



STATUTORY INSTRUMENTS.

S.I. No. 642 of 2020

REGISTERED EUROPEAN LAWYERS QUALIFYING CERTIFICATE
REGULATIONS 2020

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The Law Society of Ireland, in exercise of the powers conferred on the Society by the European Communities (Lawyers' Establishment) Regulations 2003 (S.I. No.732 of 2003), Section 47 of the Solicitors Act 1954 (as substituted by Section 54 of the Solicitors (Amendment) Act 1994), Section 82 of the Solicitors Act 1954 and, Section 22 of the Solicitors (Amendment) Act 1960 (as substituted by Section 30 of the Solicitors (Amendment) Act 1994) hereby make the following Regulations:

1. Citation and Commencement

- (a) These Regulations may be cited as the Registered European Lawyers Qualifying Certificate Regulations 2020.
 - (b) These Regulations are intended to give effect to the Lawyers' Establishment Directive as provided for in the 2003 Regulations.
 - (c) The Registered European Lawyers Qualifying Certificate Regulations 2019 are repealed with effect from 31 December 2020.
 - (d) The Registered European Lawyers Qualifying Certificate Regulations 2019 are amended by the insertion of the following after Regulation 1(e):-
- "(f) These Regulations shall only apply in respect of any applications for qualifying certificates for the practice year, or any part of the practice year, ending on 31 December 2020."*
- (e) These Regulations do not affect the provision of services by visiting lawyers (within the meaning of the European Communities (Freedom to Provide Services) (Lawyers) Regulations 1979 (S.I. No. 58 of 1979)).

2. Definitions

- (a) In these Regulations, unless the context otherwise requires:
 - "Act of 1954"** means the Solicitors Act 1954 (No. 36 of 1954);
 - "Act of 1960"** means the Solicitors (Amendment) Act 1960 (No. 37 of 1960);
 - "Act of 1994"** means the Solicitors (Amendment) Act 1994 (No. 27 of 1994);
 - "Act of 2015"** means the Legal Services Regulation Act 2015 (No. 65 of 2015);
 - "applicant registered lawyer"** means a registered lawyer making an application for a qualifying certificate;

"application" means the application in accordance with Regulation 8 of the 2003 Regulations delivered to the Registrar by an applicant registered lawyer for a qualifying certificate, pursuant to these Regulations and shall include a completed Qualifying Certificate Application Form, full application fee and any information required to be provided to the Society pursuant to these Regulations;

"application fee" means the total amount of fees payable in respect of any application for a qualifying certificate, as set by the Society from time to time and includes where appropriate and applicable, the registration fee, the contribution to the Compensation Fund pursuant to Section 22 of the Act of 1960, the contribution in respect of the Authority's Levy Fund under the Act of 2015, and other fees specified by Schedule 1 of these Regulations, and shall, where applicable, mean the fees payable under these Regulations;

"Authority" means the Legal Services Regulatory Authority;

"Compensation Fund" means the fund maintained by the Society pursuant to Sections 21 and 22 of the Act of 1960;

"Competent Authority" means the Society;

"EFT" means electronic funds transfer;

"Law Directory" means the directory of solicitors, registered lawyers and firms maintained and published by the Society from time to time;

"Lawyer" has the meaning assigned to it in the 2003 Regulations.

"Lawyers' Establishment Directive" means Directive 98/5/EC of the European Parliament and of the Council of 16 February 1998 (as amended).

"member state" has the meaning assigned to it by the 2003 Regulations.

"practice" has the meaning assigned to it in the Solicitors Professional Indemnity Insurance Regulations 2020 (S.I. 429/2020);

"practice year" means the calendar year;

"practise" means to provide legal services from an establishment in the State and where such legal services (as they involve the provision of legal advice) relate to the law of the State (including European Union law as it forms part of the law of the State);

"professional activities" has the meaning assigned to it by the 2003 Regulations;

"qualifying certificate" has the meaning assigned to it by the 2003 Regulations;

"register" has the meaning assigned to it by the 2003 Regulations;

“**registered lawyer**” has the meaning assigned to it by the 2003 Regulations;

“**Registrar**” means the registrar of solicitors for the time being appointed pursuant to Section 8 of the Act of 1954;

“**registration certificate**” has the meaning assigned to it by the 2003 Regulations;

“**Regulation of Practice Committee**” means the committee to whom functions of the Society pursuant to Part V of the Act of 1954, as amended and extended by Part VI of the Act of 1994, have been delegated by the Council of the Society;

“**relevant date**” means 1 February each year;

“**Society**” means the Law Society of Ireland;

“**2003 Regulations**” means the European Communities (Lawyers’ Establishment) Regulations 2003 (S.I. No.732 of 2003) as amended by the European Communities (Lawyers’ Establishment) (Amendment) Regulations 2004 (S.I. No.752 of 2004, S.I. No.96 of 2008 and S.I. No.46 of 2015).

