



STATUTORY INSTRUMENTS.

**S.I. No. 655 of 2020**

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SOLICITORS PRACTISING CERTIFICATE REGULATIONS 2020

## SOLICITORS PRACTISING CERTIFICATE REGULATIONS 2020

The Law Society of Ireland, in exercise of the powers conferred on the Society by 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, Section 22 of the Solicitors (Amendment) Act 1960 (as substituted by Section 30 of the Solicitors (Amendment) Act 1994) and Section 66 of the Solicitors (Amendment) Act 1994 hereby make the following Regulations:

### 1. Citation and commencement

- (a) These Regulations may be cited as the Solicitors Practising Certificate Regulations 2020.
- (b) These Regulations shall apply in respect of the practice year commencing on 1 January 2021 and each subsequent practice year (or part thereof).
- (c) The Solicitors Practising Certificate Regulations 2019 are repealed with effect from 31 December 2020.
- (d) The Solicitors Practising Certificate Regulations 2019 are amended by the insertion of the following after Regulation 1(c):-
  - “(d) These Regulations shall only apply in respect of any applications for practising certificates for the practice year, or any part of the practice year, ending on 31 December 2020.”

### 2. Definitions

- (a) In these Regulations, except where 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 solicitor”** includes a practising solicitor, or a solicitor on the Roll of Solicitors intending to practise as a solicitor in a practice year;

**“application”** means an application made to the Registrar by an applicant solicitor for a practising certificate pursuant to these Regulations and shall include a completed Practising Certificate

Application Form, the full application fee and any information required to be provided to the Society pursuant to these Regulations;

**“application fee”** means the total amount of the fees payable in respect of any application for a practising certificate, as prescribed 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 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;

**“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;

**“legal services”** has the meaning given to it in the Act of 1994 and the Solicitors Professional Indemnity Insurance Regulations 2020;

**“Practice”** has the meanings given in the 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);

**“practising certificate”** has the meaning given to it in Section 46 of the Act of 1954.

**“practising solicitor”** has the meaning given to it in the Act of 2015.

**“Registered Lawyer”** has the meaning given to it by the European Communities (Lawyers' Establishment) Regulations 2003 (S.I. 732/2003);

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

**“registration fee”** means the fee payable to the Society by an applicant solicitor as part of the application fee for a practising certificate as may be specified from time to time;

**“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;

“**Roll**” means the roll of solicitors maintained by the Registrar under Section 9 of the Act of 1954;

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

“**Solicitor**” has the meaning given to it by section 3(1) of the Act of 1954.

“**2003 Regulations**” means the European Communities (Lawyers' Establishment) Regulations 2003 (S.I. No. 732 of 2003) as amended.

- (b) Other words and phrases in these Regulations shall have the meanings assigned to them by the Solicitors Acts 1954-2015 and the Act of 2015.
- (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 practising certificate

- (a) Every solicitor (other than a solicitor defined in Section 56(3) of the Act of 1994) who is practising or intending to practise, 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 shall be required to hold a practising certificate.
- (b) A solicitor within the meaning of Regulation 3(a) shall be required to hold a practising certificate irrespective of any designations or titles assigned to that solicitor.
- (c) A solicitor is obliged to fulfil and comply with all requirements in relation to an application and it shall be no defence for any solicitor to rely on any actions or inaction by any third party in respect of an application.
- (d) A practising certificate shall be the property of the solicitor, regardless of who has paid the application fee.

### 4. Application for a practising certificate

- (a) An applicant solicitor shall make an application to the Registrar in such manner as is specified by the Society from time to time.
- (b) An application pursuant to these Regulations shall include a completed Practising 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 practising certificates from time to time.
- (c) Without prejudice to the generality of Regulation 4(h) and Regulation 4(i), the Society may require an applicant solicitor 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 practising certificate.

