

SCHEDULE 4

Regulation 37(3)

EXTENSION OF ENACTMENTS IN RELATION TO THE
REGISTRATION OF EUROPEAN LAWYERS WITH THE LAW SOCIETY

1.—(1) The power to make regulations under section 2 of the Solicitors Act 1974⁽¹⁾ shall also be exercisable in relation to registered European lawyers.

(2) The power to make regulations under section 28(5) of that Act shall also be exercisable in relation to any appeals to the Master of the Rolls authorised by or by virtue of these Regulations.

(3) The power to make rules under—

(a) sections 31, 32, 33A⁽²⁾, 34, 36 and 37 of the Solicitors Act 1974; and

(b) section 9 of the Administration of Justice Act 1985⁽³⁾,

shall also be exercisable in relation to registered European lawyers, and for the purposes of section 32 of the Solicitors Act 1974 “controlled trust” shall, in relation to a registered European lawyer, mean a trust of which he is a sole trustee or co-trustee only with one or more of his partners or employees.

(4) The power to make regulations under paragraph 2(4) and under paragraph 3(2) of Schedule 14 to the Courts and Legal Services Act 1990⁽⁴⁾ shall also be exercisable in relation to registered European lawyers and regulations under paragraph 2(4) may also provide for rights of appeal to the Master of the Rolls in connection with the making, alteration and removal of entries on the register of European lawyers.

2. Any of the powers referred to in paragraph 1 may be exercised so as to make different provision with respect to registered European lawyers.

3. The power to make rules under paragraph 7(3) of Schedule 14 to the Court and Legal Services Act 1990 shall also be exercisable in relation to registered European lawyers and in relation to solicitors who have been registered European lawyers.

4. The power referred to in paragraph 3 may be exercised so as to make different provision with respect to registered European lawyers, or with respect to solicitors, from the provision made with respect to registered foreign lawyers.

5.—(1) Paragraph 2(1)(b) of Schedule 14 to the Courts and Legal Services Act 1990 shall apply to registered European lawyers as it applies to registered foreign lawyers, except that the Council may prescribe a different level of fee for registered European lawyers and for different descriptions of registered European lawyers.

(2) Paragraphs 2(1)(a), 2(3), 2(5), 3(4) and 8 of Schedule 14 to that Act shall apply to registered European lawyers as they apply to registered foreign lawyers.

(3) Paragraphs 14(1)(a), 14(1)(c), 14(2) and 14(3) of Schedule 14 to that Act shall apply to registered European lawyers in respect of appeals against refusal to renew a registration or failure to deal with an application for renewal of registration within a reasonable time.

6.—(1) Subject to sub-paragraph (3), paragraphs 7(1) and 7(2) of Schedule 14 to that Act shall apply to registered European lawyers, and to solicitors who have been registered European lawyers, as they apply to registered foreign lawyers, and for that purpose the reference to a multi-national partnership of which he is, or was, a member shall be interpreted as a reference to his practice as a registered European lawyer, or to his practice as a solicitor.

(1) 1974 c. 47.

(2) Section 33A was inserted by the Access to Justice Act 1999 (c. 22), section 48, Schedule 7, paragraph 3.

(3) 1985 c. 61.

(4) 1990 c. 41.

(2) The Council may make different provision with respect to registered European lawyers, or with respect to solicitors, from the provision made with respect to registered foreign lawyers.

(3) Paragraphs 2(1), 2(2), 2(2A)(5), 2(3), 2(3A) and 2(3B)(6) of Schedule 2 to the Solicitors Act 1974 shall not apply to solicitors who have been registered European lawyers.

7.—(1) The provisions of sections 13B(7), 15(1), 15(1A), 15(1B), 15(1C)(8), 16, 17 and 84 of that Act shall apply to registered European lawyers as they apply to solicitors except that references to a solicitor’s practising certificate shall be interpreted as references to a registered European lawyer’s registration.

(2) Sections 33, 33A(2), 37A(9), 40, 44B(10), 44C(11), 56(2), 56(7), 57 to 75, 81, 81A(12) and 83 of, and Schedule 1A(13) to, that Act shall also apply to registered European lawyers as they apply to solicitors and the definitions of “contentious business”, “non-contentious business” and “client” in section 87(1) of that Act shall be interpreted accordingly.

(3) Sections 41, 42, 43 and 44 of that Act shall apply to registered European lawyers as they apply to solicitors, and references in those sections to solicitors shall be interpreted as including registered European lawyers, references to the roll shall be interpreted as including the register, and references to a solicitor’s practising certificate shall be interpreted as including a registered European lawyer’s registration.