- (b) Other words and phrases in these Regulations shall have the meanings assigned to them by the Solicitors Acts 1954 - 2015, the Act of 2015, the Lawyers’ Establishment Directive, or the 2003 Regulations where the context so permits.
- (c) The Interpretation Act 2005 applies to the interpretation of these Regulations as it applies to the interpretation of an Act of the Oireachtas.

3. Requirement to hold a qualifying certificate

- (a) Every registered lawyer (other than a registered lawyer defined in Section 56(3) of the Act of 1994), practising or intending to practise, engaging or intending to engage in professional activities or who is deemed to engage in the provision of legal services as provided for in Section 56(2) of the Act of 1994 in the State from an establishment in the State shall be required to hold a qualifying certificate.
- (b) A registered lawyer within the meaning of Regulation 3(a) shall be required to hold a qualifying certificate irrespective of any designations or titles assigned to that registered lawyer.
- (c) A registered lawyer is obliged to fulfil and comply with all requirements in relation to an application and it shall be no defence for any registered lawyer to rely on any actions or inaction by a third party in respect of an application.
- (d) A qualifying certificate shall be the property of the registered lawyer, regardless of who has paid the application fee.

4. Application for a qualifying certificate

- (a) An applicant registered lawyer shall make an application to the Registrar in such manner as is specified by the Society from time to time for a qualifying certificate and, as part of that application, shall be required to:-
 - (i) Provide confirmation of the continued registration of the registered lawyer with the competent authority in the home member state; and
 - (ii) Notify the Society of the registered lawyer's home professional title; and
 - (iii) Provide evidence of the existence of an indemnity against any losses arising from claims against the registered lawyer in accordance with Article 6(3) of the Lawyers' Establishment Directive.
- (b) An application pursuant to these Regulations shall include a completed Qualifying Certificate Application Form, payment of the full application fee in accordance with these Regulations, any information required pursuant to Regulation 4(c), if applicable, and shall comply with any guidelines issued by the Society in respect of applications for qualifying certificates or practising certificates (where applicable) from time to time.
- (c) Without prejudice to the generality of Regulation 4(h) and Regulation 4(i), the Society may require an applicant registered lawyer and to whom Section 49(1)(a) or Section 49(1)(b) of the Act of 1954 applies to provide such information as the Society may consider necessary and or appropriate as part of his or her application for a qualifying certificate.
- (d) An application furnished by the applicant registered lawyer to the Society that does not comply with these Regulations shall be deemed incomplete and no qualifying certificate shall issue in respect of an incomplete application. A decision under this Regulation 4(d) may be appealed in accordance with the provisions of Section 47(6) of the Act of 1954.
- (e) The Society may set a date in the preceding practice year from which applications for a qualifying certificate may be made for the next practice year.
- (f) The Society shall refuse to issue a qualifying certificate to an applicant registered lawyer unless the applicant registered lawyer has furnished to the Society (or has had furnished to the Society on his behalf) written evidence of there being in force an indemnity against any losses arising from claims against the registered lawyer in accordance with Article 6(3) of the Lawyers' Establishment Directive (Regulation 6(2)(b) of the 2003 Regulations), for the duration of the practice year.
- (g) The Society may refuse to issue a qualifying certificate to a registered lawyer who has not demonstrated that he or she is

practising or intending to practise, engaging or intending to engage in professional activities or who is not deemed to engage in the provision of legal services as provided for in Section 56(2) of the Act of 1994 in the State.

