
STATUTORY INSTRUMENTS

2000 No. 1119

The European Communities
(Lawyer's Practice) Regulations 2000

PART 1

INTRODUCTORY

Citation, commencement and transitional provisions

1.—(1) These Regulations may be cited as the European Communities (Lawyer's Practice) 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 England and Wales or Northern Ireland 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 continue 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 who 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 solicitors' professional bodies, or to the Faculty of Advocates or the Law Society of Scotland; and
- (c) as at the date in question his application for registration had not been determined.

Interpretation

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

“appeal body” means the body or person specified in relation to that profession in Schedule 1;

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

“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 England and Wales and Northern Ireland, means any of the bodies designated as competent authorities by regulation 4 to undertake the activities required by the Directive set out in that regulation;

“the Directive” means 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;

“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 barrister, as the case may be;

“Qualification Regulations” means the European Communities (Recognition of Professional Qualifications) Regulations 1991(1)

“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;

“professional body” means, subject to regulation 16, any of the solicitors' professional bodies or the barristers' professional bodies;

“solicitor” means, in relation to England and Wales or Northern Ireland, a person who is a solicitor of England and Wales or Northern Ireland, as the case may be;

“solicitors' professional bodies” means the Law Society and the Law Society of Northern Ireland;

- (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 barrister or, under the law of Scotland, a solicitor or advocate.
- (3) Where a person is a European lawyer registered with more than one of the following—
- (a) the solicitors' professional bodies or the barristers' professional bodies, or
 - (b) the Law Society of Scotland or the Faculty of Advocates,

(1) S.I.1991/824.

and subsequently acquires the title used by members of one of those bodies, then notwithstanding paragraph (2)(c), that person shall continue to fall within the definition of a European lawyer in relation to that other professional body 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 (2) are as follows—

State	Professional title(s)
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) 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.

Purpose of Regulations

3.—(1) The purpose of these Regulations is to implement the Directive in England and Wales and Northern Ireland.

(2) The provisions of these Regulations shall have effect for the purposes of facilitating the practice of the profession of lawyer on a permanent basis by a European lawyer in England and Wales and Northern Ireland.

(3) The provisions of these Regulations shall not affect the provision of services by lawyers within the meaning of the European Communities (Services of Lawyers) Order 1978(2).

Competent authorities

4. The bodies listed in column 2 of Schedule 2 shall be designated as the competent authorities 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 or barrister;
- (c) the regulation of registered European lawyers registered with them; and
- (d) the provision of certificates attesting to the registration of Solicitors or barristers registered with them.

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;
- (b) the Faculty of Advocates or the Law Society of Scotland; 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), 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 England and Wales or Northern Ireland shall provide a certificate attesting to the registration of a solicitor or barrister registered with it and his authorisation to practise when requested to do so by that solicitor or barrister or by a competent authority in a State listed in regulation 2(4).

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 activity 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 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.

Title and description to be used by a registered European lawyer

7.—(1) Where a registered European lawyer is engaged in—

- (a) any professional activity authorised by the professional organisation in his home State which gave him the authorisation to practise; or
- (b) any professional activity that may be carried out by a member of the professional body with which he is registered,

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, barrister 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; and
- (c) indicate the professional body with which he is registered in the United Kingdom.

Joint practice

8. A registered European lawyer may carry out professional activities under his home professional title as part of a joint practice—

- (a) 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—
 - (i) a member of the professional body with which he is registered;
 - (ii) a registered European lawyer who is registered with the same professional body; or
 - (iii) any other person permitted by the professional body with which he is registered; or
- (b) with another European lawyer who is practising on a permanent basis under his home professional title in that registered European lawyer's home State.

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 a joint practice 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 from using that name.

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;
- (d) any other 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.

Representation in legal proceedings

11.—(1) Subject to paragraph (2), 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 barrister.

(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, barrister or other qualified person, a registered European lawyer shall act in conjunction with a solicitor or barrister 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 barrister referred to in paragraph (2) shall, where necessary, be answerable to the court, tribunal or public authority concerned.

Property transactions

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

Probate

13. A registered European lawyer is not entitled, by virtue of regulation 6(1), to prepare for remuneration any instrument 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.

Legal aid

14. A registered European lawyer may provide professional activities by way of legal advice and assistance or legal aid under the enactments specified in Part 1 of Schedule 3 and references to a solicitor, counsel or legal representative in those and any other enactments relating to legal advice and assistance or legal aid shall be interpreted accordingly.

PART III

REGISTRATION

Establishment and maintenance of registers of European lawyers

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

Application to be entered on a register

16.—(1) Subject to regulation 18, a European lawyer who wishes to pursue professional activities under his home professional title on a permanent basis in England and Wales or Northern Ireland shall apply to be entered on the register maintained by a professional body.

(2) A European lawyer who wishes to register with a professional body in accordance with paragraph (1) shall provide the professional body with a certificate 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 regulations made by the relevant professional body and be accompanied by the appropriate fee.

(5) Subject to regulation 18, a European lawyer may apply to be entered on the registers maintained by more than one professional body.

(6) In this regulation, “professional body” includes the Law Society of Scotland and the Faculty of Advocates.

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 one of the solicitors' professional bodies and with one of the barristers' professional bodies.

