulations 10 to 13 – The registers, and certificates.....	11
11. Regulation 14 and 15 – Information requirements and notifying third parties.....	12
12. SRA reconsideration of decisions made under these regulations	12
Questions.....	12
Deadline for receipt of responses	13
How to respond.....	14
Annex 1 – Draft SRA Practising Regulations [2009].....	15
Part 1 – Applications, conditions and appeals.....	15
Regulation 1 – General requirements for applications under these regulations	15

Regulation 2 – Applications for practising certificates and registration.....	16
Regulation 3 – Application following certain events.....	17
Regulation 4 – Application to be a recognised sole practitioner	20
Regulation 5 – Applications for reinstatement	21
Regulation 6 – Conditions.....	21
Regulation 7– Appeals.....	22
Part 2 – Duration, expiry and revocation of practising certificates and registrations.....	23
Regulation 8– Commencement, replacement and renewal dates	23
Regulation 9 – Expiry and revocation	24
Part 3 – The registers, practising certificates and certificates of registration	26
Regulation 10 – The register of holders of practising certificates	26
Regulation 11– the register of European lawyers.....	26
Regulation 12 – the register of foreign lawyers	27
Regulation 13 – Practising certificates and certificates of registration.....	28
Part 4 – Information requirements, notifying third parties and review of decisions	28
Regulation 14 – Information requirements.....	28
Regulation 15 – Notifying third parties of decisions.....	29
Regulation 16 – SRA review of decisions made under these regulations	29
Part 5 – Interpretation, commencement and repeals	30
Regulation 17 – Interpretation	30
Regulation 18 – Commencement and repeals	30
Annex 2 – Section 12 of the Solicitors Act 1974 (to be repealed).....	31

Introduction

This consultation invites you to comment on the draft SRA Practising Regulations, which are annexed to the paper and which we hope to introduce in July 2009. The SRA Practising Regulations have been drafted to implement a number of changes made by the [Legal Services Act](#) (the Act). They deal with practising certificates for solicitors and registration of European and foreign lawyers, authorisation of solicitors and European lawyers who are sole practitioners, and associated processes.

Our existing regulations have to be amended

- to reflect new SRA powers to make rules and regulations about practising certificates and registration, often in place of prescriptive statutory provisions which the Act repeals, and
- to introduce a new regime for the authorisation of solicitors and European lawyers who are sole practitioners, as required under the Act.

The intention is that sole practitioners will be regulated by the SRA in broadly the same way as recognised bodies, but the authorisation process for sole practitioners will be part of the practising certificate or registration process and not part of the “recognised body” recognition process.

In November 2007, the Solicitors Regulation Authority (SRA) published a policy paper which contains much of the background to our work in implementing the changes the Act will bring about. That policy paper—[Legal Services Act: New forms of practice and regulation](#)—outlines our initial thoughts on implementing key provisions in the Act which change the SRA’s regulatory powers and obligations to facilitate “firm-based regulation” and legal disciplinary practices (LDPs). The policy paper also sets out our “design principles”, which include:

- developing streamlined, simple and clear rules, regulations; processes and procedures;
- not imposing restrictions over and above those provided for in the Act unless they are necessary in the consumer and public interest;
- being as open as possible in planning for changes and consulting with all interested parties;
- introducing change in an evolutionary way and so as to minimise or offset regulatory burdens; including, if appropriate, the use of “passporting” procedures for new regulatory requirements.

Many of the processes and requirements in the draft are already in place, either in the current legislation or in the current regulations. We have no wish to disrupt those we regulate unnecessarily and we have tried to build on these existing processes and requirements, introducing new processes or requirements only to the extent necessary to implement the Act or where we have identified a need, in the public interest, to do so.

Although a legislative framework for firm-based regulation will modernise and improve the regulatory environment for solicitors it will not (and cannot) replace the need for the individual authorisation schemes under which the SRA enrolls solicitors and issue practising certificates, and registers European lawyers. Nor does it replace the scheme for registering foreign lawyers for the purpose of joint practice in England and Wales with solicitors. The Act does, however, require us to make considerable changes to these individual processes.

The draft SRA Practising Regulations bring together the provisions of three sets of regulations:

- [the Practising Certificate Regulations 1995](#),
- [the European Lawyers Registration Regulations 2000](#) and
- [the Foreign Lawyers Registration Regulations 1995](#).

The draft Regulations are intended not only to implement the Act but to reflect our “design principles, by bringing together, lining up and simplifying the provisions of these three current sets of regulations. They are drafted to

- introduce an authorisation regime for solicitors and registered European lawyers (RELS) as “recognised sole practitioners”,
- amend and introduce new provisions about applications and appeals relating to individual practising certificates and registration, and also the authorisation of recognised sole practitioners,
- “passport” sole practitioners into the new authorisation regime (rather than requiring them all to make initial applications at a particular time) provided they are already legitimately practising as sole practitioners under current rules,
- require all “passported” sole practitioners to renew authorisation in October 2009, supplying on renewal much the same information as a partnership which is a recognised body would be required to provide,
- introduce new provisions required or permitted by the new legislation, governing the discretion to refuse a practising certificate or registration and to impose conditions on a practising certificate or registration,
- provide for the duration, expiry and revocation of practising certificates, registrations and authorisations and for the information to be kept on the relevant registers, shown on a practising certificate or certificate of registration, and made available to the public.

The consultation is aimed at all those interested in the provision and regulation of legal services, including consumers.

The SRA Practising Regulations are likely to affect anyone wishing to practise as a solicitor, REL or registered foreign lawyer(RFL), and any solicitor and REL practising or intending to practise in England and Wales as a sole practitioner.

Consumer bodies and those who are (or hope to become) consumers of legal services are more likely to be interested in the provisions about the keeping of the registers, and what information which will be available to the public about the standing and authorisation of individual solicitors, RELs and RFLs.

During early 2008 we published a number of consultation papers on specific aspects of the project. Most of them relate to the introduction of firm-based regulation for partnerships and to the introduction of LDPs but [Consultation paper 2](#) on changes to the “framework of practice” rules in the Solicitors’ Code of Conduct 2007 also deals with changes to rules on in-house practice, overseas practice and sole practice and therefore links most closely with the individual processes dealt with here.

The deadline for receipt of responses to the present consultation is 9 June 2008. However, as we are working to a tight schedule, we would be grateful if you could submit your response before the end of May 2008.

1. Overview and background

The existing regulations

- 1.1 The current regulations governing procedures in relation to practising certificates are the Practising Certificate Regulations 1995 (the PC regulations). The European Lawyers' Registration Regulations 2000 (the REL regulations) govern procedures in relation to REL registration and the Foreign Lawyers' Registration Regulations 1995 (the RFL regulations) govern procedures in relation to RFL registration. They all need to be amended following changes to legislation.
- 1.2 The REL regulations need to be more or less the same as those for solicitors. The Secretary of State for Justice is expected to make an Order soon which will help us to amalgamate the PC regulations and the REL regulations.
- 1.3 The RFL regulations cannot be completely aligned with the PC regulations and the REL regulations. The purpose of registration as an RFL is to enable the lawyer to carry on a joint practice in England and Wales with solicitors; but a foreign lawyer has no general obligation to register. However, in order to make our procedures more consistent, transparent and easier for people to understand we have included the provisions for RFLs in the SRA Practising Regulations.

The need for change

- 1.4 The foremost change required is that the SRA has to make rules prohibiting a solicitor (or REL) from practising in England and Wales as a sole practitioner unless the solicitor's practising certificate (or the REL's registration) carries
"an endorsement ... authorising him to practise as a sole solicitor (a "sole solicitor endorsement")"
The rules must also prescribe the circumstances in which a solicitor or REL is to be regarded as suitable to be a sole practitioner.
- 1.5 We have proposed amendments to rule 12 of the Solicitors' Code of Conduct 2007 (see [Consultation paper 2](#)) to include the prohibition. We propose to include the suitability criteria and provisions about applications in the SRA Practising Regulations. In addition, we propose to minimise disruption and expense for existing sole practitioners by way of transitional provisions under which all solicitors and RELs practising legitimately in England and Wales as sole practitioners on 1 July 2009 will become recognised sole practitioners on that day. However, we will gather much the same information from "passported" solicitors as we will require of new sole practitioners, because all sole practitioners who are "passported" on 1 July 2009 will have to apply for renewal of recognition by 31 October 2009.
- 1.6 In addition to setting up a scheme for the authorisation of sole practitioners the SRA will need to make new rules and regulations in place of a number of statutory provisions which are to be repealed, governing matters such as:
 - the form and manner of all applications (including applications for authorisation as a recognised sole practitioner),
 - the commencement, duration, expiry and revocation of practising certificates, registrations, and authorisation as a recognised sole practitioner,
 - appeals to the High Court (instead of to the Master of the Rolls, as now) against decisions under the regulations if no statutory provisions already exist,

- provisions whereby if an application has been neither granted nor refused within a specified period an appeal may be brought as if the application had been refused,
- provisions about what information is to be on the registers and whether it is to be made available to the public, and
- provisions about matters which must be notified to the SRA.

