

## **EC Qualified Lawyers Transfer (Scotland) Regulations 1994**

EC Qualified Lawyers Transfer (Scotland) Regulations 1994 made by the Council of the Law Society of Scotland in June 1994 with the concurrence of the Lord President of the Court of Session under section 5 of the Solicitors (Scotland) Act 1980.

### **Title and commencement**

1. These regulations may be cited as the EC Qualified Lawyers Transfer (Scotland) Regulations 1994 and shall come into operation on 1<sup>st</sup> July 1994.

### **Definitions and interpretation**

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

“the Act” means the Solicitors (Scotland) Act 1980;

“the Society” means The Law Society of Scotland;

“the Council” means the Council of the Society;

“the Directive” means the Directive of the Council of the European Communities for recognition of Higher Education Diplomas dated 21<sup>st</sup> December 1988 and numbered 89/48/EEC;

“applicant” means a person seeking admission as a solicitor in Scotland under these Regulations;

“the Test” means the qualified lawyers transfer test being the aptitude test defined in Article 1(g) of the Directive and being an assessment of competence in the subjects specified in these Regulations;

“the court” means the Court of Session.

(2) The provisions of the Interpretation Act 1978 shall apply to the interpretation of these Regulations as they apply to the interpretation of an Act of Parliament.

(3) The headings to these Regulations do not form part of these Regulations.

### **Scope of regulations**

3. These Regulations shall apply to any lawyer making application for admission as a solicitor in Scotland pursuant to the Directive or legislation implementing the Directive in the United Kingdom.

### **Eligibility**

4.—(1) An applicant shall submit his application in writing to the Society and shall—

(i) make payment of such fee for assessment of his application by the Society as the Council shall from time to time prescribe; and

(ii) provide such evidence as the Society may require that he

(a) is a person to whom the Directive and in consequence these Regulations may apply; and

(b) is a fit and proper person to be a solicitor.

- (2) The Council shall within a period of four months after presentation by the applicant of all relevant documentation, issue a written statement giving its decision as to whether or not the applicant is eligible to seek admission as a solicitor in Scotland.
- (3) Where it is established that an applicant is eligible to seek admission in terms of regulation 4(2), the Council shall specify those subjects (if any) in the Test which the applicant shall be required to pass and any other conditions which the applicant must satisfy, having regard to the nature and extent of the applicant's experience (if any) of legal practice in Scotland and any academic or other qualification in the law of Scotland.

## The Test

- 5.—(1) An applicant who has established his eligibility conform to regulation 4 shall be required to pass the Test in such subjects as are specified in the written statement referred to in regulation 4(2). (2) The Test shall be an assessment by written and oral examination of an applicant's competence in the following subjects—
- (a) the Scottish law of Property including for this purpose the law of trusts and succession and family law;
  - (b) the Scottish Legal System including for this purpose the law of evidence and civil and criminal procedure;
  - (c) European Community Law and Institutions;
  - (d) Professional Conduct including for this purpose a knowledge of the Solicitors' (Scotland) Accounts Rules in force from time to time; and
  - (e) such other subjects as the Council may from time to time reasonably prescribe.
- (3) The Council may delegate to appropriately qualified persons the examination of applicants taking the Test and the Test will be held at such times as the Council may determine.
- (4) An applicant shall be required to give such notice of his intention to sit the Test and pay to the Society such fee for the Test as the Council shall from time to time prescribe.
- (5) An applicant who has failed to pass the Test on four separate occasions shall not be again entitled to present himself for the Test.
- (6) Unless the Council in exceptional circumstances otherwise determines, an applicant shall require to pass the Test at a single diet.
- (7) The Council may at its sole discretion and subject to such reasonable conditions as it may impose, in what it deems to be appropriate circumstances, and taking into account the particular merits of an applicant, exempt him from all or any part of the Test or from the provisions of regulation 5(5).

## Certificate of fitness

6. Where an applicant has
- (a) passed or gained exemption from the Test or any part thereof; and
  - (b) complied with any conditions imposed upon him by the Council in terms of these Regulations; and
  - (c) satisfied the Council that he remains a fit and proper person to be a solicitor he shall be entitled to obtain from the Council a certificate in terms of section

6(1)(b)(ii) of the Act and thereafter to call upon the Council to apply to the court on his behalf for admission as a solicitor in terms of section 6(3A) of the Act.

## Application of these regulations

7. These Regulations shall have effect in relation to applications for admission as a solicitor in Scotland received by the Society from applicants on or after 1<sup>st</sup> January 1994.

## Revocation of 1990 regulations

8. The EC Qualified Lawyers Transfer (Scotland) Regulations 1990 are hereby revoked.