- (h) The Registrar may seek such information or documentation from the applicant registered lawyer that may be required by the Registrar to enable the Registrar and/or the Society to make a determination as to whether a qualifying certificate should issue, having regard to the provisions of the Lawyers' Establishment Directive, the 2003 Regulations and Solicitors Acts 1954-2015, including information in respect of the applicant registered lawyer's good standing, compliance with the Solicitors Acts 1954-2015 and the Act of 2015, any regulations made thereunder and any other legislation, applicable EU law, and codes of conduct that may apply from time to time.
- (i) Nothing herein shall prevent the Society seeking such further or other information or documentation as it considers appropriate prior to the issuance of a qualifying certificate.
- (j) Unless the Registrar is satisfied that there are reasonable grounds for not issuing a qualifying certificate to an applicant registered lawyer following an application pursuant to Regulation 4(a) of this Regulation, having regard to the provisions of the Lawyers' Establishment Directive, the 2003 Regulations, Section 49 of the Act of 1954, the Solicitors Acts 1954-2015, the Act of 2015 and the rules and regulations made thereunder, the Registrar shall, cause to be issued to the applicant registered lawyer concerned a qualifying certificate which shall be dated either –
 - (i) 1 January in the practice year, where issued during the period beginning on 1 January in that year and ending on the relevant date, or
 - (ii) the date on which it is issued, where the application is made after the relevant date.
- (k) In the event that the Registrar is satisfied that there are reasonable grounds for not issuing a qualifying certificate to a registered lawyer, having regard to the provisions of the Establishment Directive, the 2003 Regulations, Section 49 of the Act of 1954, the Solicitors Acts 1954-2015, the Act of 2015 and the rules and regulations made thereunder, the Registrar shall refer the matter to the Regulation of Practice Committee for its consideration.
- (l) If a registered lawyer's issued qualifying certificate is dated after the relevant date and that registered lawyer has provided professional activities in the same calendar year before the issue date of the qualifying certificate, an application shall be made by that registered lawyer in accordance with section 48(3) of the Act of 1954 to have his or her qualifying certificate backdated to 1 January of that year, or the date on which the registered lawyer commenced providing professional activities.

- (m) Such application under Section 48(3) of the Act of 1954 shall not constitute a defence to any action (whether by the Society, the Authority or otherwise) in respect of the conduct of the registered lawyer in respect of any provision of professional activities before the date of issue of a practising certificate.
- (n) Where an application under section 48(3) of the Act of 1954 is required, the Society, pursuant to the provisions of Section 25(2)(b) of the Act of 1960 shall be entitled to seek the costs associated with the application from each registered lawyer who applies to the President of the High Court to have his or her qualifying certificate backdated in accordance with Regulation 4(i), such costs to be measured by the President of the High Court.
- (o) Only those registered lawyers whose qualifying certificate is issued by a date specified by the Society in that practice year shall be included in the Law Directory in respect of that practice year.
- (p) Nothing in these Regulations shall be construed as amounting to any authorisation to practise prior to the date of issue of a qualifying certificate or without a qualifying certificate.

5. Where confirmation is required as to the content of an application

- (a) The Registrar, at any time following delivery to the Registrar by an applicant registered lawyer of an application (whether or not a qualifying certificate has been issued by the Registrar to the applicant registered lawyer pursuant to these Regulations), may, where the Registrar deems it appropriate and reasonable to do so, require the applicant registered lawyer to confirm in whatever manner is required to the Society the accuracy of all or any specified part or parts of the application and/or to provide such other or further information or documentation as may be required by the Registrar.
- (b) Where, on receipt by the Society of a confirmation or further information or documentation from an applicant registered lawyer required by the Registrar pursuant to clause (a) of this Regulation, the Registrar deems it appropriate and reasonable to do so, the Registrar may require the applicant registered lawyer to attend before a meeting of the Regulation of Practice Committee to further confirm the accuracy of all or any part of his or her application.

6. Registered Lawyers Ceasing to Practise

- (a) A registered lawyer who holds a Qualifying Certificate shall provide written notice to the Society on or before the end of the preceding practice year where that registered lawyer intends to cease practising in the following practice year.

- (b) A registered lawyer who holds a Qualifying Certificate shall provide written notice to the Society where the registered lawyer has ceased practising within 14 days immediately following cessation.
- (c) A registered lawyer who holds a Qualifying Certificate shall provide written notice to the Society where a registered lawyer intends to cease practising temporarily for a period of at least 3 months for any reason.
- (d) The Society may seek such further or other information or documentation as it considers necessary in respect of any notice received under this Regulation 6.