Name of a sole practitioner

1.7 Firms operated by sole practitioners often use practising styles (the firm name) rather than the name of the individual concerned. The registers kept by the SRA will need to show the recognised sole practitioner's own name and also the firm name. The SRA Practising Regulations therefore require a recognised sole practitioner to opt for a firm name which will appear on register. Amendments proposed to rule 7 of the Solicitors' Code of Conduct 2007 would require that the firm name and number appears on the sole practitioner's notepaper. A firm name for a recognised sole practitioner can of course be that individual's own name.

Section 12 of the Solicitors Act

1.8 Currently, unless section 12 of the Solicitors Act 1974 (attached at Annex 2) applies, an application for a practising certificate must be granted provided certain basic statutory requirements are met. The Legal Services Act repeals these provisions and gives the SRA the power to make rules about when an application may be refused or a condition imposed. This power applies also in relation to REL registration. The new provisions are contained in regulation 3,

Conditions

1.9 The Act also gives the SRA more flexible powers to impose conditions on practising certificates and registrations. Conditions in relation to solicitors and RELs of a particular description must be prescribed in rules.

2. Regulation 1 – General requirements for applications

2.1 Regulation 1 sets out requirements which are common to all applications made under the SRA Practising Regulations. As now:

- every individual applicant is responsible for ensuring that details about him or her are correct and complete, even if the form is completed by the firm, and
- the applicant must personally sign the form (either electronically or on paper) unless written permission has been given in exceptional circumstances for another solicitor (or REL) to sign, or the application is made on a "bulk" form and completed and signed on behalf of a number of applicants in one organisation.

2.3 Regulation 1 also specifies that an application is not "made" until the SRA has received all documentation, information and fees making up the application. This is important, because an application can be appealed as if it had been refused if it is not determined within three months of the application. The time does not begin to run whilst information is still being collected in relation to an application.

2.4 Under regulation 1 the SRA must give reasons in writing when it refuses an application, imposes a condition or refuses permission to take a step for which permission is required under a condition.

3. Regulation 2 – Applications for practising certificates and registration

- 3.1 Regulation 2 covers (broadly) those applications which would at present have to be granted free of conditions if the applicant were a solicitor or an REL. It also covers all applications for registration as an RFL.
- 3.2 An application for a practising certificate must be granted if the applicant is a solicitor who
- is on the roll, and
 - is not suspended from practice, and
 - complies with or is exempt from the Solicitors' Indemnity Insurance Rules, and
 - is not subject to regulation 3 (application following certain events), and
 - applies in accordance with the Regulations.
- 3.3 An application for registration as an REL must be granted on the same terms except that being on the roll is replaced by being eligible to be an REL. There is a power refuse an application for initial registration as an REL if the SRA has evidence that the applicant is not a fit and proper person to practise in the UK.
- 3.4 Under regulation 2 a condition cannot be imposed on a practising certificate or an REL's registration – this can only happen if the application has to be made under regulation 3.
- 3.5 The criteria for granting and renewing registration as an RFL reflects different legislative provisions – the SRA has a general discretion to refuse an application. An application may be granted if the applicant:
- is eligible to be an RFL,
 - complies with or exempt from the Solicitors' Indemnity Insurance Rules,
 - is not subject to regulation 3, and
 - applies in accordance with the Regulations.

Regulation 2 specifies that if the SRA is not satisfied as to the eligibility or character of the applicant it may refuse the application, but that this does not preclude refusal for other reasons. Regulation 2 allows the SRA to impose such conditions on an RFL's registration as it thinks fit.

4. Regulation 3 – Application following certain events

- 4.1 Regulation 3 applies to an initial application for a practising certificate, an application for replacement of a practising certificate, an application for initial registration as an REL and an application for renewal of registration as an REL, if any of a number of listed circumstances apply to the applicant. These listed circumstances include most of the situations covered by the (repealed) section 12 of the Solicitors Act 1974, and some additional circumstances.
- 4.2 If regulation 3 applies, the SRA has discretion to
- grant the application,
 - refuse the application, or
 - grant the application but impose conditions on the practising certificate or registration.

If regulation 3 applies and the application is for replacement of a practising certificate or renewal of an REL's registration, the application must be made six weeks before the replacement or renewal date. This reflects the current statutory procedure and has advantages for the profession and the SRA.

- 4.3 Regulation 3 does not apply to RFLs. But the listed circumstances can be used as criteria for refusing an application for initial registration as an RFL or renewal of registration as an RFL, or for imposing a condition on an RFL's registration either on granting an application or at any other time.
- 4.4 Whilst the circumstances listed in regulation 3 reflect provisions in repealed legislation they are not exactly the same. For example, section 12(1)(a)-(c) of the Solicitors Act 1974 have not been reproduced exactly because regulation 3 deals with those circumstances in a different way.
- 4.5 The discretion under regulation 3 to refuse an application or to impose conditions is subject to exceptions which reflect existing legislation:
 - If a practising certificate or registration is granted free of conditions when certain specified provisions apply, the slate is normally wiped clean in relation to that matter for the future.
 - A suspension which has been unconditionally lifted will not bring an application within regulation 3.
 - A pending appeal in relation to bankruptcy or court proceedings removes the discretion to refuse the practising certificate or registration – except where the SRA considers the appeal proceedings to have been unduly protracted by the appellant or unlikely to succeed.

5. Regulation 4 – Application to be a recognised sole practitioner

- 5.1 Regulation 4 covers the new procedure under which a solicitor or REL is authorised to practise as a sole practitioner.
- 5.2 The statutory provisions introduced by the Legal Services Act refer to the “endorsement” of a practising certificate and to a “sole solicitor endorsement” – but initial consultations showed that this terminology was likely to prove unpopular. We therefore propose that the description on the registers, on practising certificates and certificates of registration, and on any other public-facing documentation is “recognised sole practitioner”.
- 5.3 Under the Solicitors Act as amended the SRA must set out the criteria for granting an application to be a recognised sole practitioner. There are currently no restrictions on a solicitor's and REL's freedom to practise as a sole practitioner other than the requirements of rule 5.02 of the Solicitors' Code of Conduct 2007, under which the solicitor or REL must have been entitled to practise as a lawyer for 36 months within the last 10 years and have done 12 hours' management training. The SRA has also, in particular cases, imposed conditions which effectively prohibit practice as a sole practitioner.
- 5.4 Regulation 4 provides that an application may be granted if the applicant:
 - will be practising from an office in England and Wales (there is no authorisation requirement in relation to overseas practice), and
 - is not subject to a condition prohibiting sole practice (or about to be made subject to such a condition), and

- complies with rule 5.02 of the Solicitors' Code of Conduct 2007. An application by a solicitor or REL who does not comply will be treated as including an application for a waiver of the rule.
- 5.5 An application for authorisation to be a sole practitioner may be rejected if the applicant is subject to regulation 3 or if the SRA is not satisfied that the applicant has sufficient knowledge of the provision of legal services or the management of businesses providing legal services.
- 5.6 Solicitors and RELs who have legitimately practised as sole practitioners until 1 July 2009 will be "passported", and will become "recognised sole practitioners" on 1 July 2009. All "passported" solicitors and RELs will need to apply for renewal of their authorisation by October 2009, and will probably be sent forms shortly after 1 July. When applying for renewal they will need to give much the same information as recognised bodies.

6. Regulation 5 – Applications for reinstatement

Solicitors and RELs have statutory rights to apply for (and appeal refusal of) reinstatement of a practising certificate or registration which has been suspended by the High Court, by the Solicitors Disciplinary Tribunal, or by virtue of bankruptcy. Regulation 5 provides that such applications are to be treated as made "under these regulations". In this way the provisions of the SRA Practising Regulations about the formalities of applications and appeals will apply.

