



STATUTORY INSTRUMENTS.

**S.I. No. 640 of 2010.**

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THE EUROPEAN COMMUNITIES (LAWYERS' ESTABLISHMENT)  
REGULATIONS 2003 (QUALIFYING CERTIFICATE 2011)  
REGULATIONS 2010

**(Prn. A10/1931)**

S.I. No. 640 of 2010.

THE EUROPEAN COMMUNITIES (LAWYERS' ESTABLISHMENT)  
REGULATIONS 2003 (QUALIFYING CERTIFICATE 2011)  
REGULATIONS 2010

The Law Society of Ireland, in exercise of the powers conferred on them by the European Communities (Lawyers' Establishment) Regulations 2003 (S.I. No. 732 of 2003, S.I. No. 752 of 2004 and S.I. No. 96 of 2008) HEREBY MAKE the following Regulations:

*Citation and commencement*

1. (a) These Regulations may be cited as The European Communities (Lawyers' Establishment) Regulations 2003 (Qualifying Certificate 2011) Regulations, 2010.
- (b) These Regulations are intended to give effect to the Lawyers' Establishment Directive as provided for in the 2003 Regulations.
- (c) These Regulations shall come into operation on the 1st day of January 2011.

*Definitions*

2. (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];

“applicant registered lawyer” means the registered lawyer the subject matter of an application;

“application” means the application delivered to the Registrar by an applicant registered lawyer for a qualifying certificate for the practice year, pursuant to Regulation 3 of these Regulations;

“Compensation Fund” means the fund maintained by the Society pursuant to sections 21 and 22 (as substituted, respectively, by sections 29 and 30 of the Act of 1994) of the Act of 1960;

“Regulation of Practice Committee” means the committee to whom functions of the Society pursuant to Part V of the Act of 1954, as

*Notice of the making of this Statutory Instrument was published in  
“Iris Oifigiúil” of 31st December, 2010.*

amended and extended by Part VI of the Act of 1994, have been delegated by the Council of the Society;

“lawyer” means any person who is an Irish citizen or a national of a member state and who is authorised to pursue his or her professional activities in a member state under any of the professional titles specified in the Schedule to the 2003 Regulations.

“Lawyers’ Establishment Directive” means Directive 98/5/EC of the European Parliament and of the Council of 16 February 1998 to facilitate practice of the profession of lawyer on a permanent basis in a member state other than that in which the qualification was obtained and includes—

- (i) a measure which is in force by virtue of the Agreement between the European Community and its member states, of the one part, and the Swiss Confederation, of the other, on the free movement of persons done at Luxembourg on 21 June 1999; and
- (ii) the Decision of the EEA Joint Committee No 85/2002 of 25 June 2002 amending Annex VII (Mutual Recognition of Professional Qualifications) to the EEA Agreement and having an effect corresponding to that of the Directive;

“member state” means:

- (i) a contracting party (other than the State) to the EEA Agreement [being the Agreement on the European Economic Area signed in Oporto on 2 May 2002, as adjusted by the Protocol to that Agreement done at Brussels on 17 March 1993] or,
- (ii) the Swiss Confederation,

and, where appropriate, means more than one member state;

“practice year” means the calendar year ending on the 31st day of December 2011;

“qualifying certificate” means a certificate issued by the Registrar to a lawyer in accordance with Regulation 8 of the 2003/2004 Regulations certifying that the lawyer is qualified to pursue the professional activities of a solicitor;

“Register of Registered Lawyers” means the register established under Regulation 7 of the 2003 Regulations;

“registered lawyer” means a lawyer in respect of whom a registration certificate is in force;

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

“registration certificate” means a certificate issued by the Society to a lawyer in accordance with Regulation 6 of the 2003 Regulations;

“Registration Fee” means the fee payable by a registered lawyer admitted to the Register of Registered Lawyers for three years or more on the 1st day of January 2011 or the fee payable by a registered lawyer admitted to the Register of Registered Lawyers for less than three years on the 1st day of January 2011;

“Society” means the Law Society of Ireland, as the competent authority provided for in Regulation 4 of the 2003 Regulations;

“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 and S.I. No. 96 of 2008).