(4) Section 85 of that Act (bank accounts) shall apply to a registered European lawyer and to the partner of a registered European lawyer as it applies to a solicitor.

8.—(1) Subject to sub-paragraphs (2) to (4), section 36 of that Act shall apply to registered European lawyers as it applies to solicitors.

(2) Where, by virtue of rules made under paragraph 7(3)(b) of Schedule 14 to the Courts and Legal Services Act 1990, a registered European lawyer has been exempted from paying an initial or annual contribution on the grounds that under the rules of his home jurisdiction he has cover for practice in the United Kingdom completely equivalent to that provided by the Compensation Fund, no grant shall be made—

- (a) under section 36(2)(a) of the Solicitors Act 1974 in respect of any act or default of—
 - (i) the registered European lawyer; or
 - (ii) subject to paragraph (3), an employee of that registered European lawyer who is not a solicitor.
- (b) under section 36(2)(b) of that Act in respect of any act or default of the registered European lawyer;
- (c) under section 36(2)(c) of that Act to the registered European lawyer.

(3) Sub-paragraph (2)(a)(ii) shall not apply to an employee who is employed by a partnership which includes at least one person who is not exempted by virtue of sub-paragraph (2).

(4) No grant shall be made under section 36 of that Act in respect of any act or default of a registered European lawyer, or of any of his employees or partners, where such act or default takes

(5) Paragraph 2(2A) was inserted by the Prosecution of Offences Act 1985, section 4(6).

(6) Sub-paragraphs (3A) and (3B) of paragraph 2 were inserted by the Courts and Legal Services Act 1990 (c. 41), section 125(3), Schedule 18, paragraph 18.

(7) Paragraph 13B was inserted by the Courts and Legal Services Act 1990 (c. 41), section 94(3).

(8) Sub-paragraphs (1A), (1B) and (1C) of paragraph 15 were inserted by the Courts and Legal Services Act 1990 (c. 41), section 91(2).

(9) Section 37A was inserted by the Courts and Legal Services Act 1990 (c. 41), section 93(2).

(10) Section 44B was inserted by the Administration of Justice Act 1985 (c. 61), section 2, and amended by the Access to Justice Act 1999 (c. 22), section 48, Schedule 7, paragraph 11.

(11) Section 44C was inserted by the Access to Justice Act 1999 (c. 22), section 48, Schedule 7, paragraph 13.

(12) Section 81A was inserted by the Supreme Court Act 1981, section 152(1), Schedule 5.

(13) Schedule 1A was inserted by the Courts and Legal Services Act 1990 (c. 41), section 93(3).

place outside the United Kingdom unless the Council is satisfied that the act or default is, or is closely connected with, the act or default of a solicitor, or is closely connected with the registered European lawyer's practice in the United Kingdom.

9. Section 35 of, and Schedule 1 to, the Solicitors Act 1974 shall apply to registered European lawyers as they apply to solicitors, and for that purpose—

- (a) “controlled trust” shall, in relation to a registered European lawyer, mean a trust of which he is a sole trustee or co-trustee only with one or more of his partners or employees;
- (b) references to a solicitor's practising certificate shall be interpreted as references to a registered European lawyer's registration;
- (c) references to a sole solicitor shall be interpreted as references to a registered European lawyer who is the sole principal in a practice and also to a registered European lawyer who is in practice in partnership only with persons who are not solicitors, registered European lawyers, registered foreign lawyers or recognised bodies, and in such case those powers shall also be exercisable so as to alter or affect the legal rights, obligations or duties of the registered European lawyer's firm; and
- (d) where any of the powers referred to in Part II of Schedule 1 to that Act are exercisable, by virtue of any provision, so as to alter or affect the legal rights, obligations or duties of the firm of a registered European lawyer or former registered European lawyer, those powers shall also be exercisable so as to alter the legal rights, obligations and duties of the members of that firm.

10. Sections 46(10)(c), 47, 48, 49, 50(2), 50(3), 51, 52, 53, 55, 78(1) and 78(2) of the Solicitors Act 1974 shall apply to registered European lawyers as they apply to solicitors and references in those sections to the roll shall for this purpose be interpreted as references to the register.