7. Regulation 6 – Conditions

- 7.1 Under the new legislation the SRA may, in the public interest, impose one of the "prescribed" conditions when issuing or replacing a practising certificate or registering or renewing registration of an REL. But the condition may only be imposed on a "prescribed" category of applicant. A condition may also be imposed on a current practising certificate or registration in any other case where to do so would be in the public interest.
- 7.2 The prescribed categories of solicitor and REL who may be made subject to conditions are listed in regulation 3. It is not easy to prescribe the terms of every condition which may be imposed, as conditions may need to meet widely varying situations. For this reason the prescribed conditions have been drafted to focus primarily on their intended *effect*.
- to limit, restrict, halt or prevent the solicitor or REL engaging in activities which the SRA considers that person unsuitable to undertake,
 - to limit, restrict, halt or prevent the solicitor or REL taking steps which are putting or likely to put at risk the interests of clients, third parties or the public,
 - to require the solicitor or REL to obtain the written approval before engaging in certain business agreements or business models, or
 - to require the solicitor or REL to take steps to render his or her practice more efficient, or
 - to facilitate closer monitoring by the SRA of a solicitor's or REL's compliance with rules and regulations, or
 - (in the case of a current practising certificate or registration) in any other case where to impose the condition would be in the public interest.
- 7.3 The discretion to impose a condition on an RFL's registration is wider and derives directly from statute. But regulations 3 and 5 can, without prejudice to the SRA's wider

statutory powers, be used as criteria for imposing a condition on the registration of an RFL.

- 7.4 Regulation 6 also states that a condition takes effect immediately unless otherwise stated in the condition, and that if the SRA decides to grant an initial application for a practising certificate or registration subject to a condition it may postpone the issue of the certificate pending determination or discontinuance of any appeal.

8. Regulation 7 – Appeals

- 8.1 The new legislation provides for a number of statutory rights of appeal to the High Court. It also gives the SRA the power to provide in regulations for appeals to be made to the High Court. Regulation 7 therefore “tops up” the statutory rights by providing for appeals:

- to the High Court, against revocation (where there appears to be no statutory right),
- under the SRA's own appeals procedure, against refusal to revoke a practising certificate or registration at the request of the solicitor, REL or RFL, against refusal to withhold a solicitor's, European lawyer's or foreign lawyer's practising address from the relevant register under regulation 10, 11 or 13, and as an alternative to or before appealing to the High Court, and
- in cases where the application has not been determined within 3 months and is therefore treated as having been refused.

9. Regulations 8 and 9 – Commencement, replacement and renewal dates, and Expiry, revocation and reinstatement.

- 9.1 Statutory provisions about the commencement, replacement and renewal dates for a practising certificate will be repealed, and replaced with provisions under which the SRA may make regulations about such matters. Regulations 8 and 9 therefore replace existing statutory provisions:

- Regulation 8 provides that (as now) the replacement/renewal date for practising certificates and registrations is 31 October each year. It also includes a provision that the renewal date for authorisation as a “recognised sole practitioner” is 31 October each year.
- Regulation 9 provides two ways in which a current practising certificate, registration or authorisation as a recognised sole practitioner can be brought to an end – by expiry or by revocation. The terminology is different from that in the various statutes but the circumstances in which expiry or revocation can happen remain broadly the same.

- 9.2 Expiry happens automatically, as follows.

- A practising certificate expires when it is replaced, the solicitor is struck off the roll or dies, or on the replacement date if the practising certificate is suspended on that date.
- A REL's registration expires if the European lawyer ceases to be eligible to be an REL, dies, is removed from or struck off the register, or on the renewal date if the registration is suspended on that date.
- An RFL's registration expires if the foreign lawyer ceases to be eligible to be an RFL, dies, is removed from or struck off the register, or on the renewal date if the registration is suspended on that date.

- Authorisation as a recognised sole practitioner expires on expiry or revocation of the sole practitioner's practising certificate or registration, or the imposition of a condition prohibiting practice as a sole practitioner.

9.3 A practising certificate or registration can be revoked:

- at the request of the lawyer concerned,
- if it was granted as a result of error or fraud,
- if no application is made to replace or renew it,
- if a REL or RFL is no longer eligible to remain on the register.

9.4 The SRA may revoke authorisation as a recognised sole practitioner:

- if it was granted as a result of error or fraud
- if the practitioner is not practising from an office in England and Wales, or
- if the SRA is not satisfied that the applicant continues to meet the criteria for authorisation as a recognised sole practitioner.

9.5 The SRA must give notice, with reasons, if it decides to revoke a practising certificate, registration or authorisation (other than at the request of the lawyer concerned). This notice may be given when refusing replacement of a practising certificate or renewal of registration or at any other time. Revocation takes effect when the notice period has expired but if the decision is appealed revocation cannot normally take effect until the appeal is determined.

10. Regulations 10 to 13 – The registers, and certificates

10.1 Regulations 10 to 12 repeat and augment provisions about the information which must be on the registers and what information from the registers must be made available to the public. Each register must include slightly different information so there is a regulation for each register.

10.2 Regulation 10 deals with the register of holders of practising certificates. In addition to information currently required, it will need to show:

- the solicitor's date of birth (which will not be public information),
- any other legal profession(s) of which the solicitor is a member and entitled to practise, and the relevant jurisdiction(s),
- the commencement and replacement dates for the current practising certificate,
- a statement as to whether the solicitor is a recognised sole practitioner, and if so, the registered name of the firm and any other practising style(s) used,
- any condition to which the solicitor's practising certificate or authorisation as a recognised sole practitioner is subject.

10.3 Regulation 11 deals with the register of European lawyers. It must contain parallel information to that in the register of holders of practising certificates plus the professional titles and professional body or bodies for all Establishment Directive professions of which the lawyer is a member.

10.4 Regulation 12 deals with the register of foreign lawyers. It will contain similar information to that in the other two registers.

10.5 A REL or a RFL whose name has changed may apply to the SRA to change his or her name on the register. A solicitor would need to apply for a change of name on the roll.

- 10.6 Entries in the register are public but the SRA has a discretion – in exceptional circumstances – to withhold a practising address if it considers that to do so would be in the public interest. This provision is intended for those rare situations where there is evidence of a threat to an individual solicitor's, REL's or RFL's safety. The fact that an individual's activities are unpopular with a group which has used violence in the past will not necessarily be sufficient.
- 10.7 Regulation 13 deals with practising certificates and certificates of registration. Each must specify the full name of the individual concerned, the commencement and replacement or renewal date, any conditions to which it the practising certificate or registration subject and (in the case of a solicitor or REL), a statement as to whether the individual is a recognised sole practitioner.

11. Regulation 14 and 15 – Information requirements and notifying third parties

- 11.1 Regulation 14 lists matters which must be notified to the SRA as soon as they happen, rather than waiting to be disclosed on application for replacement of a practising certificate or renewal of registration. The situations listed include those in which the SRA might consider placing restrictions on an individual's practice and information the SRA will need in order to seek or share regulatory information from other regulatory bodies.
- 11.2 Regulation 15 lists decisions about an individual which may be notified to third parties such as a recognised body or an authorised non-SRA firm in which the individual is a manager, owner or employee, another regulatory body or a law enforcement agency.

12. SRA reconsideration of decisions made under these regulations

- 12.1 The SRA's decision-making processes are many and varied, and decisions are normally made by members of staff or outside adjudicators under powers delegated to them by the SRA Board. We intend the regulations to provide for the SRA to take steps on its own initiative to reconsider the grant or refusal of an application or the imposition or lifting of a condition if it appears that a serious mistake has been made.
- 12.2 This regulation (regulation 16) has not yet been drafted, because similar reconsideration powers will be required in relation to other decisions (such as a decision to impose a fine) and we want to ensure as much consistency as possible in the processes involved.
- 12.3 A reconsideration power of this sort should not be arbitrary or unfair, so the provision, when made, should ensure that the person concerned is given due notice of any intention to reconsider a decision and has the right to make representations and to submit evidence. Any substituted decision would need to be subject to the same notification and appeal provisions as an original decision of the same sort.

Questions

1. Do you think regulation 3 adequately replaces the current statutory provisions (section 12 of the Solicitors Act) under which the SRA can refuse applications for practising certificates and for REL registration, or impose a condition when granting an application, in specified situations? If not, please give details. (See paragraph 4 and regulation 3.)
2. Do you agree with the criteria for authorisation as a recognised sole practitioner as drafted? If not, please give details. (See paragraph 5 and regulation 4.)

