
SCOTTISH STATUTORY INSTRUMENTS

2000 No. 121

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

PART III

REGISTRATION

Establishment and maintenance of registers of registered European lawyers

15. Each of the professional bodies shall establish and maintain a register of registered European lawyers.

Application to be entered on a register

16.—(1) Subject to paragraph (6) and regulation 18, a European lawyer who wishes to pursue professional activities under his home professional title on a permanent basis in Scotland or any other part of the United Kingdom shall apply to be entered on the register maintained by a professional body under regulation 15.

(2) A European lawyer who wishes to register with a professional body in accordance with paragraph (1) shall provide the professional body with certificates confirming his registration with the competent authority in each home State under whose home professional title he intends to practise.

(3) A professional body may require that the certificate referred to in paragraph (2) shall not have been issued more than three months before the date of the application under this regulation.

(4) An application for registration under this regulation shall comply with any applicable rules or regulations made by the relevant professional body and shall be accompanied by the appropriate fee.

(5) Subject to regulation 18, an application for registration under this regulation shall not be affected by any other application or registration with the barristers' professional bodies or the England and Wales or Northern Ireland solicitors' professional bodies.

(6) Paragraph (1) shall not apply to a European lawyer who wishes to pursue professional activities under his home professional title on a permanent basis in Scotland or any other part of the United Kingdom where that lawyer is an England and Wales or Northern Ireland registered European lawyer.

Registration by professional body

17.—(1) Subject to regulation 18, a professional body shall enter on its register the name of a European lawyer who applies to it in accordance with regulation 16.

(2) Where a professional body registers a European lawyer in accordance with paragraph (1), it shall inform the competent authority in the home state of the registration.

Restrictions on registration

18.—(1) A European lawyer shall not be registered at the same time both with the Law Society of Scotland and the Faculty of Advocates.

(2) An Irish solicitor shall not be entered on a register maintained under regulation 15 by the Faculty of Advocates.

(3) An Irish barrister shall not be entered on a register maintained under regulation 15 by the Law Society of Scotland.

(4) A European lawyer registered with any of the barristers' professional bodies shall not be entered on a register maintained under regulation 15 by the Law Society of Scotland.

(5) A European lawyer registered with any of the England and Wales and Northern Ireland solicitors' professional bodies shall not be entered on a register maintained under regulation 15 by the Faculty of Advocates.

Time limit for decision and notification by professional body

19.—(1) A professional body shall consider an application for registration under regulation 16 as soon as is reasonably practicable, and shall notify the European lawyer of its decision, and if the application is rejected, or granted subject to conditions, the reasons upon which the rejection or the imposition of conditions is based, within four months of receipt of an application complying with regulation 16(2) and (4).

(2) Where the professional body fails to take a decision and notify the 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.

(3) Where the professional body withdraws or suspends a registration, it shall notify the European lawyer of its decision and the reasons upon which the withdrawal or suspension is based.

Appeal by European lawyer

20.—(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 European lawyer may appeal against the decision by appeal in Form 41.19 to the Court of Session⁽¹⁾.

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

- (a) order the professional body to register the European lawyer;
- (b) refuse the appeal; or
- (c) remit the matter to the professional body with such directions as it sees fit.

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

Offence of pretending to be a registered European lawyer

21.—(1) A person who without being a registered European lawyer,

- (a) wilfully pretends to be a registered European lawyer or takes or uses any name, title, designation or description implying that he is a registered European lawyer whether in Scotland or elsewhere; or
- (b) subject to paragraph (2), carries on professional activities in Scotland under one of the professional titles listed in regulation 2(4) or under any name, designation or description implying that he is entitled to pursue those activities under one of those professional titles;

(1) See Part III of Chapter 41 of the Rules of the Court of Session 1994, S.I.1994/1413.

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

- (2) Paragraph (1)(b) shall not apply to a person who satisfies any of the following conditions—
- (a) he is not a national of the United Kingdom or of any of the States listed in regulation 2(4);
 - (b) he is a solicitor or advocate under the law of Scotland or a solicitor or barrister under the law of England and Wales or Northern Ireland;
 - (c) he is an England and Wales or Northern Ireland registered European lawyer; or
 - (d) he is providing services within the meaning of the European Communities (Services of Lawyers) Order 1978(2).

Fees, rewards, outlays and expenses of an unregistered European lawyer.

22. Where a European lawyer is carrying on professional activities under his home professional title in Scotland any fees, rewards, outlays or expenses in respect of those activities shall not be recoverable by him or any other person unless that European lawyer is a registered European lawyer, or an England and Wales or Northern Ireland registered European lawyer.

Evidence of registration

23. Any certificate purporting to be signed by an officer of a professional body and stating that a person—

- (a) is, or is not, registered as a European lawyer with that professional body; or
- (b) was, or was not, registered with that professional body during a period specified in the certificate,

shall, unless the contrary is proved, be evidence of that fact and be taken to have been so signed.

Publication of names of registered European lawyers

24.—(1) Where a professional body publishes the names of solicitors or advocates registered with it, it shall also publish the names of any European lawyers registered with it.

(2) In this regulation, “publishes” or “publish” includes the provision of information to a legal publisher.