

SRA Amendments to Regulatory Arrangements (Miscellaneous No 2) Rules 2015

Preamble

Rules dated 9 February 2015 made by the Solicitors Regulation Authority Board under sections 31, 37, 79 and 80 of the Solicitors Act 1974, section 9 and 9A of the Administration of Justice Act 1985, and section 83 of, and paragraph 19 of Schedule 11 to, the Legal Services Act 2007, with the approval of the Legal Services Board under paragraph 19 of Schedule 4 to the Legal Services Act 2007.

Rule 1

The SRA Indemnity Insurance Rules 2014 and the SRA Amendments to Regulatory Arrangements (Miscellaneous No.1) Rules 2014 are revoked.

Rule 2

The SRA Code of Conduct 2011 shall be amended as follows:

- (a) in outcome O(7.12), after "*connected practices*" replace "." with ";;";
- (b) after outcome O(7.12), insert a new outcome O(7.13) as follows:

O(7.13) you assess and purchase the level of professional indemnity insurance cover that is appropriate for your current and past practice, taking into account potential levels of claim by your clients and others and any alternative arrangements you or your client may make."

Rule 3

The SRA Indemnity Insurance Rules 2013 shall be amended as follows:

- (a) in Rule 4.2, add "in respect of its obligation to effect and maintain *qualifying insurance*" after "A firm must";
- (b) in the commentary to Rule 4.3, add "professional indemnity insurance in place which satisfies the MTC requirements for" after "obligation to ensure that they have". Also, add the word "qualifying" after "check that any" and before "insurance";
- (c) in the commentary in Rule 4.3, add a new point numbered one as follows:

"1 the firm obtains another policy of qualifying insurance; or";

and renumber the existing paragraphs sequentially as paragraphs 2 to 4:
- (d) in Rule 5.1, replace "has in place" with "takes out";
- (e) in Rule 17.1(c), replace "become or is believed to have become a *run-off firm*" with "operated or is operating without *qualifying insurance*";
- (f) in Appendix 1 delete "The" at the beginning of clause 1.1 and add "Subject to the limits in clause 2, the";
- (g) in Appendix 1 add a new clause 4.11 as follows:

"4.11 **Variation for multi-year policies**

The terms of the insurance must provide that the *insurer* shall vary the terms of the insurance to give effect to any variation to the *SRA Indemnity Insurance Rules*, the *Glossary* and/or the *MTC*, such variation to be implemented by the *insurer*.

- (a) on the date of any renewal or replacement of the insurance or any extension to the *period of insurance occurring in that indemnity period*; or
- (b) on each date falling in 18 month intervals from the commencement of the *policy period* where no variation has occurred by reason of clause 4.11(a) within the immediately preceding 18 month period.

save that no variation shall be required under 4.11(b) where the date on which variation would have been required is a date within the *extended indemnity period* or the *cessation period*."

and renumber the existing clause 4.11 as 4.12;

- (h) in Appendix 1 amend the new clause 4.12 by adding "(including any amendment pursuant to clause 4.11)" in paragraphs (a) and (b) after "*MTC*";
- (i) in Appendix 1 replace clause 5.4 as follows:

"5.4 **Run-off cover**

The insurance must provide run-off cover:

- (a) in the event of a *cessation* that occurs during or on expiration of the *policy period*;
- (b) in the event of a *cessation* that occurs during the *extended indemnity period* or the *cessation period*; or
- (c) from the expiration of the *cessation period*;

and for the purposes of this clause 5.4, an *insured firm's practice* shall (without limitation) be regarded as ceasing if (and with effect from the date upon which) the *insured firm* becomes a *non-SRA firm*.";

- (j) in Appendix 1 replace clause 5.5 as follows:

"5.5 **Scope of run-off cover**

The run-off cover referred to in clause 5.4 must:

- (a) indemnify each *insured* in accordance with clauses 1.1 to 1.8;
- (b) provide a minimum level of insurance cover in accordance with clauses 2.1 and 2.3;
- (c) be subject to the exclusions and conditions of the insurance applicable in accordance with the *MTC*; and
- (d) extend the *period of insurance* for an additional six years (ending on the sixth anniversary of the date upon which, but for this requirement, it would have ended, and for the avoidance of doubt, including the *extended indemnity period* and *cessation period*), save that in respect of run-off cover provided under clause 5.4(c), such run-off cover shall not operate to indemnify any *insured* for

civil liability arising from acts or omissions of such *insured* occurring after the expiration of the *cessation period*.”;

- (k) in Appendix 1 add a new clause 6.11 as follows:

“6.11 International trade sanctions

The *insurer* shall be deemed not to provide cover and shall not be liable to pay any *claim* or provide any benefit under the insurance to the extent that the provision of such cover, payment of such *claim* or provision of such benefit would expose the *insurer* to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of the European Union, United Kingdom, Australia or United States of America.”.

Rule 4

The SRA Handbook Glossary 2012 shall be amended as follows:

- (a) In the definition of "**authorised insurer**" replace "IV" with "4A";
(b) Replace the definition of "**cessation**" with:

"cessation

means where the *insured firm's practice* ceases during the *period of insurance* or after the *period of insurance* in circumstances where the *insured firm* has not obtained insurance complying with the *MTC* and incepting on and with effect from the day immediately following the expiration of the *policy period*.”;

- (c) replace the definition of "**qualifying insurance**" with:

"qualifying insurance

means a *policy* that provides professional indemnity insurance cover in accordance with the *MTC* but only to the extent required by the *MTC*.”;

- (d) delete the definition of "**run-off firm**";
(e) replace the definition of "**sum insured**" with:

"sum insured

means the *insurer's* limit of liability under a *policy* in respect of any one *claim* (exclusive of *defence costs*).”; and

- (f) in the definition of "**transaction**", delete "in the *SRA Financial Services (Scope) Rules*".

Rule 5

Rules 1 and 5 come into force on the date of the approval of the Legal Services Board. Rules 2, 3 and 4 come into force on 1 April 2015 or the date of the approval of the Legal Services Board, whichever is the later.