3. Do you think we have adequately covered the circumstances in which we may impose a condition on a practising certificate? If not, please give details. (See paragraphs 7.1 and 7.2. and regulation 6.)
4. Can you think of any situations in which a practising certificate, registration or authorisation ought to expire automatically but which we have not included in regulation 9? (See paragraph 9.2. and regulation 9.)
5. Can you think of any other situations in which the power to revoke a practising certificate, registration or authorisation ought to arise but which we have not included in regulation 9? (See paragraph 9.3 and regulation 9.)
6. Do you agree that in addition to information currently available to the public, the following should be public information:
other legal professions of which an individual is a member and entitled to practise?
 - an individual's date of admission or first registration?
 - any conditions to which the practising certificate or registration is subject?
 - If not, please give details. (See paragraphs 10.2 and regulations 10, 11 and 12.)
7. Do you agree that an individual's date of birth should not be public information? If not, please give details. (See paragraphs 10.2 and regulations 10, 11 and 12.)
8. Do you think we have struck the right balance between transparency and the protection of individuals in reserving a discretion, in exceptional circumstances, to allow a practising address to be kept private? If not, please give details. (See paragraph 10.6 and regulations 10, 11 and 12.)
9. Do you think we have struck the right balance between transparency and the protection of individuals in reserving a discretion to issue a practising certificate which does not recite the full details, or does not refer to, an imposed condition? If not, please give details. (See paragraph 10.6 and regulations 10, 11 and 12.)
10. Do you think it would be appropriate to include in the regulations provision for the SRA to review its own decisions? If not, please give details. (See paragraph 12.)
11. If the SRA is to have the right to review its decisions, how long should the SRA have after the original decision before the review procedure must be started? (See paragraph 12.)
12. Do you think it is appropriate to include the requirements for solicitors, RELs and RFLs together in the same set of regulations? If not, please give details.
13. Do you believe any aspect of the draft SRA Practising Regulations will have a particular impact (adverse or otherwise) on any group or category of persons? If so please give details.
14. Have you any other comments on the draft SRA Practising Regulations?

Deadline for receipt of responses

The deadline for receipt of responses is 9 June 2008. However, as we are working to a tight schedule, we would be grateful if you could submit your response before the end of May 2008.

How to respond

For information about [How to respond](#), please visit our website.

- Go to www.consultations.sra.org.uk.
- Select **Draft SRA Practising Regulations [2009]**.
- Click **How to respond**.

Alternatively, go to <http://www.sra.org.uk/consultations/664.article#respond>

Annex 1 – Draft SRA Practising Regulations [2009]

Regulations and rules about

- *applications for practising certificates by solicitors and for registration by European lawyers and foreign lawyers,*
- *applications for renewal of practising certificates and registration,*
- *the keeping of the register of solicitors who hold practising certificates, the register of European lawyers and the register of foreign lawyers, and*
- *the issue of practising certificates to solicitors and the issue of certificates of registration to European lawyers and foreign lawyers*

dated [1 July 2009] and commencing [1 July 2009], made by the Master of the Rolls with concurrence of the Secretary of State and the Lord Chief Justice under section 28 of the Solicitors Act 1974, and by the Solicitors Regulation Authority Board with the concurrence, where requisite, of the Master of the Rolls, under sections 13, 13ZA, 31 and 79 of the Solicitors Act 1974 and paragraphs 2 and 3 of Schedule 14 to the Courts and Legal Services Act 1990.

Part 1 – Applications, conditions and appeals

Regulation 1 – General requirements for applications under these regulations

1.1 An application under these regulations must comprise:

- (a) the prescribed form, correctly completed,
- (b) the prescribed fee or fees,
- (c) if the application is for a practising certificate, for replacement of a practising certificate, for registration or for renewal of registration, any prescribed contribution to the Solicitors' Compensation Fund,
- (d) such additional information, documents and references as may be specified by the SRA, and
- (e) any additional information and documentation which the SRA may reasonably require.

It is not necessary to submit all documents, information and payments simultaneously, but an application will only have been made once the SRA has received all of the documentation, information and payments comprising that application.

1.2 Every applicant must ensure that all details relating to him or her given on any form prescribed under these regulations are correct and complete.

1.3 Every form submitted under these regulations must be personally signed by the applicant unless

- (a) a solicitor or registered European lawyer has been given written permission by the SRA, in exceptional circumstances, to sign on the applicant's behalf, or
- (b) the application is made wholly or partly on a prescribed form which is designed to be completed and signed on behalf of a number of applicants in one firm or organisation. In that case, the form must be signed by a solicitor or registered European lawyer who:
 - (i) is authorised to sign the form by the firm or organisation,
 - (ii) has the consent of all the persons named in the form to sign the form on

their behalf, and

- (iii) has taken reasonable steps to ensure that all details given on the form are correct and complete.

1.4 The SRA must notify its reasons in writing to the applicant when it:

- (a) refuses an application,
- (b) grants an application subject to a condition, or
- (c) refuses a permission required under a condition on a practising certificate or registration

Regulation 2 – Applications for practising certificates and registration

2.1 The following applications may be made under regulation 2:

- (a) unless regulation 3 applies, initial applications for practising certificates and applications for replacement of practising certificates under section 9 of the Solicitors Act 1974,
- (b) unless regulation 3 applies, initial applications for registration in the register of European lawyers and applications for renewal of registration in the register of European lawyers under regulation 17 of the European Communities (Lawyer's Practice) Regulations 2000, and
- (c) initial applications for registration in the register of foreign lawyers and applications for renewal of registration in the register of foreign lawyers under section 89 of the Courts and Legal Services Act 1990.

2.2 Where application is made under regulation 2 for a practising certificate or for replacement of a practising certificate the SRA must grant the application if:

- (a) the applicant's name is on the roll of solicitors,
- (b) the applicant is not suspended from practice as a solicitor,
- (c) the applicant has supplied satisfactory evidence that he or she will comply with or be exempt from the Solicitors' Indemnity Insurance Rules, and
- (d) the application is made in accordance with these Regulations,

and the SRA must not grant the application unless conditions (a) to (c) are met.

2.3 (a) Where application is made under regulation 2 for initial registration or for renewal of registration in the register of European lawyers the SRA must grant the application if:

- (i) the applicant is not (subject to (c) below) a solicitor, barrister or advocate of any of the UK jurisdictions,
- (ii) the applicant is a member, and entitled to practise as such, of an Establishment Directive profession,
- (iii) the applicant is a national of an Establishment Directive state,
- (iv) the applicant applies with the intention of practising on a permanent basis in the UK,
- (v) the applicant is not struck off the register, suspended from practising in the UK, or subject to a direction of the Tribunal prohibiting his or her restoration to the register,
- (vi) the applicant has supplied satisfactory evidence that he or she will comply

with or be exempt from the Solicitors' Indemnity Insurance Rules, and

(vii) the application is made in accordance with these Regulations,

except that if the SRA has reasonable cause to believe that the applicant is not a fit and proper person to practise in the UK it may refuse an application for initial registration.

- (b) The SRA must not grant the application unless the conditions in (a)(i) to (vi) are met.
- (c) The provisions of (a)(i) above will not apply to prevent the renewal of the registration of a European lawyer who has become a solicitor of Scotland or Northern Ireland at a time when he or she was registered both with the relevant Law Society and with the SRA.

2.4 Where application is made under regulation 2 for initial registration or for renewal of registration in the register of foreign lawyers, the following provisions apply.

- (a) The SRA may grant the application (subject to such conditions as it may think fit) if:
 - (i) the applicant is not a solicitor or barrister,
 - (ii) the applicant is a member, and entitled to practise as such, of a legal profession which is regulated within a jurisdiction outside England and Wales and is approved by the SRA in accordance with paragraph 2(2) of Schedule 14 to the Courts and Legal Services Act 1990,
 - (iii) the applicant is not struck off the register, subject to an order of the Solicitors Disciplinary Tribunal suspending his or her registration or subject to a direction of the Tribunal prohibiting his or her restoration to the register, and
 - (iv) the application is made in accordance with these Regulations.
- (b) The SRA may (without prejudice to its general discretion under paragraph 2 of Schedule 14 to the Courts and Legal Services Act 1990) reject the application if:
 - (i) the SRA is not satisfied that the applicant is eligible for registration,
 - (ii) the applicant is prohibited by the rules of his or her profession from practising as a manager of a recognised body,
 - (iii) the SRA is not satisfied that the applicant will be in compliance with the Solicitors' Indemnity Insurance Rules,
 - (iv) the SRA is not satisfied that the applicant intends to become a manager or employee of a recognised body, or
 - (v) the SRA is not satisfied that the applicant is a fit and proper person to practise as a manager of a recognised body.
- (c) A person who has been reinstated to the register under paragraph 12 of Schedule 14 to the Courts and Legal Services Act 1990 is to be treated as entitled to practise as a member of his or her home legal profession.