7. Change of Practice/Registration

- (a) A registered lawyer who holds a Qualifying Certificate shall notify the Society during the practice year of:
 - (i) any change in place of business or places of business (in accordance with the provisions of Section 81 of the Act of 1954); and/or
 - (ii) any change in his or her practising status;and must include the dates of such changes, the detail of the change (including the name and address of the new place of business).
- (b) The Society may seek such further or other information or documentation as it considers necessary in respect of any notice received under this Regulation.
- (c) A registered lawyer shall immediately notify the Society in writing if he or she has applied for registration or has been registered in the register maintained by the competent authority specified in Regulation 4(1)(a) of the 2003 Regulations.
- (d) A registered lawyer shall immediately notify the Society in writing if he or she has been notified of any withdrawal of, or intention to withdraw or conditions applying to, the registered lawyer's authorisation to practise under his or her home professional title by the relevant authority in the home member state.

8. Knowingly furnishing false and misleading information

It shall be a breach of these Regulations for a registered lawyer to knowingly furnish information that is false or misleading in any material respect in respect of an application for a qualifying certificate or any other application under these Regulations.

9. The Application Fee

- (a) The application fee shall be paid by the registered lawyer to the Society by such manner as the Society may prescribe from time to time and shall contain or be accompanied by the name and registered lawyer number of the registered lawyer, an identifiable specific reference, such as the name of the firm or company in which he or she is practising and, where payment is permitted by EFT, a copy of the EFT form.
- (b) Failure to comply with Regulation 9(a) will result in the application being deemed incomplete within the meaning of Regulation 4(d), notwithstanding that the application fee may have been received by the Society.
- (c) The Society may prescribe the amount of any such application fee for each practice year or part thereof.
- (d) The application fee specified in Schedule 1 hereto shall be payable in respect of the practice year ending on 31 December 2021.
- (e) The Society may include, as part of the application fee, a contribution to be paid by each applicant registered lawyer to the Society in respect of the Society's contribution to the Authority's Levy Fund for each practice year with the figure to be set by the Society from time to time.
- (f) The Society shall not be responsible for any delay in issuing qualifying certificates where payment has been not been made by an applicant registered lawyer in the manner required or has, for whatever reason, not been received by the Society in respect of that applicant registered lawyer.
- (g) A registered lawyer shall not be required to pay a membership subscription fee where that registered lawyer has been admitted to the Register of Registered Lawyers for a period of at least fifty years as of 1 January in that practice year.
- (h) Where a registered lawyer:
 - (i) is admitted to the Register during the course of a practice year and applies for his or her first qualifying certificate during that practice year, or
 - (ii) has not held a qualifying certificate in the previous practice year and applies for his or her qualifying certificate during the course of a practice year after the relevant date,

the application fee shall be prorated to the number of full calendar months remaining in that practice year following either the month of his or her admission to the Roll or the date of the application, as the case may be.
- (i) The membership subscription fee in respect of a registered lawyer who has applied for their first qualifying certificate under Regulation 9(h)(i) in respect of that practice year (or part thereof)

may be at such reduced rate as the Society may determine from time to time.

- (j) Where a registered lawyer ceases to practise in a practice year, the Society may, in its absolute discretion, issue a refund of the application fee to a registered lawyer on receipt of an application for the exercise by the Society of its discretion made within the same practice year, accompanied by the original qualifying certificate and subject to the registered lawyer having complied with all relevant obligations under the Lawyers' Establishment Directive, the 2003 Regulations, the Solicitors Acts 1954-2015, the Act of 2015, these Regulations, any other regulations issued by the Society and any guidelines issued by the Society in relation to registered lawyers ceasing to practise.

10. Fee for copy of entry on File A, File B or File C

The fee payable to the Society by a person who applies to the Registrar, pursuant to Section 17 of the Act of 1960, for a copy of an entry on File A, File B or File C shall be as specified by the Society from time to time.

11. Issue of duplicate qualifying certificate

- (a) Only one qualifying certificate shall be issued to each registered lawyer in any practice year.
- (b) Where a registered lawyer certifies to the Registrar that his or her qualifying certificate has been destroyed, mislaid, or lost or where such other circumstances exist which would require the issuing of a duplicate qualifying certificate, such registered lawyer may apply to the Society for a duplicate original of such qualifying certificate on duly discharging the fee specified by the Society from time to time, and on providing an undertaking to the Registrar to return the originally issued qualifying certificate should it be found.

