

Rules Relating to the Recognition of the Costs Lawyer Qualification within the EU

Regulator: Costs Lawyer Standards Board

Effective: 18 January 2016

1. Definitions

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| CLSB | The Costs Lawyer Standards Board, the regulatory body for Costs Lawyers, acting as the competent authority in England & Wales. |
| Costs Lawyer | A person who has successfully completed the CLSB authorised Costs Lawyer qualification and holds a current practising certificate (England and Wales) issued by the CLSB duly authorising them to undertake the Reserved Legal Activities. |
| Home State | The state in which the applicant is established. |
| Register | The register held by the CLSB of EEA and Switzerland Costs Lawyers whose applications to provide services as a Costs Lawyer on a permanent basis have been approved by the CLSB in accordance with the Regulations. |
| Regulations | The European Union (Recognition of Professional Qualifications) Regulations 2015. |
| Reserved Legal Activities | In accordance with Legal Services Act 2007: <ul style="list-style-type: none">• The exercise if a right of audience• The conduct of litigation• The administration of oaths |
| Services | The practice of a Costs Lawyer. |
| Temporary Register | The register held by the CLSB of EEA and Switzerland Costs Lawyers whose declarations to provide services as a Costs Lawyer on a temporary or occasional basis have been approved by the CLSB in accordance with the Regulations. |

2. Introduction

2.1 These rules implement the Regulations.

2.2 The Regulations will apply to any relevant issue upon which these rules are silent.

- 2.3 These rules replace in full any previous rules issued by the CLSB in relation to the recognition of professional qualifications in the European Union.
- 2.4 Costs incurred by an applicant under these rules and in complying with the Regulation will be met by the applicant.
- 2.5 Any certificates of qualification must be original documents or certified copies.
- 2.6 An official translation of any qualification/recognition of training/recognition of experience document must be filed with the qualification document.
- 2.7 If the CLSB has justified doubts about the veracity, authenticity or legality of the applicant's establishment and good conduct or character, it may ask the competent authority of the Home State of the applicant for information on this issue.

3. Providing Services in England & Wales on a Temporary or Occasional Basis

- 3.1 For the purpose of this rule, an application is defined in accordance with Regulation 8(3).
- 3.2 The form entitled 'Declaration to the Costs Lawyer Standards Board (CLSB) to provide the services of a Costs Lawyer in England & Wales on a temporary or occasional basis' is to be found on the CLSB website and should be used to apply under this rule.
- 3.3 The CLSB will assess on a case by case basis whether the provision of professional services is on a temporary and occasional basis, in particular in relation to its duration, its frequency, its regularity and its continuity.
- 3.4 Where the applicant moves to the United Kingdom, and the applicant has made a successful declaration in accordance with Regulations 15 and 16, the applicant will be automatically temporarily registered with the CLSB, and will be:
 - (i) Subject to the Costs Lawyer Code of Conduct, Practising Rules and Disciplinary Rules applicable to Costs Lawyers practising in England & Wales.
 - (iii) Authorised to provide Services.
- 3.5 When the applicant first moves to the United Kingdom from another relevant European State, the applicant must inform the CLSB by way of a declaration which fully complies with Regulations 15 and 16, before providing any Services. This declaration must be renewed at the expiry of each full year from the approval of the initial declaration if the applicant intends to provide Services on a temporary or occasional basis in England & Wales during that year. An application to renew a declaration must be received by the CLSB 28 days before the expiry of the existing declaration. Where the applicant fails to renew his declaration in accordance with this rule, the CLSB may remove the applicant's name from the register; any further sanction will be subject to Regulation 24.

- 3.6 Before providing any Services, or where there is a material change in the situation substantiated by the documents, the CLSB requires the applicant to support the declaration by the following accompanying documents:
- (i) proof of nationality of the applicant or, where the applicant is not a national of a relevant European State, proof of the community right on which the applicant relies; and
 - (ii) an attestation certifying that the applicant is legally established in another relevant European State for the purpose of pursuing the activities concerned and that the applicant is not prohibited from practising, even temporarily, at the moment of delivering the attestation; and
 - (iii) evidence of professional qualifications; and
 - (iv) for cases referred to in Regulation 8(3)(e), any means of proof that the applicant has pursued the activity concerned for at least one year during the previous ten years; and
 - (v) an attestation confirming the absence of temporary or final suspensions from exercising the profession or of criminal convictions. The attestation shall include offences which have been ‘spent’ under the Rehabilitation of Offenders Act 1974 or equivalent legislation in the Home State.
- 3.7 When providing Services in England & Wales, the applicant shall comply with Regulation 18 in regard to the title under which professional services are provided.
- 3.8 The applicant must provide the recipient of any Services with details of the professional association with which the applicant is registered, and with details of professional indemnity insurance cover in relation to the Services.
- 3.9 The applicant is required to notify the CLSB immediately if they no longer intend to provide Services. In doing so, the CLSB will immediately remove the applicant from the Register.
- 3.10 An applicant will no longer be entitled to provide Services in England & Wales, and his entry on the Register will be terminated if the applicant:
- (i) becomes established in the profession of Costs Lawyer in England & Wales; or
 - (ii) is subject to a decision of the competent or judicial authority in their Home State which has the effect that the applicant is no longer lawfully established and/or is prohibited (even temporarily) from practising that profession in their Home State.

4. Providing Services in the United Kingdom on a Permanent Basis

- 4.1 For the purposes of this rule, an ‘applicant’ is defined in accordance with Regulation 8(4).

- 4.2 The form entitled 'Application to the Costs Lawyer Standards Board (CLSB) to establish as a Costs Lawyer in England & Wales on a permanent basis' can be found on the CLSB website and should be used to apply under this rule.
- 4.3 An application under this rule will be dealt with, and a decision will be notified to the applicant in accordance with the time scales set out in Regulation 42.
- 4.4 The CLSB may, before authorising the applicant, require the applicant to take and pass an aptitude test in accordance with Regulations 31, 32, 33 and 34. The CLSB will assess the need for, and the detail of any aptitude test, on a case by case basis.
- 4.5 When providing services in England & Wales on a permanent basis, the applicant shall comply with Regulation 43 in regard to the title under which professional services are provided.

5. Partial Access

- 5.1 The CLSB may grant partial access, on a case by case basis, in accordance with the criteria in Regulation 10. In this situation the Services must be exercised under the professional title of the Home State.

6. Language Controls

- 6.1 The CLSB may impose controls in accordance with Regulation 6 when seeking to ensure that a professional has a knowledge of language necessary for practising the profession in England & Wales.

7. Appeals

- 7.1 An appeal of any decision of the CLSB in relation to the applicant under Regulation 6 (1) (language controls), Regulation 10 (partial access), Regulation 13(2) (providing services in the United Kingdom on a temporary basis) or Regulation 42(2) (decision of a competent authority) will be made in accordance with Regulation 68. The appropriate appeal body will be the High Court.

8. CLSB's Obligation to Assist Competent Authorities of Relevant European States

- 8.1 The CLSB will assist the competent authorities of relevant European States in order to facilitate the application of the Regulations, in accordance with Regulation 5.
- 8.2 The CLSB will provide cooperation and service to competent authorities of relevant European States in accordance with Regulation 25.
- 8.3 The CLSB will exchange information with competent authorities of relevant European States regarding disciplinary action or criminal sanctions taken or any other serious, specific circumstances which are likely to have consequences for provision of Services under these Regulations in accordance with Regulation 66 and

in doing so will observe the data protection rules set out in Directives 95/46/EC and 2002/58/EC.