2.5 The granting of a practising certificate or registration free of conditions under regulation 2 does not prevent the SRA subsequently imposing a condition under regulation 6.

Regulation 3 – Application following certain events

3.1 Regulation 3 applies (subject to 3.3 below) to an initial application for a practising certificate, an application for replacement of a practising certificate, an initial

application for registration in the register of European lawyers or an application for renewal of registration in the register of European lawyers, in any of the following circumstances:

- (a) The applicant has been rebuked, reprimanded or fined in relation to a conduct matter by the Solicitors Disciplinary Tribunal or the SRA, or the Tribunal has recommended that the SRA consider imposing a condition.
- (b) The SRA has requested an explanation from the applicant in respect of a matter relating to the applicant's conduct and has notified the applicant in writing that it does not regard the applicant's response, or lack of response, as sufficient and satisfactory.
- (c) The applicant has failed to deliver within the period allowed an accountant's report required by rules made under section 34 of the Solicitors Act 1974.
- (d) The applicant's practising certificate or registration has been suspended and the suspension:
 - (i) has come to an end,
 - (ii) was continuing when the applicant's last practising certificate or previous registration expired or was revoked; or
 - (iii) is continuing.
- (e) the applicant has been suspended from practice (or suspended from practice in the UK, if the applicant is a European lawyer), and the suspension has come to an end.
- (f) The applicant's last practising certificate or previous registration expired or was revoked whilst subject to a condition.
- (g) The applicant's practising certificate or registration is currently subject to a condition.
- (h) The applicant's right to practise as a lawyer of another jurisdiction or as a lawyer of England and Wales (other than as a solicitor) is subject to a condition or restriction.
- (i) The applicant has been restored to the roll or register, having previously been struck off.
- (j) The applicant is an undischarged bankrupt.
- (k) The applicant:
 - (i) has been adjudged bankrupt and discharged,
 - (ii) has entered into an individual voluntary arrangement under the Insolvency Act 1986, or
 - (iii) has been a manager of a recognised body which has entered into a voluntary arrangement under the Insolvency Act 1986.
- (l) The applicant lacks capacity under Part 1 of the Mental Capacity Act 2005 (which includes a patient as defined by section 94 of the Mental Health Act 1983 and a person who is made the subject of emergency powers under that Act) or under any equivalent provisions in another jurisdiction.
- (m) The applicant has been committed to prison in civil or criminal proceedings in any jurisdiction and
 - (i) has been released, or

- (ii) has not been released.
 - (n) The applicant has been made subject to a judgment which involves the payment of money, other than one:
 - (i) which is limited to the payment of costs, or
 - (ii) in respect of which the applicant is entitled to indemnity or relief from another person as to the whole sum, or
 - (iii) which the applicant has paid, and supplied evidence of payment to the SRA.
 - (o) The applicant has been charged with an indictable offence.
 - (p) The applicant has been convicted of an indictable offence.
- 3.2 If regulation 3 applies:
- (a) an application for replacement of a practising certificate or for renewal of registration in the register of European lawyers must be made at least six weeks before the replacement or renewal date; and
 - (b) the SRA:
 - (i) has no discretion under regulation 3 to grant the application if the applicant does not meet the conditions in regulation 2.2(a) to (c) or 2.3(a)(i) to (vi),
 - (ii) has discretion to impose a condition or conditions in accordance with regulation 6, and
 - (iii) has discretion to refuse the application.
- 3.3 The provisions of regulation 3 are subject to the following exceptions.
- (a) Regulation 3 does not apply by virtue of 3.1(a), (b), (c), (d)(i), (e), (i), (k), (m)(i), (n), (o) or (p) if the applicant has previously applied for and obtained a practising certificate or registration free of conditions, provided that:
 - (i) the SRA was aware, when granting that application, of all the relevant circumstances, and
 - (ii) no new relevant circumstance has arisen.
 - (b) If regulation 3 applies only by virtue of 3.1(i), (m), (n) or (p) and an appeal has been made to the appropriate court against the order or judgment in question, the following provisions apply.
 - (i) The application must not be refused before the determination of that appeal, unless in the opinion of the SRA the proceedings on that appeal have been unduly protracted by the appellant or are unlikely to be successful.
 - (ii) The SRA may in the meantime postpone a decision on the application and may impose a condition on the applicant's practising certificate or registration.
 - (c) If regulation 3 applies only by virtue of 3.1(o), the application may not be refused unless the applicant is convicted, but the SRA may postpone a decision on the application and may impose a condition on the applicant's practising certificate or registration.

Regulation 4 – Application to be a recognised sole practitioner

- 4.1 An application may be made under regulation 4 by a solicitor or European lawyer:
- (a) for initial authorisation as a recognised sole practitioner:
 - (i) when making an initial application for a practising certificate or for registration in the register of European lawyers,
 - (ii) when applying for replacement of a practising certificate or for renewal of registration in the register of European lawyers, or
 - (iii) at any time during the currency of a solicitor's practising certificate or a registered European lawyer's registration; or
 - (b) for renewal of an existing authorisation as a recognised sole practitioner when applying for replacement of a practising certificate or for renewal of registration in the register of European lawyers.
- 4.2 (a) The SRA may grant an application under regulation 4 if the applicant:
- (i) will be practising from an office in England and Wales,
 - (ii) is not, and is not about to be made, subject to a condition on his or her practising certificate or registration which would prohibit practice as a sole practitioner, and
 - (iii) complies with (or has a waiver of) rule 5.02 of the Solicitors' Code of Conduct 2007.
- (b) The SRA may reject an application under regulation 4 if
- (i) the applicant is subject to regulation 3 or would be subject to regulation 3 if applying for an initial or replacement practising certificate or for initial registration or renewal of registration in the register of European lawyers.
 - (ii) the SRA is not satisfied that the applicant has sufficient skills and knowledge in relation to the provision of legal services, or
 - (iii) the SRA is not satisfied that the applicant has sufficient skills and knowledge in relation to the management of businesses providing legal services.
- (c) When granting an application under regulation 4 the SRA may impose a condition on the applicant's practising certificate or registration in accordance with regulation 5.
- 4.3 An application for initial authorisation of a solicitor or European lawyer who will not comply with 4.2(a)(iii) will be treated as including an application for a waiver of rule 5.02.
- 4.4 A solicitor or registered European lawyer who is practising as a sole practitioner from an office in England and Wales immediately before 1 July 2009 will be authorised as a recognised sole practitioner on 1 July 2009 provided that the sole practitioner concerned:
- (a) has in place professional indemnity cover under the Solicitors' Indemnity Insurance Rules, and
 - (b) is not on that date practising in breach of a condition on his or her practising certificate or registration.

Regulation 5 – Applications for reinstatement

The following applications are to be treated as made under these regulations:

- (a) an application for reinstatement of a suspended practising certificate or suspended registration in the register of European lawyers or the register of foreign lawyers under section 16(3) of the Solicitors Act 1974, and
- (b) an application for reinstatement of a suspended registration in the register of foreign lawyers under paragraph 12(2) of Schedule 14 to the Courts and Legal Services Act 1990.

Regulation 6 – Conditions

6.1 The SRA may impose one or more conditions on a practising certificate or on the registration of a European lawyer when granting an application under regulation 3 to 5, or at any time during the practising year, in the following circumstances.

- (a) The SRA considers the individual concerned unsuitable to undertake certain activities in relation to a legal practice, either at all or save as specified in the condition, and that imposing the condition will, in the public interest, limit, restrict, halt or prevent the involvement of the individual concerned in those activities.
- (b) The SRA considers that the individual concerned is putting or is likely put at risk the interests of clients, third parties or the public by taking certain steps in relation to a legal practice, and that imposing the condition will, in the public interest, limit, restrict, halt or prevent the taking of such steps by the individual concerned.
- (c) The SRA considers the individual concerned potentially unsuitable to engage in certain business agreements or business models and that imposing a condition requiring the applicant to obtain the SRA's written approval before taking certain steps will, in the public interest, reduce the risk presented to clients, third parties or the public.
- (d) The SRA considers that imposing the condition will, in the public interest, require the individual concerned to take specified steps conducive to the carrying on of efficient practice by the person concerned.
- (e) The SRA considers that imposing the condition will, in the public interest, facilitate closer monitoring by the SRA of compliance with rules and regulations on the part of the person concerned
- (e) The SRA considers that it would be in the public interest to impose the condition in any other case during the currency of a practising certificate or registration.

