
SCOTTISH STATUTORY INSTRUMENTS

2000 No. 121

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

PART I

INTRODUCTORY

Citation, commencement, transitional and extent

1.—(1) These Regulations may be cited as the European Communities (Lawyer's Practice) (Scotland) Regulations 2000 and shall come into force on 22nd May 2000, except for regulations 21 and 22, which shall come into force on 22nd November 2000.

(2) Where, on 22nd May 2000, a European lawyer is practising professional activities under his home professional title on a permanent basis in Scotland or commences such practice by 21st November 2000, he shall apply to be registered in accordance with regulation 16 by 21st November 2000 where he intends to practise those activities on a permanent basis after that date.

(3) On or after 22nd November 2000, a European lawyer shall not practise as referred to in paragraph (2) without being registered in accordance with regulation 16, unless he was already practising before that date and has made an application for registration which has not been determined.

(4) In paragraphs (3) and (5), an application for registration shall, as at a particular date, be taken not to have been determined if as at that date the applicant—

- (a) has not received a rejection of his application and the period for such a rejection or a deemed rejection has not yet expired; or
- (b) is appealing against a rejection of the application (including a deemed rejection) and the appeal has not been determined.

(5) Regulations 21(1)(b) and 22 shall not apply to a European lawyer whilst that lawyer satisfies all the following conditions—

- (a) immediately before 22nd November 2000 he was practising on a permanent basis in any part of the United Kingdom;
- (b) before 22nd November 2000 he applied for registration to any of the barristers' professional bodies or England and Wales or Northern Ireland solicitors' professional bodies, or to the Faculty of Advocates or the Law Society of Scotland; and
- (c) his application for registration has not yet been determined.

(6) These Regulations extend to Scotland and insofar as they extend beyond Scotland they do so only as a matter of Scots law.

Commencement Information

II Reg. 1 in force at 22.5.2000, see [reg. 1\(1\)](#)

Status: This version of this Instrument contains provisions that are prospective.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The European Communities (Lawyer's Practice) (Scotland) Regulations 2000. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Interpretation

2.—(1) In these Regulations, unless the context otherwise requires—

“advocate” means a member of the Faculty of Advocates;

“barrister” means a person who is a barrister of England and Wales or, as the case may be, Northern Ireland, and practising as such;

“barristers' professional bodies” means the Inns of Court and the General Council of the Bar of England and Wales and the Executive Council of the Inn of Court of Northern Ireland;

“competent authority”, in relation to Scotland, means either of the bodies designated as a competent authority by regulation 4 to undertake the activities required by the Directive set out in that regulation;

“the Directive” means of the European Communities Parliament and Council Directive No.98/5/EC to facilitate practice of the profession of lawyer on a permanent basis in certain states other than the State in which the professional qualification was obtained⁽¹⁾;

“England and Wales or Northern Ireland registered European lawyer” means a European lawyer who is registered with one of the barristers' professional bodies or England and Wales or Northern Ireland solicitors' professional bodies and whose registration has not been withdrawn or suspended;

“England and Wales or Northern Ireland solicitors' professional bodies” means the Law Society and the Law Society of Northern Ireland respectively;

“European lawyer” has the meaning given in paragraphs (2) and (3);

“home State” means the State in paragraph (4) in which a European lawyer acquired his authorisation to pursue professional activities and, if he is authorised in more than one of those States, it shall mean any of those States;

“home professional title” means, in relation to a European lawyer, the professional title or any of the professional titles specified in relation to his home State in paragraph (4) under which he is authorised in his home State to pursue professional activities;

“Irish barrister” means a European lawyer who is authorised in the Republic of Ireland to pursue professional activities under the professional title of barrister and whose home State is the Republic of Ireland;

“Irish solicitor” means a European lawyer who is authorised in the Republic of Ireland to pursue professional activities under the professional title of solicitor and whose home State is the Republic of Ireland;

“member of the professional body” means a practising solicitor or advocate, as the case may be;

“professional body” means the Law Society of Scotland or the Faculty of Advocates;

“Qualification Regulations” means the European Communities (Recognition of Professional Qualifications) Regulations 1991⁽²⁾;

“registered European lawyer” means a European lawyer who is registered with a professional body in accordance with regulation 17 and whose registration has not been withdrawn or suspended;

“solicitor” shall have the same meaning as in section 65(1) of the Solicitors (Scotland) Act 1980⁽³⁾;

⁽¹⁾ O.J. L77, 14.3.98, p.36.

