

## Guidance

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# UK's Exit from EU – the end of the implementation period and beyond

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Updated 14 January 2021 (Date first published: 21 December 2020)

#### *Status*

Following the UK's exit from the EU on 31 January 2020, this guidance is intended to explain the position of European lawyers following the end of the implementation period on 31 December 2020.

#### *Who is this guidance for?*

Former Registered European Lawyers (RELs), European Lawyers, law firms and other interested parties.

#### *What changes are being made?*

The UK Government has published a number of statutory instruments relating to the status of EU lawyers which came into effect at the end of the implementation period on 31 December 2020.<sup>1</sup>

[<https://www.sra.org.uk/solicitors/guidance/uks-exit-eu-implementation-period-beyond/#n1>]

The arrangements in relation to former RELs have now come to an end (except in relation to a defined group of Swiss lawyers) and changes have been made to the requirements for recognising professional qualifications.

#### *What does the agreement mean?*

With the end of the implementation period on 31 December 2020, all previous transitional arrangements have ended, and the REL regime has now come to an end (except in relation to a defined group of Swiss lawyers).

The arrangements put in place by the UK in relation to recognition of professional qualifications have not changed as a result of the agreement and remain the same as those we prepared for a no-deal outcome in 2018 and 2019.

#### *What is the SRA doing?*

We continue to work closely with the Government to understand how leaving the EU will impact on how we regulate solicitors, RELs, and law firms in England and Wales.

On 24 December 2020, the UK and EU agreed a comprehensive free trade agreement - the Trade and Cooperation Agreement. We will be working through the Trade Agreement over the coming weeks and will update our guidance as appropriate.

### *The post implementation position - from 1 January 2021*

From 1 January 2021, the new legislation that the Government has introduced has a number of significant impacts:

- The REL regime has come to an end (except in relation to a defined group of Swiss lawyers) and all RELs (other than Swiss lawyers) have lost their associated practice rights in the UK (subject to a very limited exception)
- We will no longer accept any further applications to become an REL or to be admitted as a solicitor under the integration route (other than from Swiss lawyers)
- An EU lawyer who is not a qualified as a solicitor in England and Wales is no longer able to be a sole practitioner in a recognised sole practice or a freelancer practising under regulation 10 of the SRA Authorisation of Individuals Regulations (subject to a very limited exception).
- An EU lawyer who is not a qualified lawyer of England and Wales is no longer able to be a COLP.
- Exempt European Lawyers (as previously defined in our rules) (other than those registered as Scottish or Northern Irish lawyers) are no longer able to be owners or managers of a law firm in England and Wales (unless it is a licenced body, commonly known as an Alternative Business Structure or ABS)
- The fly in/fly out practice rights of EU lawyers (but not Swiss lawyers as specifically defined for this purpose), previously granted under the Lawyers Services Directive 77/249/EEC, have come to an end. Firms are advised to consider their arrangements and take the necessary steps to make sure that they comply with the new regime.
- The arrangements for recognising professional qualifications (previously granted under the Recognition of Qualifications Directive 2005/36/EC) have changed.

### *Swiss Lawyers*

The Government has made separate arrangements in relation to Switzerland. Swiss lawyers may continue to be RELs and Swiss lawyers

may continue to apply to become RELs for the first time for four years after the end of the implementation period (that is until January 2024). The separate arrangements for Switzerland mean that the fly-in/fly-out rights of certain specified European lawyers will continue for five years after the end of the implementation period. Swiss RELs will also continue to have the right to seek admission under the integration route until January 2024.

*What are some of the options for previous RELs (other than Swiss RELs) now that the implementation period has ended?*

*Limit your practice to non-reserved work*

From January 2021 EU lawyers will be able to provide unreserved legal activities without being registered in the same way as other foreign lawyers if they wish to.

*Qualify as solicitor*

A foreign qualified lawyer may seek to qualify as a solicitor through the QLTS or the SQE.

We have made amendments to our Standards and Regulations relating to the recognition of professional qualifications as previously proposed. The Government are considering what approach the UK should take to recognising professional qualifications in the future and we will keep this position under review.

In line with the SQE, all foreign lawyers will potentially be able to apply for exemptions from all of parts 1 and/or 2 of the QLTS. Exemptions will not be granted topic by topic. Any applications for exemptions that were made by EEA or Swiss lawyers before the end of the implementation period will be dealt with under the existing rules and exemptions granted before that date will continue to apply.

If you were an REL and wish to continue to provide reserved legal activities from 1 January 2021 or are one of the very small number of RELs who practised as a sole practitioner, you will need to seek to qualify as a solicitor, through the QLTS or SQE route (see above) to be able to continue to do so. You will not be able to carry on reserved legal activities from 1 January 2021 until you are admitted subject to the following exception. If you were an REL and applied to us for admission as a solicitor under the integration route (if you were eligible) before the end of the implementation period and as a result of our passporting arrangements, you have become an RFL. we will extend your existing practising rights until your application for admission is determined.

*Register as an RFL*

Any EU lawyer who is not qualified as a solicitor or barrister in England and Wales (or a Scottish or Northern Irish solicitor or barrister) but wants to be involved in the management or ownership of a law firm (which is not an ABS) in England and Wales will have to register as a Registered Foreign Lawyer (RFL). An RFL cannot practise as a sole practitioner.

*Being an RFL also gives limited additional practice rights.*

We are taking steps to make sure that we passport all individuals who were RELs at the end of the implementation period to become RFLs. We will ensure that this process is seamless and creates minimum disruption. You may wish to read our guidance on RFLs

[<https://www.sra.org.uk/solicitors/guidance/registered-foreign-lawyers/>] . We had already invited all RELs, through the registration renewal process, to passport or to inform us if they do not wish to do so.

## Q&A

*I am a former REL who has already taken the QLTS and am awaiting admission – can I undertake reserved activities whilst I am waiting to be admitted?*

No, as a former REL, you automatically passported to RFL status at the end of the implementation period unless you chose not to do so, and cannot currently undertake reserved legal activities. If you have already passed the QLTS and we have received your application for admission, we will process and decide this in line with our agreed service level agreements. If you have not yet received your results you should wait to do so before making an application for admission. In the intervening period, you (and your firm) must adapt your practise to exclude the undertaking of reserved activities unless under supervision if permitted by law. If you have any concerns or questions about your application, please contact SRA Admissions direct, who will be able to help with any questions you have.