6.2 Without prejudice to the powers of the SRA under paragraph 2A, 12 or 13 of Schedule 14 to the Courts and Legal Services Act 1990, the SRA may when granting an application under regulation 2.1(c) or at any time during the currency of a registration, impose such conditions on a foreign lawyer's registration as it sees fit:

- (a) in circumstances falling within regulation 3.1(a) to (p),
- (b) in circumstances falling within regulation 6.1(a) to (e), or
- (c) in any other circumstances where the SRA considers imposing the condition would be in the public interest.

6.3 (a) When the SRA decides, on an initial application for a practising certificate or registration or on an application for replacement of a practising certificate or renewal of registration, to grant the application subject to a condition, it may postpone the issue of the certificate or the registration pending determination or

- discontinuance of any appeal; but
- (b) the postponement may be rescinded if in the SRA's opinion proceedings on appeal have been unduly protracted by an appellant or are unlikely to be successful.
- 6.4
- (a) When the SRA imposes a condition during the currency of a practising certificate or registration it must notify the solicitor, registered European lawyer or registered foreign lawyer concerned forthwith, giving full details of the condition and the reasons for imposing the condition.
 - (b) A condition is effective from the date of notification unless otherwise stated in the condition.

Regulation 7– Appeals

- 7.1 The rights of appeal conferred by regulation 7 supplement the statutory rights of appeal referred to in 7.4.
- 7.2 An appeal may be made to the High Court under these regulations against any of the following decisions within 28 days of the date of notification of the decision:
- (a) revocation, under regulation 9.2(a)(i) or (ii), of a solicitor's practising certificate,
 - (b) revocation, under regulation 9.2(b), of a solicitor's or European lawyer's authorisation as a recognised sole practitioner,
 - (c) revocation, under regulation 9.2(a)(i), (ii) or (iii), of registration in the register of foreign lawyers.
- 7.3 A solicitor, registered European lawyer or registered foreign lawyer may appeal under the SRA's own appeals procedure against:
- (a) refusal to revoke a practising certificate or registration under regulation 9.2(c),
 - (b) refusal to withhold a solicitor's, European lawyer's or foreign lawyer's practising address from the relevant register under regulation 10, 11 or 13.
- 7.4 A solicitor, European lawyer or foreign lawyer may invoke the SRA's own appeals procedure before exercising a right of appeal to the High Court:
- (a) under section 13(1) the Solicitors Act 1974, against refusal to issue or replace a practising certificate or refusal to renew registration in the register of European lawyers,
 - (b) under Regulation 20 of the European Communities (Lawyer's Practice) Regulations 2000 (S.I. 2000 No. 1119), against refusal to grant initial registration in the register of European lawyers,
 - (c) under paragraph 14 of Schedule 14 to the Courts and Legal Services Act 1990, against refusal to grant or renew registration in the register of foreign lawyers,
 - (d) under section 13(1) or 13ZA(6) of the Solicitors Act 1974 or regulation 20 of the European Communities (Lawyer's Practice) Regulations 2000, against refusal to grant or renew authorisation of a solicitor or registered European lawyer as a recognised sole practitioner,
 - (e) under section 13(1), 13ZA(6), 13A(6) or 16(5) of the Solicitors Act 1974, regulation 20 of the European Communities (Lawyer's Practice) Regulations 2000 or paragraph 14 of Schedule 14 to the Courts and Legal Services Act 1990, against the imposition of a condition on a practising certificate or the registration of a European lawyer or foreign lawyer,

- (f) under section 13(2) or 13A(9) of the Solicitors Act 1974, against refusal of permission to take a step for which the SRA's permission is required under a condition on a practising certificate or the registration of a European lawyer or foreign lawyer,
- (g) under section 13B(7) of the Solicitors Act 1974, against suspension of a practising certificate or registration in the register of foreign lawyers,
- (h) under regulation 20 of the European Communities (Lawyer's Practice) Regulations 2000, against suspension of registration in the register of European lawyers,
- (i) under section 13B(7) of the Solicitors Act 1974, against extension of suspension of a practising certificate or the registration of a European lawyer or foreign lawyer,
- (j) under section 13B(7) of the Solicitors Act 1974, against the suspension of authorisation of a solicitor or registered European lawyer as a recognised sole practitioner,
- (k) under section 16(5) of the Solicitors Act 1974 or paragraph 14 of Schedule 14 to the Courts and Legal Services Act 1990, against refusal to reinstate a suspended practising certificate or the suspended registration of a European lawyer or foreign lawyer,
- (i) under section 16(5) of the Solicitors Act 1974, against refusal to reinstate a suspended authorisation as a recognised sole practitioner,
- (j) under regulation 20 of the European Communities (Lawyer's Practice) Regulations 2000 against revocation of registration in the register of European lawyers,
- (k) under regulation 19 and 20 of the European Communities (Lawyer's Practice) Regulations 2000 against failure to determine, within four months, an application for initial registration in the register of European lawyers
- (l) under paragraph 14 of Schedule 14 to the Courts and Legal Services Act 1990, against failure to determine, within a reasonable time, an application for registration, renewal of registration or reinstatement of a suspended registration in the register of foreign lawyers.

7.5 With the exception of an application from which an appeal lies under 7.4(k) or (l), any application under these regulations is to be treated as refused and the refusal duly notified to the applicant on the 90th day after the application was made in accordance with regulation 1.1, if by the end of that day the SRA has not notified the applicant of its decision.

7.6 Appeals under the SRA's own appeals procedure must be made within 28 days of notification of the relevant decision.

Part 2 – Duration, expiry and revocation of practising certificates and registrations

Regulation 8– Commencement, replacement and renewal dates

- 8.1 (a) The commencement date for a practising certificate is the day on which it is entered in the register of practising certificates.
- (b) The commencement date for registration in the register of European lawyers is the day on which the lawyer's name is entered in the register.

- (c) The commencement date for registration in the register of foreign lawyers is the day on which the lawyer's name is entered in the register.
 - (d) The commencement date for authorisation as a recognised sole practitioner is the day on which the authorisation is entered in the register of practising certificates or the register of European lawyers.
- 8.2
- (a) The replacement date for a practising certificate is the 31 October following the issue of the certificate.
 - (b) The renewal date for registration in the register of European lawyers is the first 31 October following initial registration, and 31 October in each successive year.
 - (c) The renewal date for registration in the register of foreign lawyers is the first 31 October following initial registration, and 31 October in each successive year.
 - (d) The renewal date for authorisation as a recognised sole practitioner is the first 31 October following the initial authorisation, and 31 October in each successive year.

Regulation 9 – Expiry and revocation

- 9.1
- (a) A practising certificate expires:
 - (i) when a replacement certificate is issued
 - (ii) on the death of a solicitor,
 - (iii) if the solicitor is removed from or struck off the roll,
 - (iv) in the case of a practising certificate which is suspended, on the replacement date or (if it is suspended on or after the replacement date) 14 days after the suspension.
 - (b) The registration of a registered European lawyer expires:
 - (i) if the lawyer becomes a solicitor, barrister or advocate of any of the UK jurisdictions,
 - (ii) if the lawyer ceases to be a member, and entitled to practise as such, of an Establishment Directive profession,
 - (iii) if the lawyer ceases to be a national of an Establishment Directive state,
 - (iv) on the death of the lawyer,
 - (v) if the lawyer is removed from or struck off the register, or
 - (vi) in the case of a registration which is suspended, on the renewal date or (if it is suspended on or after the renewal date) 14 days after the suspension,

except that the registration of a European lawyer will not expire by virtue of the lawyer becoming a solicitor of Scotland or Northern Ireland at a time when he or she is registered both with the relevant Law Society and with the SRA.
 - (c) The registration of a registered foreign lawyer expires:
 - (i) if the lawyer becomes a solicitor or barrister,
 - (ii) if the lawyer ceases to be a member, and entitled to practise as such, of a legal profession which is regulated within a jurisdiction outside England and Wales and is approved by the SRA in accordance with paragraph 2(2) of Schedule 14 to the Courts and Legal Services Act 1990,
 - (iii) on the death of the lawyer,