⁽²⁾ S.I.1991/824.

⁽³⁾ 1980 c. 46.

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“supreme court” means the Court of Session, the High Court of Justiciary, the Lands Valuation Appeal Court, the House of Lords (hearing an appeal from the Court of Session) or the Judicial Committee of the Privy Council (hearing a reference or an appeal under the Scotland Act 1998).

- (2) In these Regulations, “European lawyer” means a person who is—
- (a) a national of the United Kingdom or of a State listed in paragraph (4);
 - (b) authorised in any of the States listed in paragraph (4) to pursue professional activities under any of the professional titles appearing in that paragraph; and
 - (c) subject to paragraph (3), not a solicitor or advocate, or under the law of England and Wales or Northern Ireland, a solicitor or barrister.
- (3) Where a person is a European lawyer registered with more than one of the following—
- (a) the Law Society of Scotland or the Faculty of Advocates; or
 - (b) the England and Wales or Northern Ireland solicitors' professional bodies or the barristers' professional bodies,

and subsequently acquires the title used by members of one of the bodies referred to in sub paragraph (b) then notwithstanding paragraph (2)(c), that person shall continue to fall within the definition of a European lawyer in relation to the relevant professional body referred to in sub paragraph (a) for the period that he remains registered with that other professional body.

(4) The States and professional titles referred to in the definition of European lawyer in paragraph (1) are as follows—

<i>State</i>	<i>Professional titles</i>
Belgium	Avocat/Advocaat/Rechtsanwalt
Denmark	Advokat
Germany	Rechtsanwalt
Greece	Dikegoros
Spain	Abogado/Advocat/Avogado/Abokatu
France	Avocat
Republic of Ireland	Barrister/Solicitor
Italy	Avvocato
Luxembourg	Avocat
Netherlands	Advocaat
Austria	Rechtsanwalt
Portugal	Advogado
Finland	Asianajaja/Advokat
Sweden	Advokat

(5) For the purposes of regulations 4(2)(d), 5(3) and 24(1) registration with the Faculty of Advocates shall be construed as membership of it.

(6) Unless the context otherwise requires, any reference in these Regulations to a numbered regulation, Part or Schedule is a reference to a regulation or Part of, or a Schedule to, these Regulations and any reference in a regulation to a numbered paragraph is a reference to the paragraph bearing that number in that regulation.

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Commencement Information

I2 Reg. 2 in force at 22.5.2000, see [reg. 1\(1\)](#)

Purpose of Regulations

3.—(1) The purpose of these Regulations is to implement the Directive in or as regards Scotland.

(2) The provisions of these Regulations shall have effect for the purpose of facilitating the practice of the profession of lawyer on a permanent basis by a European lawyer registered or registering in Scotland.

(3) References in these regulations to practice or professional activities shall not include the provision of services by lawyers within the meaning of the European Communities (Services of Lawyers) Order 1978(4).

Commencement Information

I3 Reg. 3 in force at 22.5.2000, see [reg. 1\(1\)](#)

Competent authorities

4.—(1) The Law Society of Scotland is designated as the competent authority for the purposes of—

- (a) receiving applications for registration by European lawyers under Part III of these Regulations;
- (b) receiving applications from registered European lawyers for entry into the profession of solicitor;
- (c) the regulation of registered European lawyers registered with it; and
- (d) the provision of certificates attesting to registration of solicitors with it.

(2) The Faculty of Advocates is designated as the competent authority for the purposes of—

- (a) receiving applications for registration by European lawyers under Part III of these Regulations;
- (b) receiving applications from registered European lawyers for entry into the profession of advocate;
- (c) the regulation of registered European lawyers registered with it; and
- (d) the provision of certificates attesting to registration of advocates with it.

Commencement Information

I4 Reg. 4 in force at 22.5.2000, see [reg. 1\(1\)](#)

Exchange of information

5.—(1) In order to facilitate the application of the Directive and to prevent its provisions from being misapplied, a professional body may supply to or receive from—

- (a) another professional body;

(4) S.I. 1978/1910.

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- (b) the England and Wales or Northern Ireland solicitors' professional bodies or barristers' professional bodies; or
- (c) an authority in any of the States listed in regulation 2(4) which has been designated by that State under the Directive as a competent authority in that State,

any information relating to a European lawyer or to any person with whom he jointly practises.

