

Release notes for SRA Handbook, Version 5

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1 October 2012

The fifth version of the Handbook was published on 1 October 2012.

The changes are summarised in these Release notes for Version 5. For the dates on which the changes are effective, see below. The notes give a brief update only and you will need to refer to the Handbook itself for full details. Any sets of rules or regulations not referred to below remain unchanged in this version.

SRA Handbook Glossary 2012

The definitions in the SRA Indemnity Insurance Rules 2012 and SRA Indemnity Rules 2012 have been replaced by references to the Glossary. Changes to the SRA Indemnity Insurance Rules necessitate the introduction of definitions of "cessation period", "existing instructions", "extended indemnity period" and the amendment of the definitions of "employee", "SIIR", "SRA Indemnity Insurance Rules", "SRA Indemnity Rules".

These changes are effective from 1 October 2012.

SRA Indemnity Insurance Rules 2012

Changes to the Qualifying Insurer's Agreement, the SRA Indemnity Insurance Rules (including the Minimum Terms and Conditions for compulsory professional indemnity insurance) and the SRA Compensation Fund Rules have been made to implement the next stage of the SRA's Financial Protection Review. The principal changes are:

- the closing of the assigned risks pool (ARP) as a provider of policies of qualifying insurance from 30 September 2013 (with the exception of the continued provision of run-off cover incepted before that date);
- the introduction, from October 2012, of a requirement that all policies of qualifying insurance make provision for extension by 90 days at the end of the insurance period if the insured firm has not taken out a new policy of qualifying insurance;
- provisions for the funding of the ARP in 2012/13 to be provided by both the regulated community and the qualifying insurers; and
- provisions to remove the role of the ARP in 2012/13 for making payments in respect of uninsured firms and to move this responsibility to the Compensation Fund.

The key changes to the SRA Indemnity Insurance Rules and the Minimum Terms and Conditions (MTC) are as follows:

1. commencing 1 October 2013, a firm's last insurer of record under the QIA 2012 will be liable for cover for an "extended indemnity period" and a "cessation period" if the firm does not renew its policy of qualifying insurance with its existing qualifying insurer, and does not obtain a policy of qualifying insurance with another qualifying insurer. Amendments are made to implement the changes as follows:
 - a. SRA Indemnity Insurance Rules 2012: Rule 4.2, commentary following Rule 4.4 and Rule 5.3; and
 - (b)
 - b. MTC: clauses 5.1 to 5.5 and clause 7.2;
2. the introduction of a requirement on firms that have not obtained a policy of qualifying insurance at the expiration of the cessation period to cease practise and to notify the SRA (rules 4.2 and 17.3);
3. no firm will be eligible to remain in the ARP beyond 30 September 2013, and any certificate issued to a firm in the ARP will cease to have effect from that date (rule 6.3);
4. the addition of a new power to collect contributions from firms for the purpose of allowing the SRA to raise and apply the profession's contribution in any manner necessary (i.e., by way of levy or otherwise)(rule 13);
5. amendment of rule 3.1 to remove Appendix 4 (Definitions) which has been replaced by the application of the definitions contained in the SRA Handbook Glossary; and
6. arrangements to provide cover for claims made against uninsured firms, which were set out in rule 15, have been deleted as from 1 October 2012 - such claims will be dealt with by the Compensation Fund.

These changes are effective from 1 October 2012.

SRA Indemnity (Enactment) Rules 2012 and SRA Indemnity Rules 2012

If a firm closes without successor practice then the qualifying insurer (or the ARP) on risk at the date of closure is required to provide cover for the balance of the indemnity year and for a further six years thereafter. At the end of the six years "post six year run-off cover" is provided by the Solicitors Indemnity Fund, currently until 30 September 2017. The cover is being extended by three years which requires an amendment to a date in rule 8.5(a) of the SIR. In that rule "30 September 2017" has been replaced by "30 September 2020".

These changes are effective from 1 October 2012.

SRA Compensation Fund Rules 2011

An amendment has been made to rule 14.2 (previously rule 13.2). The effect of the change is that the provision of emergency funds will be by way of an interim grant rather than general use of the Compensation Fund under rule 2.12(d), and a new rule 14.3 has been inserted.

Since emergency funds are needed with great urgency, it has been necessary to make a further amendment to abrogate the need for advance notice to be given to the intervened solicitor. The existing exception to the requirement to give notice has been extended, but the effect has been mitigated by the introduction of a requirement to provide retrospective notice, with a discretion given to the SRA to waive its rights of recovery against the defaulting practitioner. The change can be seen in rule 14.3.

From 1 October 2012 the Compensation Fund is to provide cover for claims made against uninsured firms that would previously have been covered by the Assigned Risks Pool (ARP) under the arrangements for "non-applied firms". New rules have been inserted at rules 3.2, 5, 8.2 and 13.3, and amendments have been made to existing rules, see rules 3.1 and 3.4.

These changes are effective from 1 October 2012.