

**2004 No. 1117**

**LEGAL PROFESSION, ENGLAND AND WALES AND  
NORTHERN IRELAND**

**The European Communities (Services of Lawyers)  
(Amendment) Order 2004**

<i>Made</i> - - - -	<i>14th April 2004</i>
<i>Laid before Parliament</i>	<i>26th April 2004</i>
<i>Coming into force</i> - -	<i>17th May 2004</i>

At the Court at Windsor Castle, the 14th day of April 2004

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred upon Her by section 2(2) of the European Communities Act 1972(a), is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

**Citation, commencement and interpretation**

1.—(1) This Order may be cited as the European Communities (Services of Lawyers) (Amendment) Order 2004 and shall come into force on 17th May 2004.

(2) In this Order “the Order” means the European Communities (Services of Lawyers) Order 1978(b) and any reference to an article by number alone, or to the Schedule, shall mean the article so numbered in, or the Schedule to, the Order.

**Amendments to European Communities (Services of Lawyers) Order 1978**

2. For “an EEC lawyer”, wherever it occurs in the Order, substitute “a European lawyer”, for “EEC lawyers” where it occurs in article 11, substitute “European lawyers” and for “the EEC lawyer’s” where it occurs in article 16(1)(a), substitute “the European lawyer’s”.

3. In article 2—

(a) after the definitions of “advocate”, “barrister” and “solicitor” insert—

““country of origin”, in relation to a European lawyer, means the country or countries in which he is established;”;

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(a) 1972 c.68. Section 2(2) was amended by paragraph 15(3) of Schedule 8 to the Scotland Act 1998 (c.46).  
(b) S.I. 1978/1910, amended by S.I. 1980/1964.

(b) for the definition of “EEC lawyer” substitute—

““European lawyer” means a person entitled to pursue his professional activities in a state in column 1 under the designation referred to in column 2—

<i>State</i>	<i>Designation(s)</i>
Austria	Rechtsanwalt
Belgium	Avocat/Advocaat
Cyprus	Δικηγόρος
Czech Republic	Advokát
Denmark	Advokat
Estonia	Vandeadvokaat
Finland	Asianajaja/Advokat
France	Avocat
Germany	Rechtsanwalt
Hellenic Republic	Dikegoros
Hungary	Ügyvéd
Iceland	Lögmaður
Republic of Ireland	Barrister/solicitor
Italy	Avvocato
Latvia	Zvērināts advokāts
Liechtenstein	Rechtsanwalt
Lithuania	Advokatas
Luxembourg	Avocat-avoué
Malta	Avukat/Prokuratur Legali
Netherlands	Advocaat
Norway	Advokat
Poland	Adwokat/Radca prawny
Portugal	Advogado
Slovakia	Advokát/Komerčný právnik
Slovenia	Odvetnik/Odvetnica
Spain	Abogado/Avocat/Avogado/Abokatu
Sweden	Advokat
Switzerland	Avocat/Advokat/Rechtsanwalt/Anwalt/ Fürsprecher/Fürsprech/Avvocato

”; and

(c) omit the definition of “member State of origin”.

4. In article 11—

(a) omit “member”; and

(b) for “State”, wherever it occurs, substitute “country”.

5.—(1) In Part 1 of the Schedule—

(a) omit the entry relating to the Legal Aid Act 1974; and

(b) after the entry relating to the Legal Aid, Advice and Assistance (Northern Ireland) Order 1977 insert—

“Access to Justice Act 1999 (c.22).

Financial Services and Markets Act 2000 (c.8).(a)".

(2) In Part 2 of the Schedule—

- (a) omit the entries relating to the Magistrates' Courts Act 1952 and the County Courts Act 1959;
- (b) for the entry relating to the Magistrates' Courts Act (Northern Ireland) 1964 substitute "Magistrates' Courts (Northern Ireland) Order 1981, article 164(1).";
- (c) for the entry relating to the County Courts Act (Northern Ireland) 1959 substitute "County Courts (Northern Ireland) Order 1980, article 50.";
- (d) in the entry relating to the Solicitors Act 1974, after "22" insert "and 23".

(3) In Part 3 of the Schedule, in the entry relating to the Solicitors Act 1974, for "sections 25(1), 39(1) substitute "section 25(1)".

*A.K. Galloway*  
Clerk of the Privy Council

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(a) Under section 134 of the Financial Services and Markets Act 2000 the Lord Chancellor may by regulations establish a scheme governing the provision of legal assistance in connection with proceedings before the Financial Services and Markets Tribunal.

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order amends the European Communities (Services of Lawyers) Order 1978 (S.I. 1978/1910) (“the 1978 Order”). The 1978 Order implemented Council Directive No. 77/249/EEC, dated 22nd March 1977, to facilitate the effective exercise by lawyers of the freedom to provide services (“the Directive”).

The amendments made by this Order are mainly consequential on changes to the effect of the Directive resulting from—

- (a) the treaty concerning the accession of Spain and Portugal to the European Community signed at Madrid and Lisbon on 12th June 1985;
- (b) Annex VIIB to the Agreement on the European Economic Area (by which Iceland, Liechtenstein and Norway joined the EEA) signed at Oporto on 2nd May 1992;
- (c) the treaty concerning the accession of Austria, Finland and Sweden to the European Community signed at Corfu on 24th June 1994;
- (d) 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 is designated a Community Treaty by the European Communities (Definition of Treaties) (Agreement between the European Community and its Member States and the Swiss Confederation on the Free Movement of Persons) Order 2000 (S.I. 2000/3269);
- (e) 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.

Those changes confer certain rights to practise on a permanent basis as a lawyer on nationals of, and lawyers professionally qualified in, the affected countries.

Article 2 of the 1978 Order is amended so that the definition of “EEC lawyer” is substituted with a definition of “European lawyer” which refers to EU Member States, EEA countries and Switzerland, and the national designations of lawyers in those countries (article 3). Articles 2 and 4 make further consequential changes.

References to enactments in the Schedule to the 1978 Order are updated (article 5).

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