- (b) Other words and phrases in these Regulations shall have the meanings assigned to them by the Solicitors Acts 1954 to 2008 or the Lawyers’ Establishment Directive or the 2003 Regulations.
- (c) The Interpretation Act 2005 applies to the interpretation of these Regulations as it applies to the interpretation of an Act of the Oireachtas.

*Application for qualifying certificate*

- 3. (a) An applicant registered lawyer shall deliver or cause to be delivered to the Registrar at the Society’s premises at George’s Court, George’s Lane, Dublin 7 on or before the 1st day of February 2011 an application which:
  - (i) shall be in the form as set out in the First Schedule to these Regulations;
  - and
  - (ii) shall be duly completed and shall be signed by the applicant registered lawyer personally.
- (b) The Registrar shall, on receipt of an application pursuant to clause (a) of this Regulation and on the Registrar being of opinion that there is or are no appropriate and reasonable ground or grounds for not doing so, cause to be issued to the applicant registered lawyer concerned a qualifying certificate which shall be dated either—
  - (i) the 1st day of January 2011, where issued during the period beginning on the 1st day of January 2011 and ending on the 1st day of February 2011, or

- (ii) the date on which it is issued, where issued after the 1st day of February 2011.
- (c) An application pursuant to clause (a) of this Regulation shall be deemed to have effect subject to and having regard to the terms of the guidance notes as set out in the Third Schedule to these regulations.

*Where confirmation required of content of an application*

- 4. (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 Regulation 3(b) of this Regulation), may, where the Registrar deems it appropriate and reasonable so to do, require the applicant registered lawyer to confirm in writing to the Society the accuracy of all or any specified part or parts of the application.
- (b) Where, on receipt by the Society of a confirmation in writing from an applicant registered lawyer required by the Registrar pursuant to clause (a) of this Regulation, the Registrar deems it appropriate and reasonable so to do, 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 specified part or parts of the application.

*Misconduct of knowingly furnishing false and misleading information*

5. An applicant registered lawyer who in an application delivered to the Registrar knowingly furnishes information that is false or misleading in a material respect shall be guilty of misconduct.

*Registration Fee and contribution to Compensation Fund*

6. As and from the coming into operation of these Regulations, the Registration Fee together with the contribution to the Compensation Fund as specified in the Second Schedule to these Regulations shall be paid to the Society by an applicant registered lawyer on delivery to the Registrar of his or her application.

*Fee for copy of entry on File A or File B*

7. 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 or File B shall be as specified in the Second Schedule to these Regulations.

*Issue of duplicate qualifying certificate*

8. Where a registered lawyer to whom a qualifying certificate for the practice year has been issued pursuant to Regulation 3(b) of these Regulations certifies to the Registrar that his or her qualifying certificate has been inadvertently destroyed, lost or mislaid, such registered lawyer may apply to the Society for a duplicate original of such qualifying certificate on duly discharging the fee specified in the Second Schedule to these Regulations and duly undertaking to the Registrar that in the event of the qualifying certificate as originally issued being

subsequently found in the course of the practice year that same would forthwith be returned to the Registrar.

*Where conditions attached to qualifying certificate*

9. (a) Where a qualifying certificate for the practice year is caused to be issued by the Registrar to a registered lawyer subject to a specified condition or conditions, the qualifying certificate shall be endorsed with the words (adapted as appropriate): “*Issued subject to [a] specified condition[s] as annexed*” and the Registrar at the same time shall cause to be issued to the solicitor concerned a separate document (deemed to be part of the qualifying certificate) headed with the Society’s crest and title and also headed (adapted as appropriate): “*Annexe to qualifying certificate of [name of registered lawyer] of [a] specified condition[s] attached thereto and applicable as and from [date of commencement of applicability of the specified condition or conditions]*” and setting out the text of each specified condition.
- (b) Where the Society give a direction pursuant to Section 59 of the Act of 1994 that the qualifying certificate already issued to a solicitor for the practice year should, from a date that is 21 days after the date of receipt by the registered lawyer concerned of notification in writing by the Society of the giving of such direction, have effect subject to a specified condition or conditions, the registered lawyer shall (subject to the provisions of the said section 59 of the Act of 1994 as to the registered lawyer’s right of appeal to the High Court), within such period of 21 days, surrender his or her current qualifying certificate, and the Society shall, as soon as possible, reissue it endorsed with the words (adapted as appropriate): “*Issued subject to [a] specified condition[s] as annexed*” and the Registrar at the same time shall cause to be issued to the registered lawyer concerned a separate document (deemed to be part of the qualifying certificate) headed with the Society’s crest and title and also headed (adapted as appropriate): “*Annexe to qualifying certificate of [name of registered lawyer] of [a] specified condition[s] attached thereto and applicable as and from [date of commencement of applicability of the specified condition or conditions]*” and setting out the text of each specified condition.
- (c) Where a qualifying certificate issued or reissued to a registered lawyer for the practice year is subject to a specified condition or conditions as referred to in clause (a) or (b) of this Regulation:
  - (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 legal services 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 any display by him or her of his or her qualifying certificate, shall display with equal prominence adjacent thereto the annexe thereto setting out the specified

