
SCOTTISH STATUTORY INSTRUMENTS

2000 No. 121

**The European Communities (Lawyer's
Practice) (Scotland) Regulations 2000**

PART V

ENTRY INTO THE PROFESSION OF SOLICITOR OR ADVOCATE

Application by registered European lawyer

29.—(1) Where a registered European lawyer applies to the professional body with which he has been registered to become a solicitor or advocate, as the case may be, and that professional body requires him to pass an aptitude test under regulation 6(1)(b)(ii) of the Qualification Regulations, he may apply to the professional body for an exemption from that requirement on the grounds that he falls within paragraph (2) or (3) of this regulation.

(2) A person falls within this paragraph if—

- (a) he is a European lawyer and has been registered with that professional body for at least three years; and
- (b) he has for a period of at least three years effectively and regularly pursued in Scotland professional activities, in accordance with regulation 6, under his home professional title in the law of Scotland including Community law.

(3) A person falls within this paragraph if—

- (a) he is a European lawyer and has been registered with that professional body for at least three years;
- (b) he has for a period of at least three years effectively and regularly pursued in Scotland professional activities, in accordance with regulation 6, under his home professional title; and
- (c) he has for a period of less than three years effectively and regularly pursued in Scotland, professional activities, in accordance with regulation 6, under his home professional title in the law of Scotland.

Decision by professional body

30.—(1) Subject to paragraph (3), the professional body shall grant an exemption applied for under regulation 29 if it considers that the requirements under paragraph (2) or (3) of regulation 29 have been met.

(2) The registration of a registered European lawyer shall cease from the date he is granted entry into the profession of solicitor or advocate.

(3) The professional body may refuse to grant an exemption if it considers that the registered European lawyer would be unfit to practise as a solicitor or advocate.

Evidence in support of application for exemption under regulation 29(2)

31.—(1) Where a registered European lawyer makes an application under paragraph (2) of regulation 29, he shall provide the professional body with any relevant information and documentation which it may reasonably require.

(2) The professional body may verify the effective and regular nature of the professional activity pursued and may, if necessary, request the registered European lawyer to provide, orally or in writing, clarification of, or further details on, the information and documentation referred to in paragraph (1)

Evidence in support of application for exemption under regulation 29(3)

32.—(1) Where a registered European lawyer makes an application under paragraph (3) of regulation 29, he shall provide the professional body with any relevant information and documentation it may reasonably require.

(2) In deciding whether to grant an application under paragraph (3) of regulation 29, the professional body shall take into account the professional activities the registered European lawyer has pursued during the period he has been registered and any knowledge and professional experience he has gained of, and any training he has received in, the law of Scotland, and the rules of professional conduct of the profession concerned.

(3) Subject to paragraph (4), in the case of an application under paragraph (3) of regulation 29, the professional body shall, by means of an interview, assess and verify the registered European lawyer's effective and regular professional activity and his capacity to continue that activity.

(4) Where a professional body believes that an interview is unnecessary and intends to grant an application under paragraph (3) of regulation 29, it may dispense with that requirement.

Meaning of “effectively and regularly pursued”

33. For the purposes of regulations 29 to 32 activities shall be regarded as effectively and regularly pursued if they are actually exercised without any interruption other than that resulting from the events of everyday life.

Time limit for decision and notification by professional body

34.—(1) A professional body shall consider an application under regulation 29 as soon as is reasonably practicable, and shall notify the applicant of its decision and, if the application is rejected, the reasons for the rejection, within four months of receipt of all the relevant information and documentation required under regulations 31 and 32.

(2) Where the professional body fails to take a decision and notify the registered European lawyer within four months in accordance with paragraph (1), it shall be deemed to have taken a decision to reject his application and to have notified it to him on the last day of that period.

Appeal by registered European lawyer

35.—(1) Within three months of the notification to him of the professional body's decision, or later with the permission of the Court of Session, the registered European lawyer may appeal against the decision by appeal in Form 41.19 to the Court of Session.

(2) The Court of Session may, for the purpose of determining any appeal under this Part—

- (a) grant the exemption applied for;
- (b) refuse the appeal; or
- (c) remit the matter to the professional body with such directions as the appeal body sees fit.

(3) The Court of Session shall give reasons for its decision.

Practice under the title of solicitor or advocate

36.—(1) This regulation applies where a registered European lawyer (“the lawyer”) is granted entry into the profession of solicitor or advocate.

(2) Subject to paragraph (3), the lawyer shall be entitled to continue to practise in Scotland or elsewhere under his home professional title, and to use his home professional title, expressed in an official language of his home State, alongside the title of solicitor or advocate as the case may be, provided that he continues to be authorised in his home State to pursue professional activities under that title.

(3) For the purposes of rules of professional conduct, including those relating to disciplinary and complaints procedures, the lawyer’s continuing practice in Scotland or elsewhere under his home professional title insofar as it relates to that lawyer’s practice as a solicitor or advocate shall be deemed to form part of his practice as a solicitor or advocate, and those rules shall apply to his practice under his home professional title as they do to his practice as a solicitor or advocate.

(4) Where this regulation applies, a lawyer’s registration in accordance with regulation 17 with the professional body whose title he has acquired shall cease from the date he is entitled to use that title.