- (iv) if the lawyer is removed from or struck off the register, or
 - (v) in the case of a registration which is suspended, on the renewal date or (if it is suspended on or after the renewal date) 14 days after the suspension.
- (d) Authorisation as a recognised sole practitioner expires on:
- (i) the expiry or revocation of the solicitor's practising certificate or the European lawyer's registration, or
 - (ii) the imposition of a condition on the solicitor's practising certificate or the European lawyer's registration which prohibits practice as a sole practitioner.
- 9.2 (a) The SRA may revoke a practising certificate, registration in the register of European lawyers or registration in the register of foreign lawyers:
- (i) at any time, if the SRA is satisfied that the practising certificate or registration was granted as a result of error or fraud;
 - (ii) on a date chosen by the SRA, if the replacement or renewal date has passed and the SRA has not received an application for replacement of the practising certificate or renewal of the registration made in accordance with regulation 1;
 - (iii) at any time, if the SRA is satisfied, in the case a registered European lawyer, that the lawyer has no intention of practising on a permanent basis in the United Kingdom; or
 - (iv) at any time, if the SRA is satisfied, in the case a registered foreign lawyer, that the lawyer has no intention of practising in a recognised body, or
 - (v) on refusing, under regulation 2 or 3, to replace a practising certificate or to renew a registration.
- (b) The SRA may revoke authorisation as a recognised sole practitioner at any time, if:
- (i) the authorisation as a recognised sole practitioner was granted as a result of error or fraud; or
 - (ii) the solicitor or registered European lawyer is not practising from an office in England and Wales, or
 - (iii) the SRA is not satisfied that the applicant continues to meet the criteria for authorisation as a recognised sole practitioner.
- (c) The SRA may revoke a practising certificate, registration, or authorisation as a recognised sole practitioner on the application of the person concerned but:
- (i) there is no discretion to refund any part of the fee paid for that practising year, and
 - (ii) the SRA may refuse the application if there is an outstanding complaint against the applicant or for any other reason relating to the public interest.
- 9.3 (a) When the SRA decides to revoke a practising certificate, registration, or authorisation as a recognised sole practitioner under 9.2(a) or (b) it must give the person concerned 28 days notice, with reasons. The notice may be given together with notification of refusal of an application to replace a practising certificate, renew a registration or renew an authorisation.

- (b) Revocation takes effect on expiry of the notice under (a), or on such later date as may be stated in the notice, except that if an appeal is made during the period of notice the revocation does not take effect until:
 - (i) determination or discontinuance of the appeal, or
 - (ii) if, in the opinion of the SRA, proceedings on appeal have been unduly protracted by the appellant or are unlikely to be successful, an earlier date fixed by the SRA and notified to the appellant.

Part 3 – The registers, practising certificates and certificates of registration

Regulation 10 – The register of holders of practising certificates

- 10.1 The SRA must keep a register of solicitors who hold practising certificates, which may be kept in electronic form.
- 10.2 The register must contain, in respect of each solicitor who holds a practising certificate, the following information –
- (a) full name as shown on the roll,
 - (b) date of birth,
 - (c) registration number,
 - (d) any other legal profession of which the solicitor is a member and whether the solicitor is entitled to practise as a member of that profession,
 - (e) date of admission as a solicitor,
 - (f) the commencement and replacement dates for the solicitor's current practising certificate,
 - (g) whether the solicitor is a recognised sole practitioner, and if so:
 - (i) the registered name of the solicitor's sole practice, and
 - (ii) any other practising styles used by the solicitor as a sole practitioner,
 - (h) the solicitor's place or places of business;
 - (i) any condition to which the solicitor's practising certificate is subject, and
 - (j) any other information from time to time prescribed by the SRA.
- 10.3 (a) Entries in the register under 10.2(a) and (c) to (j) must be available for inspection by any member of the public, except that if requested by a solicitor in exceptional circumstances the SRA may withhold the address of any or all the solicitor's places of business if it considers that to do so would be in the public interest.
- (b) The date on which a solicitor's practising certificate or authorisation as a recognised sole practitioner expired or was revoked must be made available to a member of the public on request.

Regulation 11– the register of European lawyers

- 11.1 The SRA must keep a register of European lawyers, which may be kept in electronic form.
- 11.2 The register must contain, in respect of each registered European lawyer, the following information:
- (a) full name,
 - (b) date of birth,

- (c) registration number,
 - (d) in relation to each Establishment Directive profession of which the lawyer is a member:
 - (i) the professional title
 - (ii) the professional body, and
 - (iii) whether the lawyer is entitled to practise as a member of that profession,
 - (e) any other legal profession of which the lawyer is a member and whether the lawyer is entitled to practise as a member of that profession,
 - (f) the date of initial registration,
 - (g) the commencement and renewal dates for the current period of registration,
 - (h) whether the lawyer is a recognised sole practitioner, and if so:
 - (i) the registered name of the lawyer's sole practice, and
 - (ii) any other practising styles used by the lawyer as a sole practitioner in the United Kingdom,
 - (i) the lawyer's place or places of business in the United Kingdom,
 - (j) any condition to which the lawyer's registration is subject, and
 - (k) any other information from time to time prescribed by the SRA.
- 11.3 (a) Entries in the register under 11.2(a) and (c) to (k) must be available for inspection by any member of the public, except that if requested by a registered European lawyer in exceptional circumstances the SRA may withhold the address of any or all the lawyer's places of business in the UK if it considers that to do so would be in the public interest.
- (b) The date on which a registered European lawyer's registration or authorisation as a recognised sole practitioner expired or was revoked must be made available to a member of the public on request.
- 11.4 A registered European lawyer whose name has changed may apply to the SRA to change his or her name on the register.

Regulation 12 – the register of foreign lawyers

- 12.1 The SRA must keep a register of foreign lawyers, which may be kept in electronic form.
- 12.2 The register must contain, in respect of each registered foreign lawyer, the following information:
- (a) full name,
 - (b) date of birth,
 - (c) registration number,
 - (d) in relation to each legal profession of which the lawyer is a member:
 - (i) the professional title
 - (ii) the professional body, and
 - (iii) whether the lawyer is entitled to practise as a member of that profession,
 - (e) the date of initial registration,
 - (f) the commencement and renewal dates for the current period of registration,

- (g) the registered name and place or places of business of any recognised body of which the lawyer is a manager or in which the lawyer has an ownership interest,
 - (h) the registered name of any recognised sole practitioner or recognised body who or which is the lawyer's employer, and the address of the lawyer's place of employment,
 - (i) any condition to which the lawyer's registration is subject, and
 - (j) any other information from time to time prescribed by the SRA.
- 12.3 (a) Entries in the register under 12.2(a) and (c) to (j) must be available for inspection by any member of the public, except that if requested by a registered foreign lawyer in exceptional circumstances the SRA may withhold any or all of the addresses registered under 12.2(g) or (h) if it considers that to do so would be in the public interest.
- (b) The date on which a registered foreign lawyer's registration expired or was revoked must be made available to a member of the public on request.
- 12.4 A registered foreign lawyer whose name has changed may apply to the SRA to change his or her name on the register.

Regulation 13 – Practising certificates and certificates of registration

- 13.1 (a) Each practising certificate and each certificate of registration must specify
- (i) the individual's full name,
 - (ii) its commencement date,
 - (iii) its replacement date,
 - (iv) in the case of a solicitor or registered European lawyer who is authorised as a recognised sole practitioner, a statement to that effect, and
 - (v) (subject to (b) below) any conditions to which the practising certificate or registration is subject
- (b) If individual's practising certificate or registration is subject to a condition and the SRA considers that it would not be in the public interest for the condition to appear on the individual's practising certificate or certificate of registration, the SRA may either
- (i) issue a certificate which does not mention the condition at all, or
 - (ii) issue a certificate which does not mention the details of the condition.
- 13.2 Every practising certificate or certificate of registration must be delivered to the applicant at the applicant's principal practising address or to such other address as may be specified by or on behalf of the applicant in writing, and may be delivered by post or electronically.