(2) Subject to paragraph (1) or as otherwise required by law in the interests of justice, a professional body shall preserve the confidentiality of any information received in accordance with paragraph (1) relating to a European lawyer or to any person with whom he jointly practises.

(3) A competent authority in Scotland shall provide a certificate attesting to the registration of a solicitor or advocate registered with it and his authorisation to practise when requested to do so by that solicitor or advocate or by a competent authority in a State listed in regulation 2(4).

Commencement Information

I5 Reg. 5 in force at 22.5.2000, see [reg. 1\(1\)](#)

PART II

PRACTICE OF PROFESSIONAL ACTIVITIES BY A REGISTERED EUROPEAN LAWYER

Practice of professional activities

6.—(1) Subject to the provisions of these Regulations, a registered European lawyer shall be entitled to carry out under his home professional title any professional activities whether in Scotland or elsewhere that may lawfully be carried out by a member of the professional body with which he is registered and any enactment or rule of law or practice with regard to the carrying out of professional activities by members of that professional body shall be interpreted and applied accordingly.

(2) A registered European lawyer who is in salaried employment may carry out professional activities whether in Scotland or elsewhere under his home professional title to the same extent that an employed member of the professional body with which he is registered may do so.

Commencement Information

I6 Reg. 6 in force at 22.5.2000, see [reg. 1\(1\)](#)

Title and description to be used by a registered European lawyer

7.—(1) Where a registered European lawyer is engaged in any professional activities in pursuance of regulation 6(1) he shall comply with the requirements set out in paragraph (2).

- (2) The requirements referred to in paragraph (1) are that a registered European lawyer shall—
 - (a) use his home professional title expressed in an official language of his home State in a manner which avoids confusion with the title of solicitor or advocate;
 - (b) indicate the professional organisation by which he is authorised to practise or the court of law before which he is entitled to practise in that State;
 - (c) indicate the professional body with which he is registered in Scotland and that he is a registered European lawyer with that body; and

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- (d) if applicable indicate any England and Wales or Northern Ireland solicitors' professional bodies or barristers' professional bodies with which he may be registered and that he is an England and Wales or Northern Ireland registered European lawyer with that body or those bodies.

Commencement Information

I7 Reg. 7 in force at 22.5.2000, see [reg. 1\(1\)](#)

Joint practice

8. Where a registered European lawyer carries out professional activities in pursuance of regulation 6(1) under his home professional title as part of a joint practice he shall do so to the same extent and in the same manner as a member of the professional body with which he is registered may do so, with—

- (a) a member of the professional body with which he is registered;
- (b) a registered European lawyer who is registered with the same professional body; or
- (c) any other person permitted by the professional body with which he is registered.

Commencement Information

I8 Reg. 8 in force at 22.5.2000, see [reg. 1\(1\)](#)

Name of joint practice

9.—(1) Subject to paragraph (2), where a registered European lawyer is a member of a joint practice in his home State, he may use the name of that practice with his home professional title when practising as a registered European lawyer.

(2) Rules of conduct of the professional body with which a registered European lawyer is registered may prohibit the use by him of the name of the joint practice of which he is a member in the home State to the extent that—

- (a) that name is also used by persons who are not European lawyers or solicitors of any part of the United Kingdom; and
- (b) those rules prohibit members of that professional body (whether or not practising as such) from using that name.

Commencement Information

I9 Reg. 9 in force at 22.5.2000, see [reg. 1\(1\)](#)

Notification of joint practice

10.—(1) Where a European lawyer is a member of a joint practice in his home State, he shall inform the professional body with which he intends to register and provide it with the following information:—

- (a) the name of the joint practice;
- (b) his place of business;
- (c) the name and place of business of any member of his joint practice;

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(d) any other relevant information about the joint practice requested by the professional body.

(2) A European lawyer shall notify that professional body of any changes in the information whether before or after registration.

Commencement Information

I10 Reg. 10 in force at 22.5.2000, see [reg. 1\(1\)](#)

Representation in legal proceedings

11.—(1) Subject to paragraphs (2) and (4), no enactment or rule of law or practice shall prevent a registered European lawyer from pursuing professional activities relating to the representation of a client in any proceedings before any court, tribunal or public authority (including addressing the court, tribunal or public authority) only because he is not a solicitor or advocate.

