

2004 No. 1628

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

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

<i>Made</i> - - - -	<i>25th June 2004</i>
<i>Laid before Parliament</i>	<i>25th June 2004</i>
<i>Coming into force</i> - -	<i>16th September 2004</i>

The Secretary of State, being a Minister designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to matters relating to the practice of the profession of lawyer, in exercise of the powers conferred upon him by that section, makes the following Regulations:

Citation, commencement and interpretation

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

(2) In these Regulations "the Regulations" means the European Communities (Lawyer's Practice) Regulations 2000(c) and any reference to a regulation or Schedule by number alone shall mean the regulation or Schedule so numbered in the Regulations.

Transitional provisions

2.—(1) In this regulation "relevant lawyer" means a European lawyer, as defined by the Regulations but only 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) of the Regulations 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) S.I. 2000/738.

(b) 1972 c.68.

(c) S.I. 2000/1119., amended by S.I. 2001/644 and 2003/435 (from a date to be appointed).

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

3. In the table in regulation 2(4), 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
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, for “or Sweden” there shall be substituted “, Sweden, Iceland, Liechtenstein, Norway, the Czech Republic, Cyprus, Hungary or Slovakia”.

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

6. In Part 1 of Schedule 3, after the entry relating to the Access to Justice Act 1999 there shall be inserted—

“Financial Services and Markets Act 2000(a)”.

7.—(1) In paragraph 7(2) of Schedule 4, before “33” there shall be inserted “32(4),”(b).

(2) For paragraph 24 of Schedule 4 there shall be substituted—

“24. In Schedule 2 to the Administration of Justice Act 1985—

- (a) in paragraph 11 the reference to a solicitor shall also apply to a registered European lawyer; and
- (b) paragraph 21(1)(b) shall apply to a director or to a member of a limited liability partnership who is a registered European lawyer as it applies to a director who is a solicitor and reference to the roll shall include reference to the register.”.

(a) 2000 c.8. 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.

(b) The reference is to section 32(4) of the Solicitors Act 1974 (c.47); amended by Access to Justice Act 1999 (c.22), Schedule 7 paragraph 2(a) and Schedule 15 Part II.

Signed by authority of the Secretary of State

David Lammy
Parliamentary Under Secretary of State,
Department for Constitutional Affairs

Dated 25th June 2004

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the European Communities (Lawyer's Practice) Regulations 2000 (S.I. 2000/1119) ("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 changes to the effect of 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 Confederation on the Free Movement of Persons) Order 2000 (S.I. 2000/3269); and
- (b) Annex VIIB to the Agreement on the European Economic Area (by which Iceland, Liechtenstein and Norway joined the EEA) which came into force as it relates to the Directive on 1st March 2003;
- (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.

Those changes confer certain rights to practice 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".

Regulations 12 and 13 of the 2000 Regulations are amended so that the prohibition on registered European lawyers conducting certain work related to property and executries does not apply to lawyers from the affected countries (regulations 4 and 5).

Regulation 7 makes the following two minor amendments to the 2000 Regulations consequential on the original Directive—

- (i) section 32(4) of the Solicitors Act 1974, which permits the Law Society to disclose certain information about a solicitor's accounts in relation to a criminal investigation, is extended to apply to registered European lawyers; and
- (ii) the reference to a solicitor in paragraph 11 of Schedule 2 to the Administration of Justice Act 1985 is modified so as to refer also to a registered European lawyer. The effect of this is to preclude an order under section 43 of the Solicitors Act 1974 being made against a registered European lawyer who is employed or remunerated by a recognised body.

STATUTORY INSTRUMENTS

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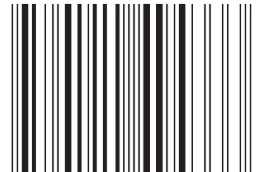
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