Part 4 – Information requirements, notifying third parties and review of decisions

Regulation 14 – Information requirements

- 14.1 In addition to any requirements under section 84 of the Solicitors Act 1974 or any other rules applicable by virtue of that Act, a solicitor, registered European lawyer or registered foreign lawyer must inform the SRA within 14 days if he or she:
- (a) is committed to prison in civil or criminal proceedings,
 - (b) is charged with or convicted of an indictable offence,

- (c) is made the subject of bankruptcy proceedings,
- (d) makes a proposal for an individual voluntary arrangement or is a manager of a firm which makes a proposal for a company voluntary arrangement or a partnership voluntary arrangement, under the Insolvency Act 1986,
- (e) is admitted as
 - (i) a member of a legal profession of a jurisdiction other than England and Wales,
 - (ii) a lawyer of England and Wales other than a solicitor,
- (f) is made subject to disciplinary proceedings as:
 - (i) a member of a legal profession of a jurisdiction other than England and Wales, or
 - (ii) a lawyer of England and Wales other than a solicitor,
- (g) becomes a manager of or acquires an ownership interest in a recognised body or an authorised non-SRA firm,
- (h) sets up a sole practice as
 - (i) a member of a legal profession of a jurisdiction other than England and Wales, or
 - (ii) a lawyer of England and Wales other than a solicitor.

14.2 A solicitor, registered European lawyer or registered foreign lawyer who ceases to practise must inform the SRA within 14 days and supply the SRA with a contact address.

Regulation 15 – Notifying third parties of decisions

The SRA may, if it considers it in the public interest to do so, notify any or all of the following persons of a decision made under these regulations:

- (a) a recognised body or an authorised non-SRA firm of which the solicitor, registered European lawyer or registered foreign lawyer concerned is a manager, or in which he or she has an ownership interest;
- (b) a recognised sole practitioner, recognised body or authorised non-SRA firm of which the solicitor, registered European lawyer or registered foreign lawyer concerned is an employee,
- (c) any approved regulator,
- (d) the Legal Services Board,
- (e) the Legal Complaints Service or the Office for Legal Complaints,
- (f) the regulatory body for any profession of which the solicitor, registered European lawyer or registered foreign lawyer concerned is a member,
- (g) any law enforcement agency.

Regulation 16 – SRA review of decisions made under these regulations

[See paragraph 12 of the consultation paper]

Part 5 – Interpretation, commencement and repeals

Regulation 17 – Interpretation

17.1 All terms in these regulations are to be interpreted in accordance with rule 24 of the Solicitors' Code of Conduct.

17.2 The Interpretation Act 1978 shall apply to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

17.3 The date of any notification or notice given under these regulations is deemed to be:

- (a) the date on which the communication is delivered to or left at the recipient's address or is sent electronically to the recipient's email or fax address., or
- (b) if the recipient is practising, seven days after the communication has been sent by post or document exchange to the recipient's last notified practising address, or
- (c) if the recipient has ceased to practise, seven days after the communication has been sent by post to the recipient's last notified contact address.

17.4 In these regulations:

- (a) "prescribed form" means the form prescribed by the SRA,
- (b) "prescribed fee" means a fee prescribed:
 - (i) under section 11 of the Solicitors Act 1974 by the Master of the Rolls, with the concurrence of the Secretary of State and the Lord Chief Justice, for an application for a practising certificate or registration in the register of European lawyers,
 - (ii) under sections 13ZB and 79 of the Solicitors Act 1974 by the Solicitors Regulation SRA Board [, with the concurrence of the Master of the Rolls,] for an application for authorisation as a sole practitioner, or
 - (iii) under paragraph 2 of Schedule 14 to the Courts and Legal Services Act 1990 and section 79 of the Solicitors Act 1974 by the Solicitors Regulation SRA Board, with the concurrence of the Master of the Rolls, for an application for registration in the register of foreign lawyers;
- (c) revocation of a practising certificate or registration includes withdrawal of a practising certificate or registration for the purposes of the Solicitors Act 1974 and cancellation of registration for the purposes of Schedule 14 to the Courts and Legal Services Act 1990; and
- (d) "SRA" means the Solicitors Regulation Authority.

Regulation 18 – Commencement and repeals

These regulations commence on 1 March 2009 and replace

- (a) the Practising Certificate Regulations 1995,
- (b) the European Lawyers Registration Regulations 2000, and
- (c) the Foreign Lawyers Registration Regulations 1995

in relation to the issue and replacement of practising certificates and initial registration of and renewal of registration of European and foreign lawyers for any period commencing on or after 1 March 2009.

Annex 2 – Section 12 of the Solicitors Act 1974 (to be repealed)

12. Discretion of Society with respect to issue of practising certificates in special cases

(1) Subject to subsections (2) and (3), this section shall have effect in any case where a solicitor applies for a practising certificate -

- (a) for the first time; or
- (b) not having held a practising certificate free of conditions since the date of his admission; or
- (c) when, on what would be the commencement date for the certificate, if it were granted, a period of twelve months or more will have elapsed since he held a practising certificate in force; or
- (d) after the Tribunal has ordered a penalty or costs to be paid by him or that he be reprimanded; or
- (e) after he has been invited by the Society to give an explanation in respect of any matter relating to his conduct and has failed to give an explanation in respect of that matter which the Council regard as sufficient and satisfactory, and has been notified in writing by the Society that he has so failed; or
- (ee) when, having been required by section 34(1) to deliver an accountant's report to the Society, he has not delivered that report within the period allowed by section 34(2); or
- (f) when, having been suspended from practice, the period of his suspension has expired; or
- (g) when, having had his name removed from or struck off the roll, his name has been restored to the roll; or
- (h) while he is an undischarged bankrupt; or
- (i) after having been adjudged bankrupt and discharged or after having entered into a composition with his creditors or a deed of arrangement for the benefit of his creditors; or
- (j) while he is a patient as defined by section 94 of the Mental Health Act 1983 (which relates to the judge's functions in relation to the patient), or while he is a person as to whom powers have been exercised under section 104 of the Mental Health Act 1959 or section 98 of the said Act of 1983 (which relates to the judge's powers in cases of emergency); or
- (k) after having been committed to prison in civil or criminal proceedings; or
- (l) after having had given against him any judgment which involves the payment of money, not being a judgment -
 - (i) limited to the payment of costs; or
 - (ii) as to the whole effect of which upon him he is entitled to indemnity or relief from some other person; or
 - (iii) evidence of the satisfaction of which has been produced to the Society.

(2) Where a practising certificate free of conditions is issued by the Society under subsection (4) to a solicitor in relation to whom this section has effect by reason of any such circumstances as are mentioned in paragraph (d), (e), (ee), (f), (g), (i), (k) or (l) of subsection (1) then, except in the case of any circumstances of whose existence the Society is unaware

at the time the certificate is issued, this section shall not thereafter have effect in relation to that solicitor by reason of those circumstances.

(3) Where a solicitor's practising certificate is suspended by virtue of section 15(1) by reason of his suspension from practice and the suspension of his practising certificate is terminated unconditionally under section 16(4) or (5), then, notwithstanding subsection (1)(f), this section shall not thereafter have effect in relation to that solicitor by reason of that suspension from practice and the expiry of the period of that suspension.

(4) In any case where this section has effect, the applicant shall, unless the Society or the Master of the Rolls otherwise orders, give to the Society not less than six weeks before he applies for a practising certificate notice of his intention so to apply; and, subject to subsections (6) and (7), the Society may in its discretion -

- (a) grant or refuse the application, or
- (b) decide to issue a certificate to the applicant subject to such conditions as the Society may think fit.

(4A) Without prejudice to the generality of subsection (4)(b) -

- (a) conditions may be imposed under that provision for requiring the applicant to take any specified steps that will, in the opinion of the Society, be conducive to his carrying on an efficient practice as a solicitor; and
- (b) conditions may be so imposed (whether for the purpose mentioned in paragraph (a) or otherwise) notwithstanding that they may result in expenditure being incurred by the applicant.

(5) Where the Society decides to issue a certificate subject to conditions, it may, if it thinks fit, postpone the issue of the certificate pending the hearing and determination of any appeal under section 13(2)(b).

(6) The Society shall not refuse an application by a solicitor for a practising certificate in a case where this section has effect by reason only -

- (a) that he is applying for the first time; or
- (b) that he has not held a practising certificate free from conditions since the date of his admission;

and, in a case falling within paragraph (b), the certificate shall not be made subject to any conditions binding on the applicant in respect of any period more than three years after the date on which the first practising certificate issued to him had effect.

(7) Where a solicitor applies for a practising certificate in a case where this section has effect by reason only of any such circumstances as are mentioned in paragraph (h), (k) or (l) of subsection (1) and an appeal has been made to the appropriate court against the order or judgment in question, the Society shall not refuse the application before the determination of that appeal, unless in the opinion of the Society the proceedings on that appeal have been unduly protracted by the appellant or are unlikely to be successful.