

United Kingdom



What is the basis of law in the United Kingdom?

The United Kingdom (UK) legal system comprises:

- English law which applies to England and Wales and is based on the common law;
- Northern Irish law which applies in Northern Ireland and is based on the common law; and
- Scots law which applies in Scotland and is largely based on civil law principles with some common law influence.

Following the *Constitutional Reform Act 2005*, the Supreme Court of the United Kingdom replaced the House of Lords as the highest court for all matters under English law, Northern Irish law and Scottish civil law. Below the Supreme Court is the Court of Appeal with Criminal and Civil Divisions and several interconnected lower courts including the High Court, the Crown Court, County Courts, Magistrates' Courts and a range of tribunals.

Lawyers in England, Wales and Northern Ireland practise as either solicitors or barristers, while lawyers in Scotland practise as either solicitors or advocates.

How is the legal profession regulated?

England and Wales

The legislation covering the legal profession in England and Wales is the *Legal Services Act 2007*.

Northern Ireland

The legal profession in Northern Ireland is covered by the *Solicitors (Northern Ireland) Order 1976*.

Scotland

The legislation covering the legal profession includes: *Solicitors (Scotland) Act 1980*, *Council of the Law Society of Scotland Act 2003*, *The Legal Profession and Legal Aid (Scotland) Act 2010*, and *Legal Services (Scotland) Act 2010*.

What is the professional representative body or bodies?

England and Wales

The Law Society of England and Wales represents solicitors in England and Wales.

The Bar Council is the representative body for barristers in England and Wales.

Northern Ireland

The Law Society of Northern Ireland is the representative and regulatory body which holds the responsibility to discipline, educate and regulate practising solicitors in Northern Ireland.

Under the *Solicitors (Northern Ireland) Order 1976*, the Law Society acts as the regulatory authority governing the education, accounts, discipline and professional conduct of solicitors in order to maintain the independence, ethical standards, professional competence and quality of services offered to the public.

The Bar of Northern Ireland governed by the Bar Council is the professional body representing barristers in Northern Ireland. Among other things, it seeks to maintain the honour and independence of the Bar as part of the legal system.

[Scotland](#)

The Law Society of Scotland is the representative and regulatory body for Scottish solicitors. All practising solicitors are members of the Law Society. The Law Society also states to have an important duty towards the public interest and all practising solicitors are thus required to meet certain standards.

The Faculty of Advocates is the representative and regulatory body for advocates. The current Faculty is made up of both practising and non-practising members. There are currently just over 460 practising members. The Faculty operates through a service company, Faculty Services Limited to provide administrative facilities for all those members who wish to use them.

Which body is responsible for professional regulation?

[England and Wales](#)

The Solicitors Regulation Authority (SRA) is the body responsible for the regulation of solicitors in England and Wales. The SRA was established by the *Legal Services Act 2007* as the independent regulatory arm of the Law Society of England and Wales.

The core aims of the SRA are to give the public full confidence in the solicitors' profession and to serve the public interest and protect consumers of legal services. Amongst other functions the SRA sets the standards for qualifying as a solicitor, monitors the performance of organisations that provide legal training and draft, implement and enforce the rules of professional conduct, particularly to make sure they protect the interests of clients.

The body responsible for the regulation of barristers in England and Wales is the Bar Standards Board (BSB). The BSB is responsible for setting the initial and ongoing requirements and standards of being a member of the bar, monitoring the services provided by barristers and dealing with complaints against barristers and taking disciplinary action when required.

[Northern Ireland](#)

Solicitors are regulated by the Law Society of Northern Ireland (see above).

Barristers are regulated by the Bar of Northern Ireland through the Bar Council (see above).

[Scotland](#)

Solicitors are regulated by the Law Society of Scotland (see above).

Advocates are regulated by the Faculty of Advocates (see above).

What rules govern fly-in/fly-out practice?

[England and Wales](#)

Foreign lawyers may engage in the fly-in/fly-out practise of law in England and Wales.

There are no explicit rules on temporary practice other than that certain areas of law are reserved by the *Legal Services Act 2007* to those holding registered legal professional titles.

These restricted areas include:

- exercise of a right of audience;
- conduct of litigation;
- reserved instrument activities;
 - preparing any instrument of transfer or charge for the purposes of the Land Registration Act 2002 (c. 9);
 - making an application or lodging a document for registration under that Act;
 - preparing any other instrument relating to real or personal estate for the purposes of the law of England and Wales or instrument relating to court proceedings in England and Wales.
- probate activities; and,
- administration of oaths.

Foreign lawyers may obtain a visa to visit clients but may also obtain special '*permitted paid employment*' visas which are valid for up to one month without the need to obtain a work permit.

Northern Ireland

Foreign lawyers may engage in the fly-in/fly-out practise of law in Northern Ireland.

No explicit rules or limitations on temporary practice outside of the reserved areas of work. The *Solicitors (Northern Ireland) Order 1976* reserves the use of the title of solicitor to those who are qualified and licensed by the Law Society of Northern Ireland. Reserved activities for solicitors include:

- preparation of any instrument of transfer or charge or any other document for the purposes of the *Land Registration Act (Northern Ireland) 1970 [1970 c.18]* or any enactment repealed or proposed to be repealed by that Act;
- drawing or preparation of any instrument relating to real or personal estate, or any legal proceeding; and
- lodging of any instrument or other document for registration in the Land Registry or the Registry of Deeds, or the making of any application (other than an application to search in, or to receive copies of or extracts from, a register) to the Registrar of Titles.

Foreign lawyers may obtain a visa to visit clients but may also obtain special '*permitted paid employment*' visas which are valid for up to one month without the need to obtain a work permit.