12. Collection and use of Personal Data

- (a) The Society shall be entitled to collect and maintain personal data ("Personal Data") relating to each registered lawyer, including but not limited to:
 - (i) name and contact details, including home address, practising address, telephone number(s), fax number, email address and post code;
 - (ii) date of birth;
 - (iii) credit card, debit card, or bank account details;
 - (iv) health records;

- (v) where relevant, information relating to the commission or alleged commission of a criminal offence;
 - (vi) Law Society identification number;
 - (vii) educational background and academic qualifications;
 - (viii) any other personal data which is provided to the Law Society directly as part of the application; and
 - (ix) information concerning a registered lawyer arising from the carrying out by the Society of its regulatory functions under the Solicitors Acts 1954 - 2015 and the Act of 2015.
- (b) Personal Data may be used by the Society for administration, management, marketing, promotion of the solicitors' profession, professional development purposes and in pursuance of the Society's regulatory functions.
- (c) Personal Data relating to any finding of misconduct made and any sanction imposed by the Solicitors Disciplinary Tribunal, the Legal Practitioners Disciplinary Tribunal and/or the High Court and any disciplinary processes pending or not yet dismissed against a registered lawyer, as the case may be, may be provided by the Society to the Judicial Appointments Advisory Board (or relevant successor body), in respect of a registered lawyer who is being considered for appointment to judicial office by the Judicial Appointments Advisory Board (or relevant successor body).
- (d) Personal Data may also be provided by the Society to the Authority in respect of a registered lawyer where such Personal Data is necessary in order to enable the Authority to perform its functions.

13. Where conditions attached to qualifying certificate

- (a) Where a qualifying certificate is caused to be issued by the Registrar to a registered lawyer subject to a specified condition or conditions in accordance with the provisions of the 2003 Regulations, Section 49 of the Act of 1954 or where the Society gives a direction pursuant to Section 59 of the Act of 1994 that the qualifying certificate already issued to a registered lawyer for the practice year should have effect subject to a specified condition or conditions, the qualifying certificate shall be endorsed with the words (adapted as appropriate): "Issued subject to specified condition[s] as annexed hereto" (which said annex is deemed to form part of the qualifying certificate) and a separate document shall be issued setting out the specified condition(s) and the date of applicability of each condition.
- (b) Where a qualifying certificate issued or reissued to a registered lawyer for the practice year is subject to a specified condition or conditions:

- (i) the registered lawyer concerned shall comply with the specified condition or each of the specified conditions, as the case may be, and shall ensure that he or she does not provide professional activities to any client of the registered lawyer in breach of such specified condition or conditions, whether or not any such client is made aware of such specified condition or conditions, and
- (ii) the registered lawyer concerned, in the display by him or her of his or her qualifying certificate, shall display with equal prominence adjacent thereto, the annex thereto setting out the specified condition or conditions to which his or her qualifying certificate is subject.

Signed on behalf of the Law Society of Ireland pursuant to section 79 of the Solicitors Act 1954.

Dated this 15th day of December 2020

JAMES CAHILL
President of the Law Society of Ireland

SCHEDULE 1
within referred to

	EURO
(a) Registration Fee for the practice year ending on 31 December 2021 payable to the Society on application for a qualifying certificate by an applicant registered lawyer admitted to the Register of Registered Lawyers for three years or more on 1 January 2021:	€1225
(b) Registration Fee for the practice year ending on 31 December 2021 payable to the Society on application for a qualifying certificate by an applicant registered lawyer originally admitted to the Register of Registered Lawyers for less than three years on 1 January 2021:	€960
(c) Contribution to the Compensation Fund for the practice year ending on 31 December 2021 payable to the Society on application for a qualifying certificate by an applicant registered lawyer:	€620
(d) Contribution to the Legal Services Regulatory Authority Levy Fund for the practice year ending on 31 December 2021 payable to the Society on application for a qualifying certificate by an applicant registered lawyer.	€225
(e) Fee payable to the Society on each application, pursuant to Section 17 of the Solicitors (Amendment) Act 1960, for a copy of an entry on File A, File B or File C:	€100
(f) Fee payable to the Society on each application, pursuant to Regulation 10 of these Regulations, for the issue of a duplicate original qualifying certificate for the practice year.	€50

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DUBLIN
PUBLISHED BY THE STATIONERY OFFICE
To be purchased from
GOVERNMENT PUBLICATIONS,
52 ST. STEPHEN'S GREEN, DUBLIN 2,
D02 DR67.

Tel: 076 110 6834
E-mail: publications@opw.ie

ISBN 978-1-4468-8506-2



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€3.50