11. For the purpose of enabling the Law Society to issue certificates under Part I of the Financial Services Act 1986(**14**) (regulation of investment business) to a registered European lawyer, a partnership in which a registered European lawyer is a partner or a recognised body in the management and control of which a registered European lawyer is concerned—

- (a) the Law Society shall be taken to be the appropriate professional body;
- (b) the registered European lawyer and any partner of his who is a person authorised in a state listed in regulation 2(4) to pursue professional activities under any of the titles appearing in that paragraph, shall be treated—
 - (i) as if they were members of the Law Society; and
 - (ii) as if they were solicitors for the purposes of paragraph 2(3) of Schedule 3 to the Financial Services Act 1986 (requirements for recognition of professional body).

12. For the purposes of section 391 of the Insolvency Act 1986(**15**) and the Insolvency Practitioners (Recognised Professional Bodies) Order 1986(**16**), registered European lawyers and their partners shall be deemed to be—

- (a) part of the solicitors' profession; and
- (b) subject to the Law Society's rules in the practice of their profession.

13. Section 142 of the County Courts Act 1984(**17**) shall apply to registered European lawyers as it applies to solicitors.

14.—(1) Section 89 of the Courts and Legal Services Act 1990 shall be amended as follows.

(14) 1986 c. 60.

(15) 1986 c. 45.

(16) 1986/1764.

(17) 1984 c. 28.

(2) In subsection (9), the following shall be substituted for the definition of “multi-national partnership”—

““multi-national partnership” means a partnership whose members consist of one or more registered foreign lawyers and one or more other lawyers as permitted by rules made under section 31 of the Solicitors Act 1974;”.

15.—(1) Section 9 of the Administration of Justice Act 1985 shall be amended as follows.

(2) In subsection (1) the following shall be substituted for sub-paragraph (a)—

“(a) making provision as to the management and control by solicitors or registered European lawyers, or by such persons and other lawyers as permitted by rules made under this section, of bodies corporate carrying on business consisting of the provision of professional services such as are provided by individuals practising as solicitors of lawyers of other jurisdictions;”.

(3) In subsection (8)—

(a) the definition of “multi-national partnership” shall be deleted;

(b) for the definition of “registered foreign lawyer”, there shall be substituted the following—
““registered European lawyer” means a person who is registered with the Law Society under regulation 17 of the European Communities (Lawyers’s Practice) Regulations 2000 **(18)**.”.

16. Registered European lawyers shall be authorised advocates and authorised litigators, for the purposes of the Courts and Legal Services Act 1990 and for the purposes of other enactments where either of those terms is defined by reference to the meaning in that Act.

17. In the Estate Agents Act 1979**(19)** the reference to a practising solicitor in section 1(2)(a) (which exempts solicitors from that Act) shall be interpreted as including a reference to a registered European lawyer and the partner of a registered European lawyer, providing professional services in accordance with rules made under section 31 of the Solicitors Act 1974.

18. In the Partnerships (Unrestricted Size) No. 8 Regulations 1991**(20)** the reference in regulation 2 to a partnership which is a multi-national partnership within the meaning of section 89(9) of the Courts and Legal Services Act 1990 shall be interpreted as including reference to a partnership which includes one or more registered European lawyers and which is providing professional services in accordance with rules made under section 31 of the Solicitors Act 1974.

19. In the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975**(21)** the reference to “solicitor” in Part I of Schedule 1 to the Order shall be interpreted as including reference to a registered European lawyer.

20. The Solicitors (Non-Contentious Business) Remuneration Order 1994**(22)** shall apply to registered European lawyers as it applies to solicitors.

21. Registered European lawyers shall be treated as if they were officers of the Supreme Court and shall be subject to the inherent jurisdiction of that court in like manner and to the same extent as if they were solicitors.

22.—(1) References in the Charter to solicitors shall be deemed to include references to registered European lawyers.

(18) S.I.2000/1119.

(19) 1979 c. 38.

(20) S.I. 1991/2729.

(21) S.I. 1975/1023.

(22) S.I. 1994/2616.

(2) In this paragraph “the Charter” has the same meaning as it has in section 87(1) of the Solicitors Act 1974.

23. In the Banking Act 1987 (Exempt Transactions) Regulations 1997 (**23**), each reference in regulation 8 to a “practising solicitor” shall be interpreted as including a reference to a registered European lawyer and the partner of a registered European lawyer providing professional services in accordance with rules made under section 31 of the Solicitors Act 1974.

24. In Schedule 2 to the Administration of Justice Act 1985, paragraph 21(b) shall apply to a director who is a registered European lawyer as it applies to a director who is a solicitor and reference to the roll shall include reference to the register.