(2) In proceedings referred to in paragraph (1), where the professional activities in question may (but for these Regulations) be lawfully provided only by a solicitor or advocate, a registered European lawyer shall act in conjunction with a solicitor or advocate who is entitled to practise before the court, tribunal or public authority concerned and who could lawfully provide those professional activities.

(3) The solicitor or advocate referred to in paragraph (2) shall, where necessary, be answerable to the court, tribunal or public authority concerned in relation to the proceedings.

(4) A registered European lawyer shall not have a right of audience in a supreme court unless he has completed the course of training in evidence, pleading and practice in relation to that court which must be completed by any member of the professional body with which he is registered who seeks a right of audience in that court.

Commencement Information

I11 Reg. 11 in force at 22.5.2000, see [reg. 1\(1\)](#)

Property transactions

12. A registered European lawyer is not entitled, by virtue of regulation 6(1), to prepare for remuneration any deed creating or transferring an interest in land unless he has a home professional title obtained in Denmark, the Republic of Ireland, Finland or Sweden.

Commencement Information

I12 Reg. 12 in force at 22.5.2000, see [reg. 1\(1\)](#)

Executries

13. A registered European lawyer is not entitled, by virtue of regulation 6(1), to prepare for remuneration any deed for obtaining title to administer the estate of a deceased person unless he has a home professional title obtained in Denmark, Germany, the Republic of Ireland, Austria, Finland or Sweden.

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Commencement Information

I13 Reg. 13 in force at 22.5.2000, see [reg. 1\(1\)](#)

Legal aid

14. A registered European lawyer may provide professional activities by way of legal advice and assistance or legal aid under the Legal Aid (Scotland) Act 1986(5) and references to a solicitor, counsel or legal representative in that and any other enactment relating to legal advice and assistance or legal aid shall be interpreted accordingly.

Commencement Information

I14 Reg. 14 in force at 22.5.2000, see [reg. 1\(1\)](#)

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.

Commencement Information

I15 Reg. 15 in force at 22.5.2000, see [reg. 1\(1\)](#)

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.

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(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.

Commencement Information

I16 Reg. 16 in force at 22.5.2000, see [reg. 1\(1\)](#)

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.

Commencement Information

I17 Reg. 17 in force at 22.5.2000, see [reg. 1\(1\)](#)

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.

Commencement Information

I18 Reg. 18 in force at 22.5.2000, see [reg. 1\(1\)](#)

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.

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(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.

Commencement Information

I19 Reg. 19 in force at 22.5.2000, see [reg. 1\(1\)](#)

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⁽⁶⁾.

(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.

Commencement Information

I20 Reg. 20 in force at 22.5.2000, see [reg. 1\(1\)](#)

PROSPECTIVE

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;

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⁽⁷⁾.

⁽⁶⁾ See Part III of Chapter 41 of the Rules of the Court of Session 1994, S.I. 1994/1413.

⁽⁷⁾ S.I. 1978/1910.

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Commencement Information

I21 Reg. 21 in force at 22.11.2000, see [reg. 1\(1\)](#)

PROSPECTIVE

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.

Commencement Information

I22 Reg. 22 in force at 22.11.2000, see [reg. 1\(1\)](#)

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.

Commencement Information

I23 Reg. 23 in force at 22.5.2000, see [reg. 1\(1\)](#)

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.

Commencement Information

I24 Reg. 24 in force at 22.5.2000, see [reg. 1\(1\)](#)

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PART IV

REGULATION AND DISCIPLINE

Rules of professional conduct applicable

25. Where a registered European lawyer is practising under his home professional title whether in Scotland or elsewhere, he shall be subject to the same rules of professional conduct as a member of the professional body with which he is registered.

Commencement Information

I25 Reg. 25 in force at 22.5.2000, see [reg. 1\(1\)](#)

Disciplinary proceedings applicable

26.—(1) Where it is alleged that a registered European lawyer has failed to comply with the rules of professional conduct to which he is subject under regulation 25, he shall be subject to the same rules of procedure, penalties and remedies as a member of the professional body with which he is registered and shall, if appropriate, be subject to disciplinary proceedings brought by an appropriate authority.

(2) Any sanction against a registered European lawyer in relation to disciplinary proceedings may include withdrawal or suspension of his registration.

(3) The appropriate authority shall give reasons for its decision.

