

2004 No. 302

LEGAL PROFESSION

**The European Communities (Lawyer's Practice) (Scotland)
Amendment Regulations 2004**

Made - - - - - *22nd June 2004*

Laid before the Scottish Parliament *25th June 2004*

Coming into force - - - *16th September 2004*

The Scottish Ministers, in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(a) and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the European Communities (Lawyer's Practice) (Scotland) Amendment Regulations 2004 and shall come into force on 16th September 2004.

(2) In these Regulations, any reference to a regulation by number alone means the regulation so numbered in the European Communities (Lawyer's Practice) (Scotland) Regulations 2000(b).

Transitional provisions

2.—(1) In this regulation “relevant lawyer” means a European lawyer, as defined by the European Communities (Lawyer's Practice) (Scotland) Regulations 2000 as they are amended by these Regulations, who satisfies either or both of the conditions set out in paragraph (2) of this regulation.

(2) Those conditions are that—

- (a) that person is a national of Switzerland, Iceland, Liechtenstein, Norway, the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia or Slovakia; or
- (b) that person is authorised in any of those States to pursue professional activities under any of the professional titles appearing in regulation 2(4) as it is amended by these Regulations, opposite the name of that State.

(3) Regulations 21 and 22 shall apply to a relevant lawyer only as from 16th March 2005.

(4) Regulation 1(2) to (5) shall apply to a relevant lawyer with the following modifications:—

- (a) for “22nd May 2000”, where it occurs in paragraph (2), there shall be substituted “16th September 2004”;

(a) 1972 c.68; section 2(2) was amended by the Scotland Act 1998 (c.46), Schedule 8, paragraph 15(3). The function conferred on a Minister of the Crown by section 2(2), in so far as within devolved competence, was transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998.

(b) S.S.I. 2000/121, amended by S.I. 2001/3649.

- (b) for “21st November 2000”, wherever it occurs, there shall be substituted “15th March 2005”; and
- (c) for “22nd November 2000”, wherever it occurs, there shall be substituted “16th March 2005”.

Amendments to European Communities (Lawyer’s Practice) (Scotland) Regulations 2000

3. In the table in regulation 2(4) (definition of European lawyer), after the entry relating to Sweden, there shall be inserted–

“	Switzerland	Avocat/Advokat/Rechtsanwalt/Anwalt/ Fürsprecher/Fürsprech/Avvocato	
	Iceland	Lögmaður	
	Liechtenstein	Rechtsanwalt	
	Norway	Advokat	
	Czech Republic	Advokát	
	Estonia	Vandeadvokaat	
	Cyprus	Δικηγόρος (Dikegoros)	
	Latvia	Zvērināts advokāts	
	Lithuania	Advokatas	
	Hungary	Ügyvéd	
	Malta	Avukat/Prokuratur legali	
	Poland	Adwokat/Radca prawny	
	Slovenia	Odvetnik/Odvetnica	
	Slovakia	Advokát/Komerčný právnik	”.

4. In regulation 12 (property transactions), for “or Sweden” there shall be substituted “, Sweden, Cyprus, the Czech Republic, Hungary, Iceland, Liechtenstein, Norway or Slovakia”.

5. In regulation 13 (executries), for “or Sweden” there shall be substituted “, Sweden, Cyprus, Iceland, Liechtenstein, Norway or Slovakia”.

CATHY JAMIESON
A member of the Scottish Executive

St Andrew’s House,
Edinburgh
22nd June 2004

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the European Communities (Lawyer's Practice) (Scotland) Regulations 2000 (S.S.I. 2000/121) ("the 2000 Regulations"). The 2000 Regulations implemented Council Directive No. 98/5/EC, dated 16th February 1998, 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 ("the Directive").

The amendments made by these Regulations are consequential on adaptations to the Directive resulting from:

- (a) the Agreement between the European Community and its Member States and the Swiss Confederation on the free movement of persons, signed at Brussels on 21st June 1999 (which was designated a Community Treaty by the European Communities (Definition of Treaties) (Agreement between the European Community and its Member States and the Swiss Federation on the Free Movement of Persons) Order 2000 (S.I. 2000/3269)) (O.J. No. L 114, 30.4.2002, p.45);
- (b) the Agreement on the European Economic Area signed at Oporto on 2nd May 1992, by which Iceland, Liechtenstein and Norway joined the EEA (Annex VIIB provides for the mutual recognition of professional qualifications) (O.J. No. L 001, 3.1.1994, p.371); and
- (c) the Treaty concerning the accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia, and Slovakia to the European Union, signed at Athens on 16th April 2003 (O.J. No. L 236, 23.9.2003, p.179).

Those adaptations confer certain rights to practise on a permanent basis as a lawyer on nationals of the affected countries.

Regulation 3 extends the definition of "European lawyer" in the 2000 Regulations to refer to those countries, and the national designations of lawyers in those countries.

Regulation 2 makes transitional provision as to the application of the 2000 Regulations to lawyers from the countries added to the definition of "European lawyer".

Regulation 12 of the 2000 Regulations is amended so that the prohibition on registered European lawyers conducting certain work related to property does not apply to lawyers from Cyprus, the Czech Republic, Hungary, Iceland, Liechtenstein, Norway and Slovakia (regulation 4).

Regulation 13 of the 2000 Regulations is amended so that the prohibition on registered European lawyers conducting certain work related to executries does not apply to lawyers from Cyprus, Iceland, Liechtenstein, Norway and Slovakia (regulation 5).

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