- (d) An application furnished by the applicant solicitor to the Society that does not comply with these Regulations shall be deemed incomplete and no practising 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 practising certificate may be made for the next practice year.
- (f) The Society shall refuse to issue a practising certificate to an applicant solicitor unless the applicant solicitor has furnished to the Society (or has had furnished to the Society on his behalf) written evidence of there being in force the prescribed minimum level of cover for indemnity against losses arising from claims against the solicitor as required by regulations in force under Section 26 of the Act of 1994 or pursuant to the provisions of section 23 of the Act of 1960 for the duration of the practice year (or part thereof) in respect of which the application is made.
- (g) Without prejudice to the provisions of Regulation 11(c), the Society may refuse to issue a practising certificate to a solicitor who has not demonstrated that he or she is practising or intending to practise 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 solicitor that may be required by the Registrar to enable the Registrar and/or the Society to make a determination as to whether a practising certificate should issue, having regard to the provisions of section 49 of the Act of 1954, including information in respect of the applicant solicitor'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 practising certificate.
- (j) Unless the Registrar is satisfied having regard to the provisions of Section 49 of the Act of 1954, the Solicitors Acts 1954-2015, the Act of 2015 and the rules and regulations made thereunder that there are reasonable grounds for not issuing a practising certificate to a solicitor following an application, the Registrar

shall cause to be issued to the applicant solicitor a practising certificate which shall be dated either—

- (i) 1 January in the practice year, where the practising certificate is issued prior to the relevant date; or
  - (ii) the date on which it is issued, where the practising certificate is issued after the relevant date.
- (k) In the event that the Registrar is satisfied having regard to the provisions of Section 49 of the Act of 1954, the Solicitors Acts 1954-2015, the Act of 2015 and the rules and regulations made thereunder that there are reasonable grounds for not issuing a practising certificate to a solicitor, the Registrar shall refer the matter to the Regulation of Practice Committee for its consideration.
- (l) If an issued practising certificate is dated after the relevant date and the solicitor has provided legal services in the same calendar year before the issue date of the practising certificate, an application shall be made by that solicitor in accordance with section 48(3) of the Act of 1954 to have his or her practising certificate backdated to 1 January of that practice year, or the date on which the solicitor commenced providing legal services in that practice year.
- (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 solicitor in respect of any provision of legal services 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 the solicitor, such costs to be measured by the President of the High Court.
- (o) Only those solicitors whose practising certificate is issued by a date to be 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 practising certificate or without a practising certificate.

## 5. Content of an Application

- (a) The Registrar, at any time following delivery of an application to the Registrar by an applicant solicitor (whether or not a practising certificate has been issued by the Registrar to the applicant solicitor pursuant to these Regulations), may, where the Registrar deems it appropriate and reasonable to do so, require the applicant solicitor 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 solicitor under Regulation 5(a), the Registrar deems it appropriate and reasonable to do so, the Registrar may require the applicant solicitor 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. Solicitors Ceasing to Practise**

- (a) A practising solicitor shall provide written notice to the Society on or before the end of the preceding practice year where that solicitor intends to cease practising in the following practice year.
- (b) A practising solicitor shall provide written notice to the Society where the practising solicitor has ceased practising within 14 days immediately following cessation.
- (c) A practising solicitor shall provide written notice to the Society where a practising solicitor 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.

## **6. Change of Practice**

- (a) A practising solicitor shall notify the Society during the practice year of:
  - (i) any change in his/her 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.

### **8. Knowingly furnishing false and misleading information**

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

### **9. Application Fee**

- (a) The application fee shall be paid by each applicant solicitor to the Society in such manner as the Society may set out from time to time and shall contain or be accompanied by the name and solicitor number of the solicitor, 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 solicitor 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 practising certificates where payment has been not been made by an applicant solicitor in the manner required or has, for whatever reason, not been received by the Society in respect of that applicant solicitor.
- (g) A solicitor shall not be required to pay a membership subscription fee where that solicitor has been admitted to the Roll for a period of at least fifty years as of 1 January in that practice year.
- (h) Where a solicitor:
  - (i) is admitted to the Roll during the course of a practice year and applies for his or her first practising certificate during that practice year, or
  - (ii) has not held a practising certificate in the previous practice year and applies for his or her practising 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 solicitor who has applied for his or her first practising 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 practising solicitor ceases to practise in a practice year, the Society may, in its absolute discretion, issue a refund of the application fee to a solicitor on receipt of an application for the exercise by the Society of its discretion made within the same practice year, accompanied by the original practising certificate and subject to the solicitor having complied with all relevant obligations under 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 solicitors 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 practising certificate or other certification**