(2) An Irish solicitor shall not be entered on a register maintained under regulation 15 by any of the barristers' professional bodies.

(3) An Irish barrister shall not be entered on a register maintained under regulation 15 by any of the solicitors' professional bodies.

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

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

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 a professional body withdraws or suspends a registration, it shall notify the European lawyer of its decision and of 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 appeal body, the European lawyer may appeal against the decision to the appeal body specified in Schedule 1.

(2) An appeal body 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 the appeal body sees fit.

(3) The appeal body shall give reasons for its decision.

Offence of pretending to be a registered European lawyer

21.—(1) A person who is not registered as a European lawyer in any part of the United Kingdom (including a person whose registration has been suspended) and—

- (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; or
- (b) subject to paragraph (2), carries on professional activities 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 the fourth level 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 barrister or, under the law of Scotland, a solicitor or advocate; or
- (c) he is providing services within the meaning of the European Communities (Services of Lawyers) Order 1978 at the time his activities fall within paragraph (1)(b).

Costs and fees of an unregistered European lawyer

22. Where a European lawyer is carrying on professional activities under his home professional title in England and Wales or Northern Ireland but is not registered as a European lawyer in any part of the United Kingdom (including a person whose registration has been suspended), any costs or fees in respect of those activities shall not be recoverable by him or any other person.

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 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 barristers 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.

PART IV**REGULATION AND DISCIPLINE****Rules of professional conduct applicable**

25. Where a registered European lawyer is practising under his home professional title in the United Kingdom, he shall be subject to the same rules of professional conduct as a member of the

professional body with which he is registered, and if he is registered with more than one, he shall be subject to the rules of professional conduct of all the professional bodies with which he is registered.

Disciplinary proceedings applicable

26.—(1) Where a registered European lawyer fails 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 the European lawyer 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 one of the solicitors' professional bodies, an authority having disciplinary jurisdiction over solicitors in England and Wales or Northern Ireland, as the case may be;
- (b) where the registered European lawyer is registered with one of the barristers' professional bodies, an authority having disciplinary jurisdiction over barristers in England and Wales or Northern Ireland, as the case may be;
- (c) where the registered European lawyer is registered with more than one of the solicitors' professional bodies or the barristers' professional bodies, an authority having disciplinary jurisdiction over solicitors or barristers, as the case may be, in England and Wales or Northern Ireland.

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 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) only if his authorisation to practise under a home professional title has been withdrawn in all 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.

Disciplinary proceedings against a solicitor or barrister

28. Where a professional body intends to begin disciplinary proceedings against a solicitor or barrister 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 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.

PART V**ENTRY INTO THE PROFESSION OF SOLICITOR OR BARRISTER****Application by registered European lawyer**

29.—(1) Where a registered European lawyer applies to the professional body where he has been registered to become a solicitor or barrister, 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 England and Wales or Northern Ireland, professional activities under his home professional title in the law of England and Wales or Northern Ireland, as the case may be.

(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; and
- (b) he has for a period of at least three years effectively and regularly pursued in England and Wales or Northern Ireland professional activities under his home professional title; and
- (c) he has for a period of less than three years effectively and regularly pursued in England and Wales or Northern Ireland, professional activities under his home professional title in the law of England and Wales or Northern Ireland, as the case may be.

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 barrister.

(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 barrister.

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 documents 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 documents 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 documents it may reasonably require.

(2) When 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 any part of the United Kingdom 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 assess and verify the registered European lawyer’s effective and regular professional activity and his capacity to continue the activity he has pursued at an interview.

(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 those 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 documents.

(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 appeal body, the registered European lawyer may appeal against the decision to the appeal body specified in Schedule 1.

(2) An appeal body may, for the purpose of determining any appeal under this Part—

- (a) give the exemption and the authorisation to enter into the profession of solicitor or barrister, as the case may be;
- (b) refuse the appeal; or
- (c) remit the matter to the professional body with such directions as the appeal body sees fit.

(3) The appeal body shall give reasons for its decision.

Practice under the title of solicitor or barrister

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

(2) Subject to paragraph (3), the lawyer shall be entitled to continue to practise in England and Wales or Northern Ireland, as the case may be, 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 barrister, 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 the United Kingdom under his home professional title shall be deemed to form part of his practice as a solicitor or barrister, and those rules shall apply to his practice under his home professional title as they do to his practice as a solicitor or barrister.

(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.

(5) Paragraph (4) shall not affect any registration the lawyer may have in another part of the United Kingdom.

PART VI

SUPPLEMENTARY PROVISIONS

Modification of enactments

37.—(1) The enactments specified in Part 2 of Schedule 3 (being enactments which reserve certain activities to solicitors, barristers and other qualified persons) shall be interpreted subject to regulations 6, 11, 12 and 13.

(2) References to unqualified persons, however expressed, in the enactments specified in Part 3 of Schedule 3 (being enactments relating to unqualified persons acting as solicitors) shall not include a registered European lawyer pursuing professional activities within the meaning of these Regulations.

(3) Schedule 4 (extension of enactments (England and Wales)) shall apply in relation to the registration of European lawyers with the Law Society.

(4) Schedule 5 (extension of enactments (Northern Ireland)) shall apply in relation to the registration of European lawyers with the Law Society of Northern Ireland.

Dated 8th April 2000

Irvine of Lairg, C.