condition or conditions to which his or her qualifying certificate is subject.

Dated this 22 day of December 2010.

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

JOHN E. COSTELLO,  
President of the Law Society of Ireland.

FIRST SCHEDULE

within referred to

FORM OF APPLICATION FOR QUALIFYING CERTIFICATE FOR  
PRACTICE YEAR ENDING 31st DECEMBER 2011



3370499421

**Law Society of Ireland**  
 George's Court, George's Lane, Dublin 7. DX 1025 Four Courts.  
**Qualifying Certificate Application**  
 for practice year ending 31 December 2011



Law Society of Ireland

This form should be completed in conjunction with the related guidance notes. The guidance notes can be found at [www.lawsociety.ie](http://www.lawsociety.ie).

**Section A - Personal Details****Name of Registered Lawyer:****Name of Firm/Organisation:****Address of Firm/Organisation:****Registered Lawyer Number:**R E L **Firm Number:**F **Section B - Status**

1. My current professional status in the State is (please  as appropriate):

- (a) Sole principal in a registered lawyer's practice
- (b) Partner in a solicitor's practice
- (c) Registered lawyer employed in a solicitor's practice
- (d) Registered lawyer employed by a non-solicitor (e.g. financial institution, commercial entity, statutory body)
- (e) Registered lawyer employed by an independent law centre
- (f) Registered lawyer in the full-time service of the State
- (g) Conveyancing-only registered lawyer employed by a non-solicitor
- (h) Other, please specify:

2. If your status **has changed** during the practice year 2010, state date of change:  /  /  2010

3. (a) My nationality is:

(b) My home member state is:

4. Name of any other practice(s) than that noted above:

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5. Questions of the Registrar of Solicitors to be answered by each applicant for a Qualifying Certificate, pursuant to the Solicitors Acts 1954 to 2008. Please  as appropriate:

To be completed by each applicant whether referable to the period in the State or in any other jurisdiction, including (by addressing the substance of each question) a registered lawyer applying for his/her first Qualifying Certificate.

(a) Has the last Qualifying Certificate issued to you been suspended or issued subject to conditions or been endorsed with conditions?  Yes  No

Is this application by you for a Qualifying Certificate following upon:

(b) The expiration of a period of suspension from practice?  Yes  No

(c) Any order permitting your re-admission as a lawyer by any body governing your practice as a lawyer?  Yes  No

Since the last Qualifying Certificate issued to you:

(d) Have you failed to comply with the Solicitors Acts 1954 to 2008 or with any order or regulation made thereunder, including the Solicitors Accounts Regulations 2001 to 2006?  Yes  No

(e) Have you failed to comply with any legislation or with any order, direction or regulation in respect of your practice as a lawyer in any other jurisdiction?  Yes  No

(f) Have you been notified by any body governing your practice as a lawyer that you have failed to exercise adequate personal supervision over any office or place of business?  Yes  No

(g) Have you been notified by any body governing your practice as a lawyer that you have failed to give an explanation which that body regards as sufficient and satisfactory in respect of any matter affecting your conduct?  Yes  No

(h) Have you had an order of attachment or committal made against you?  Yes  No

(i) Have you been adjudicated bankrupt?  Yes  No

(j) Have you entered into a composition with your creditors or deed of arrangement for the benefit of your creditors?  Yes  No

(k) Have you failed to comply with any order(s) of any court(s)?  Yes  No

(l) Have you failed to comply with any determination, requirement or direction of any body governing your practice as a lawyer in any jurisdiction?  Yes  No