- (a) Only one practising certificate shall be issued to each solicitor in any practice year.
- (b) Where a solicitor certifies to the Registrar that his or her practising certificate has been destroyed, mislaid or lost or where such other circumstances exist which would require the issuing of a duplicate practising certificate, such solicitor may apply to the Society for a duplicate original of such practising 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 practising certificate should it be found.
- (c) A solicitor who requires certification from the Society in order to register or maintain his or her registration in another jurisdiction (either as a registered lawyer under the Establishment Directive (Directive 98/5/EC) in accordance with Regulation 6(7) of the 2003 Regulations or as a lawyer in that other jurisdiction) may apply in writing to the Registrar for such certification.
- (d) The Society may require any information or documentation to accompany an application under Regulation 11(c) as may be specified from time to time.

**12. Collection and use of Personal Data**

- (a) The Society shall be entitled to collect, maintain and process personal data (“Personal Data”) relating to each solicitor, 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 solicitor 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, 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 solicitor, 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 solicitor who is being considered for appointment to judicial office by the Judicial Appointments Advisory Board (or relevant successor body).
- (d) Personal Data may be provided by the Society to the Authority in respect of a solicitor where such Personal Data is necessary in order to enable the Authority to perform its functions.

**13. Where conditions attached to practising certificate**

- (a) Where a practising certificate is caused to be issued by the Registrar to a solicitor subject to a specified condition or conditions in accordance with the provisions of 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 practising certificate

already issued to a solicitor for the practice year should have effect subject to a specified condition or conditions, the practising 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 practising 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 practising certificate issued or reissued to a solicitor for the practice year is subject to a specified condition or conditions:
  - (i) the solicitor 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 legal services to any client of the solicitor 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 solicitor concerned, in the display by him or her of his or her practising certificate, shall display with equal prominence adjacent thereto, the annex thereto setting out the specified condition or conditions to which his or her practising certificate is subject.

#### **14. Amendment to the Sixth Schedule of the Act of 1954**

- (a) The Sixth Schedule to the Act of 1954 is amended by the insertion after application number 12 of the following:-
 

“13. Application by solicitors for certification enabling the solicitor to register or maintain registration in another EU Member State in accordance with Directive 98/5/EC or to register or maintain registration as a lawyer in another jurisdiction.”
- (b) The Society may prescribe the level of fees that may be payable from time to time in respect of such fees.
- (c) Without prejudice to the foregoing, the fees specified in Schedule 2 hereto shall be paid to the Society in respect of the applications referred to herein.
- (d) The Society may, in its discretion in any individual instance, waive in whole or in part the fees specified in respect of any one or more of the applications referred to in Schedule 2 hereto.

**SCHEDULE 1**  
**within referred to**  
**EURO**

(a)	Registration Fee for the practice year ending on the 31 December 2021 payable to the Society on application for a practising certificate by an applicant solicitor who has been admitted to the Roll for three years or more on the 1 January 2021:	1225
(b)	Registration Fee for the practice year ending on the 31 December 2021 payable to the Society on application for a practising certificate by an applicant solicitor who has been admitted to the Roll for less than three years on the 1 January 2021:	960
(c)	Contribution to the Compensation Fund for the practice year ending on the 31 December 2021 payable to the Society on application for a practising certificate by an applicant solicitor:	620
(d)	Contribution to the Legal Services Regulatory Authority Levy Fund for the practice year ending on the 31 December 2021 payable to the Society on application for a practising certificate by an applicant solicitor:	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 11 of these Regulations, for the issue of a duplicate original practising certificate for the practice year.	50

**SCHEDULE 2**

Fee payable to the Society on each application, pursuant to Regulation 11(c) of these Regulations.	750
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Signed on behalf of the Law Society of Ireland pursuant to Section 79 of the Solicitors Act 1954.

Dated this 18<sup>th</sup> day of December 2020.

JAMES CAHILL

President of the Law Society of Ireland.

In accordance with the provisions of Section 66 of the Solicitors (Amendment) Act 1994, I, MARY IRVINE, President of the High Court, concur to the extent necessary with the making of Regulation 14 of these Regulations

Dated this 18<sup>th</sup> day of December 2020.

MARY IRVINE

President of the High Court

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