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Another country practice

RULES AND REGULATIONS FOR PRACTISING OVERSEAS DIFFER FROM COUNTRY TO COUNTRY. WISE UP BEFORE YOU SIZE UP WHERE YOU MIGHT MOVE TO.

Globalisation of the legal industry is transforming the world into a single vast legal marketplace.

As law firms become internationalised, lawyers are moving to jurisdictions in the UK, US and Asia.

Admission requirements in each jurisdiction are different, so migrant lawyers and students need to satisfy those requirements before entering the profession.

OVERSEAS

England and Wales

Admission to practice in England and Wales is regulated by the Solicitors Regulation Authority (SRA) and foreign lawyers should register with the Law Society of England and Wales to practise foreign law.

Foreign lawyers qualified in certain jurisdictions outside England and Wales are entitled to requalify as solicitors by sitting the Qualified Lawyers Transfer Test (QLTT). Under the Qualified Lawyers

Transfer Regulations (QLTR) the two requirements are:

- a pass in the QLTT; and/or
- satisfying a two-year legal experience requirement (which includes experience in practising the law of England and Wales).

The test covers property, litigation, professional conduct and accounts, and principles of common law. The SRA determines the subject area(s) that must successfully be completed based on their primary professional qualification⁴ and sets QLTT specifications.

The Legal Services Board has recently approved the *Qualified Lawyers Transfer Scheme Regulations 2010*. The QLTR and QLTT were due to be replaced by the Qualified Lawyers Transfer Scheme on 1 September 2010.⁵

United States

Common law graduates and practitioners admitted to practice in common law jurisdictions are generally eligible to sit the Bar examination.

Admission is controlled by state boards of examiners and supreme courts. Foreign lawyers admitted to practice from English common law backgrounds can qualify for the Bar examination.

Their qualifications must be recognised by a government accrediting agency, the law school study must be of an equivalent duration and the applicant must have successfully completed a minimum of 20 semester hours of credit, or the equivalent, in an approved law school in the US covering professional law subjects including basic courses in US law.⁶

Canada

There are 14 law societies in Canada. Each is governed by the common law tradition from England, except for Quebec where French civil law governs the province.

Foreign lawyers should apply to the National Committee on Accreditation (NCA) for an evaluation of their legal credentials and experience to be members of Canadian law societies.

The NCA assesses qualifications⁷ of individuals with legal education and professional experience outside Canada, or in a civil law program in Quebec, wishing to be admitted to a common law Bar in Canada.

National standards are applied so applicants can practise law in any of the provinces and territories. Once the stated requirements and demonstrated competence in a number of subjects have been met, the NCA issues a Certificate of Qualification. Competence is generally demonstrated via:

- passing NCA examinations;
- registering as a special student in a Canadian common law degree program and successfully

completing the assigned subjects as part of the program of studies; or

c. a combination of (a) and (b).

Most law societies in Canada accept NCA's Certificate of Qualifications for entry to their Bar admissions process, but the certificate is not the same as a Canadian law degree.⁸

Hong Kong

Foreign lawyers wishing to practise foreign law should register with the Law Society of Hong Kong.⁹ A registered foreign lawyer cannot practise Hong Kong law and cannot join in partnership with Hong Kong solicitors, but may be employed as a foreign legal consultant and can practise the law of their own jurisdiction or the law of a third jurisdiction.

Overseas lawyers from common law jurisdictions with five years of practice and a completed bachelor's degree in law – or a course of study substantially equivalent to that of a Hong Kong tertiary institution – are generally qualified for admission as a solicitor.¹⁰

Foreign lawyers with less than five years' experience need to undertake the Overseas Lawyers Qualification Examination. Practical experience in core subjects such as contract, torts, property and equity is also essential for admission.¹¹

Singapore

Foreign lawyers wishing to practise foreign law or international law can do so without requalifying provided they register with the Attorney-General's Chamber in Singapore. Foreign lawyers cannot practise both foreign law and Singapore law holding a Singapore practising certificate.

Admission to the Singapore Bar means satisfying all the requirements of "qualified persons" as set out in the *Legal Profession Act and the Legal Profession (Qualified Persons) Rules*.¹²

On meeting all the academic requirements an overseas graduate from an approved university is eligible to undertake Part A of the Bar examination, which is a conversion examination. Senior legal practitioners with substantial experience may seek exemption from the Ministry of Law from taking this. Part B of the examination is a compulsory five-month practical law course and examination.

An applicant with a law degree from an approved university fulfilling all other "qualified persons" criteria and being admitted to practice in a common law jurisdiction with at least two years of relevant legal practice or work and/or relevant training¹³ could file an appeal to the Minister of Law for an exemption.

The Secretary of the Board of Legal Education deals with the requirements on qualification as a Singapore lawyer.¹⁴

IN AUSTRALIA

Foreign lawyers should register with the Legal Services Board Victoria to practise foreign law in this state. To practise Australian law, overseas lawyers have to requalify. This will be based on an assessment of their qualification.

In Victoria, the Council of Legal Education (CLE)¹ assesses the qualifications and determines the requirement for applicants to be eligible for admission to practice on the basis of the "Uniform Principles for Assessing Overseas Qualifications".

All overseas applicants must demonstrate their academic qualifications in the Priestly Eleven² subjects. It must be substantially equivalent to an Australia academic qualification.³

Demonstrating substantial equivalence is challenging and each decision by the CLE differs. Legal practitioners with considerable experience from common law jurisdictions may receive exemption from additional study in NSW, but this is not the case in other states.

Applicants in Victoria get no exemptions and have to complete six or 12 months as a trainee lawyer (supervised workplace training or practical legal training) based on their previous work experience. •

SHEFALI KUMAR

Lawyer from India, currently working in Australia

1. Empowered by Part 4 of the *Legal Profession (Admission) Rules* 2008.
2. Criminal law and Procedure, Torts, Contracts, Property (including Torrens system land), Equity (including Trusts), Administrative Law, Federal and State Constitutional Law, Civil Procedure, Evidence, Company Law, Ethics and Professional Responsibility.
3. See www.lawadmissions.vic.gov.au/overseas_applicants.
4. Exemptions to pass any of the tests are granted based on qualifications.
5. See www.sra.org.uk/solicitors/qltt.page
6. See www.nybarexam.org/Foreign/ForeignLegalEducation.htm.
7. The assessment is based on the academic and professional profile of each individual applicant.
8. See www.flsc.ca/en/foreignLawyers/foreignLawyers.asp.
9. See the *Legal Practitioners Ordinance* 1994, ss 39A and 50B, *Foreign Lawyers Registration Rules* (Rules 2, 3, 4, 5, 6, 9, 10 & 11), and *Legal Practitioners (Risk Management Education) Rules*.
10. See *Overseas Lawyers (Qualification for Admission) Rules*, which sets out the requirements to be fulfilled and supportive evidence in support of qualifications undertaken in common law jurisdiction.
11. See www.hklawsoc.org.hk/pub_e/admission/oversea.asp.
12. Other admission requirements are set out in s12(1) of the *Legal Profession Act*, and requirements in Rule 11 of the *Legal Profession (Qualified Persons) Rules*. Check www.lawsociety.org.sg/ble/index.htm.
13. See Rule 2 of the *Legal Profession (Qualified Persons) Rules*.
14. See Attorney-General's chamber at www.ifaq.gov.sg; & www.app2.mlaw.gov.sg/Usefulinfo/PracticeinSingapore.

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