(m) Have you been sentenced to a term of imprisonment?  Yes  No

(n) Have you failed to satisfy any body governing your practice as a lawyer that you are fit to carry on the practice of a lawyer having regard to the state of your physical or mental health?  Yes  No

(o) Have you failed to satisfy any body governing your practice as a lawyer that, having regard to all the circumstances, including the financial state of your practice, you should be permitted to carry on practice as a lawyer subject to a specified condition or conditions?  Yes  No

(p) Has (Have) any judgement(s) or decree(s) been given against you (including judgement(s) or decree(s) to which you are entitled, as respects the whole effect of the judgement(s) or decree(s) upon you, to indemnity or relief from any other person(s)) which remain(s) unsatisfied in whole or in part, and in respect of which judgement(s) or decree(s) you have not produced to the Registrar of Solicitors evidence of the satisfaction of such judgement(s) or decree(s)?  Yes  No  
[If applicable, details should be submitted with this application of any such judgement(s) or decree(s), including (if applicable) evidence of the satisfaction thereof.]

6. To be completed by a registered lawyer **who did not hold a Qualifying Certificate** for the practice year 2010 other than a registered lawyer who is making his/her first application for a Qualifying Certificate as part of his/her application to register as a registered lawyer.

I did not hold a Qualifying Certificate since the practice year ended 31 December     for the following reason(s):

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**Section C - Investment Business Services or Investment Advice**

This Section is required to comply with the Solicitors Acts 1954 to 1994 (Investment Business and Investor Compensation) Regulations 1998 (S.I. No. 439 of 1998) as amended. See Section C of the guidance notes.

If you are a registered lawyer who is an investment business firm or an investment firm within the terms of section 47(1)(a) or (b) of the Investor Compensation Act 1998, please  Part I.

If you are **not** a registered lawyer who is an investment business firm or an investment firm within the terms of section 47(1)(a) or (b) of the Investor Compensation Act 1998, Part II applies to you and no action by you is required other than signing the declaration on the last page of this form.

**Part I**

I am a registered lawyer of the description set out in part I of Section C of the guidance notes and I enclose evidence in writing as set out in part I of Section C of the guidance notes.

YES **Part II**

By signing the declaration on the last page of the form I undertake in the terms set out in Part II of Section C of the Guidance Notes.

**Section D - Solicitors Accounts Regulations 2001 to 2006**

If you are a sole principal or a partner in private practice or employed by an independent law centre, please ignore this Section.

If you are a registered lawyer in private practice or a registered lawyer employed by a non-solicitor (e.g. financial institution, commercial entity, statutory body), in either case who has not handled clients' moneys during the practice year 2010 other than on behalf of your employer, please  this Section if it applies to you.

I have not handled clients' moneys at any time during the practice year 2010 other than on behalf of my employer.

YES **Section E - Professional Indemnity Insurance**

If you are a registered lawyer in private practice or employed by an independent law centre, please ignore this Section.

If you are a registered lawyer who provides legal services for a non-solicitor (e.g. financial institution, commercial entity, statutory body), please  if appropriate.

This Part applies to a registered lawyer who provides legal services only as part of an employment within the State to provide legal services to and for your employer, provided that such employer is not also a solicitor or registered lawyer.

I provide legal services only as part of an employment within the State to provide legal service to and for my employer who is not a solicitor or a registered lawyer and I confirm that, for the duration of the current indemnity period, I have not and will not engage in the provision of legal services to and for any person other than my employer and I will notify the Society immediately in writing if I cease to provide legal services only on such basis.

YES **Section F - Continuing Professional Development ("CPD")**

*[The 2010 minimum CPD requirement is 11 hours (to include a minimum of 3 hours Management and Professional Development Skills and a minimum of 1 hour Regulatory Matters) during the CPD cycle between 1 January 2010 and 31 December 2010 in accordance with the CPD Scheme provided for pursuant to the Solicitors (Continuing Professional Development) Regulations 2009 (S.I. No. 452 of 2009).]*

*[Please  ONE ONLY of the following options. If in doubt, please contact the CPD Scheme Unit for clarification on which option applies to you].* I HEREBY CERTIFY as follows:

(a) I have completed the 2010 minimum CPD requirement (whether in full or as may be modified in accordance with the CPD Scheme) or I am exempt from the 2010 minimum CPD requirement by reason of having been registered as a registered lawyer on or after 1 December 2009.