(4) In this regulation, an appropriate authority means—

- (a) where the registered European lawyer is registered with the Law Society of Scotland, the Scottish Solicitors' Discipline Tribunal;
- (b) where the registered European lawyer is registered with the Faculty of Advocates, that body.

Commencement Information

I26 Reg. 26 in force at 22.5.2000, see [reg. 1\(1\)](#)

Disciplinary proceedings against a registered European lawyer

27.—(1) Where a professional body intends to begin disciplinary proceedings against a registered European lawyer, it shall—

- (a) inform the competent authority in his home State as soon as possible of the intention to begin those proceedings and furnish it with all the relevant details;
- (b) co-operate with that authority throughout those proceedings; and
- (c) inform that authority of the decision reached in those proceedings including the decision in any appeal, as soon as practicable after the decision is given.

(2) Subject to paragraph (3), where the competent authority in the registered European lawyer's home State withdraws his authorisation to practise under the home professional title either temporarily or permanently, his registration with the professional body shall be automatically withdrawn to the same extent.

(3) Where a registered European lawyer is authorised to practise under a home professional title in two or more home States, his registration shall be withdrawn in accordance with paragraph (2) if his authorisation to practise under a home professional title has been withdrawn in one or more of those home States.

(4) Where there is an appeal against a decision in disciplinary proceedings against a registered European lawyer, the body responsible for hearing the appeal shall afford the competent authority in the registered European lawyer's home State an opportunity to make representations in relation to that appeal.

Commencement Information

I27 Reg. 27 in force at 22.5.2000, see [reg. 1\(1\)](#)

Disciplinary proceedings against a solicitor or advocate

28. Where a professional body intends to begin disciplinary proceedings against a solicitor or advocate practising in a State listed in regulation 2(4), it shall inform the competent authority in that State of—

- (a) the intention to begin those proceedings and furnish it with all of the relevant details; and
- (b) the decision reached in those proceedings, including the decision in any appeal, as soon as practicable after the decision is given.

Commencement Information

I28 Reg. 28 in force at 22.5.2000, see [reg. 1\(1\)](#)

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;

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- (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.

Commencement Information

I29 Reg. 29 in force at 22.5.2000, see [reg. 1\(1\)](#)

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.

Commencement Information

I30 Reg. 30 in force at 22.5.2000, see [reg. 1\(1\)](#)

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)

Commencement Information

I31 Reg. 31 in force at 22.5.2000, see [reg. 1\(1\)](#)

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.

Status: This version of this Instrument contains provisions that are prospective.

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(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.

Commencement Information

I32 Reg. 32 in force at 22.5.2000, see [reg. 1\(1\)](#)

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.

Commencement Information

I33 Reg. 33 in force at 22.5.2000, see [reg. 1\(1\)](#)

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.

Commencement Information

I34 Reg. 34 in force at 22.5.2000, see [reg. 1\(1\)](#)

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.

Commencement Information

I35 Reg. 35 in force at 22.5.2000, see [reg. 1\(1\)](#)

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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.

Commencement Information

I36 Reg. 36 in force at 22.5.2000, see [reg. 1\(1\)](#)

PART VI

SUPPLEMENTARY PROVISIONS

Modification and extension of enactments

37.—(1) Schedule 1, which makes amendments to the Solicitors (Scotland) Act 1980, shall have effect.

(2) Schedule 2, which applies enactments, with modifications and extensions shall have effect in relation to registered European lawyers.

Commencement Information

I37 Reg. 37 in force at 22.5.2000, see [reg. 1\(1\)](#)

St Andrew’s House,
Edinburgh
27th April 2000

James Wallace
A member of the Scottish Executive

Status:

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Changes to legislation:

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Changes and effects yet to be applied to :

- Regulations revoked by [S.S.I. 2019/127 reg. 3\(b\)](#)
- reg. 2(4) Table words inserted by [S.S.I. 2004/302 reg. 3](#)
- reg. 2(4) words inserted by [S.S.I. 2007/358 reg. 3\(2\)](#)
- reg. 2(4) Table words inserted by [S.S.I. 2013/177 reg. 3](#)
- reg. 12 words substituted by [S.S.I. 2004/302 reg. 4](#)
- reg. 13 words substituted by [S.S.I. 2004/302 reg. 5](#)
- reg. 21 coming into force by [S.S.I. 2000/121 reg. 1\(1\)](#)
- reg. 22 coming into force by [S.S.I. 2000/121 reg. 1\(1\)](#)