Scotland

Foreign lawyers may engage in the fly-in/fly-out practise of law in Scotland.

There are no explicit rules or limitations on temporary practice outside of the reserved activities. Activities that are reserved to Scottish qualified solicitors by s32 of the *Solicitors (Scotland) Act 1980* include:

- conveyancing of land and/or buildings;
- litigation (civil or criminal); and,
- obtaining confirmation in favour of executors (the Scottish equivalent of probate).

Foreign lawyers may obtain a visa to visit clients but may also obtain special '*permitted paid employment*' visas which are valid for up to one month without the need to obtain a work permit.

What rules govern foreign legal consultants?

England and Wales

There is no requirement for a foreign lawyer to obtain a licence to practice as a foreign legal consultant (FLC).

Non-European Economic Area (EEA) lawyers who wish to enter into partnership with English solicitors must seek registration as a Registered Foreign Lawyer.

As with fly-in/fly-out practice, there are no restrictions on foreign lawyers other than the restricted areas of practice under the *Legal Services Act 2007* which are listed above.

Northern Ireland

There is no requirement for a foreign lawyer to obtain a licence to practise as an FLC.

As with fly-in/fly-out practise, there are no restrictions on foreign lawyers other than the restricted areas of practice under the *Solicitors (Northern Ireland) Order 1976* and listed above.

Scotland

There is no requirement for a foreign lawyer to obtain a licence to practice as an FLC.

As with fly-in/fly-out practice, there are no restrictions on foreign lawyers other than the restricted areas of practice under the *Solicitors (Scotland) Act 1980* which are listed above.

Non-EEA foreign lawyers do not need to register with the Law Society unless they wish to become partners in multi-national practices.

What rules govern foreign lawyer admissions?

England and Wales

The Qualified Lawyer Transfer Scheme (QLTS) is the process through which foreign lawyers can be admitted by the SRA as solicitors of England and Wales. The process involves two separate tests. The two tests are the **Multiple Choice Test (MCT)** and the **Objective Structured Clinical Examination (OSCE)**. The MCT must be passed **before** the OSCE can be sat.

An applicant for the QLTS must be a qualified lawyer from a recognised jurisdiction with no outstanding disciplinary matters on their record. There is no requirement of study at a UK law school or work in the UK.

Evidence that an applicant meets the English language requirement (such as a degree taught in English or passing of an English language test) is required. For more information see: www.sra.org.uk/qlts

To qualify as a Barrister, a foreign lawyer must be a "Qualified Foreign Lawyer" (QFL). A QFL must be entitled to practise as a lawyer in a foreign jurisdiction and must satisfy the following requirements:

- evidence of good character and repute (such as a Certificate of the Senior Judge);
- minimum of three years Post Admission Experience (PAE);
- a certificate to show that he/she has not been prohibited from practising in their home jurisdiction;
- evidence of all academic and professional qualifications;
- any other evidence which may support an application (e.g. references); and
- an application fee of £440.

An applicant must then complete all or part of the Bar Transfer Test (as directed)

For more information see: www.barstandardsboard.org.uk/qualifying-as-a-barrister/transferring-lawyers/

Northern Ireland

Foreign lawyers may qualify for admission in Northern Ireland through qualification in England and Wales or Ireland.

Scotland

Foreign lawyers are able to qualify for admission in Scotland by applying to the Registrar of the Law Society.

Requirements for requalification are judged on a case-by-case basis. For further information contact the Registrar via: Registrar@lawscot.org.uk.

What forms of commercial associations are permitted between foreign and local lawyers and law practices?

England and Wales

Foreign law firms are required to obtain a licence as a recognised body from the Solicitors Regulation Authority if they wish to have English solicitor partners and practise in otherwise reserved areas of work.

There is no such requirement for foreign law firms which do not wish to fee share with English solicitors or practice in the reserved areas.

Northern Ireland

There is limited scope for commercial association between Northern Irish and foreign lawyers/legal practices.

A foreign law firm may:

- employ only foreign lawyers and practise in non-reserved areas of law; or
- establish a firm containing only Northern Irish lawyers who may practise in local law.

Northern Irish firms are prevented from hiring foreign lawyers.

A foreign firm may not hire local lawyers unless it exclusively hires local lawyers.

There is a prohibition on fee sharing with non-Northern Irish solicitors which prevents foreign lawyers from sharing in law firm ownership in Northern Ireland. However, s28(d) of the *Solicitors (Northern Ireland) Order 1976* provides an exception to this prohibition "where an agreement for sharing fees is made between a solicitor in Northern Ireland and a person carrying on the practice or profession of the law ... in a foreign country" (i.e. where the foreign party operates overseas).

Scotland

Foreign law firms are required to obtain authorisation from the Law Society of Scotland as a Multi-National Partnership if they wish to have Scottish solicitor partners and practise in the reserved areas of work.

What is the extent of Australian legal presence in the UK?

There is a significant Australian legal presence in the UK. Many Australian lawyers are currently working in the UK and several Australian firms such as Minter Ellison and Freehills (through its partnership with Herbert Smith) have offices in London.

Further Inquiries

England and Wales

Law Society

Solicitors Regulation Authority

Bar Council

Bar Standards Board

Northern Ireland

Law Society

Bar Council

Scotland

Law Society

Advocates

Law Council of Australia



Law Council of Australia

Street address: 19 Torrens Street Braddon ACT 2612

Postal address: GPO Box 1989 Canberra

Facsimile: (02) 6248 0639

Telephone: (02) 6246 3788

E-mail: mail@lawcouncil.asn.au