YES 

OR

(b) I have made an application to the Education Committee for special dispensation (whether by way of full or partial exemption or for an extension of time to complete the necessary CPD hours) on the basis of my certified long-term illness or other personal circumstances, and this application **has already been granted**.

YES 

OR

(c) I failed to complete the 2010 minimum CPD requirement (whether in full or as may be modified in accordance with the CPD Scheme).

YES 

OR

(d) I am exempt from the 2010 minimum CPD requirement by reason of not having held a practising certificate at any time during 2010 (or not having been employed as a solicitor in the full-time service of the State at any time during 2010 or not having been a European Lawyer registered with the Society holding a qualifying certificate at any time during 2010).

YES

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**Section G - Data Protection Statement**

It is necessary for the Society to collect and record certain personal data relating to each registered lawyer, including the name, practice address, telephone and fax number(s), email address and academic qualifications. Personal data may also be information concerning a registered lawyer arising from the carrying out by the Society of its regulatory functions under the Solicitors Acts 1954 to 2008 and regulations made thereunder, including sensitive personal data such as health records or information relating to the commission or alleged commission of a criminal offence.

The personal data about a registered lawyer maintained by the Society may be used by the Society for administration, management, marketing and professional development purposes, as well as in pursuance of the Society's regulatory functions. See Section G of the guidance notes for examples of the actual or possible uses of such personal data relating to a registered lawyer. You have the right to request in writing a copy of any personal data about yourself that is held by the Society and have such data amended if it is incorrect, incomplete or misleading.

If you do not wish to be informed of products or services by post or e-mail directly from third party entities approved by the Society as being of benefit to the profession please place a  in the box here:

**Declaration**

I hereby declare that the particulars set out in this application are correct to the best of my knowledge, information and belief and that I have read the Data Protection Statement set out in Section G.

Signature

Date

 /  / **Membership of the Society**

I hereby apply for membership of the Society as a registered lawyer holding a qualifying certificate for the year ending 31 December 2011. YES

For details of member services and benefits see [www.lawsociety.ie](http://www.lawsociety.ie)

**Fees**

Note: You are registered: over 3 years  less than 3 years

To be read in conjunction with the guidance notes. Please  as appropriate:

	Solicitors admitted 3 years or more on 1 January 2011	Solicitors admitted less than 3 years on 1 January 2011
(A) Registration fee	€ 1,448 <input type="checkbox"/>	€ 1,142 <input type="checkbox"/>
(B) Compensation Fund contribution	€ 700 <input type="checkbox"/>	€ 700 <input type="checkbox"/>
(C) Membership subscription	€ 85 <input type="checkbox"/>	€ 55 <input type="checkbox"/>
(D) Membership subscription if admitted during the year 2010		€ 20 <input type="checkbox"/>
(E) Free membership if admitted over 50 years	€ 0 <input type="checkbox"/>	
(F) Solicitors Benevolent Association contribution	€ 50 <input type="checkbox"/>	€ 30 <input type="checkbox"/>
(G) Free Legal Advice Centres contribution	€ 15 <input type="checkbox"/>	€ 15 <input type="checkbox"/>
(H) Community Law Centres contribution	€ 15 <input type="checkbox"/>	€ 15 <input type="checkbox"/>

**TOTAL ENCLOSED REMITTANCE**

€ ,  € ,

**Payment Methods****Cheque:**

Make payable to 'Law Society of Ireland'

Payment Method, please  as appropriate**Electronic Funds Transfer:**

Bank of Ireland, 2 College Green, Dublin 2  
A/C: Law Society of Ireland  
Swift Code: BOFIIE2D  
IBAN: IE40BOFI 900017 30082086  
Ref: (Firm name or number)

**Cheque**   
**EFT**   
**Other**

**Print remittance slip and attach to this form****Credit card payments not accepted.**

## SECOND SCHEDULE

within referred to

EURO

- |     |   |           |
|-----|---|-----------|
| (a) | Registration Fee for the practice year ending on the 31st day of December 2011 payable to the Society on application for a qualifying certificate by an applicant registered lawyer admitted to the Register of Registered Lawyers three years or more on the 1st day of January 2011:                  | €1,448.00 |
| (b) | Registration Fee for the practice year ending on the 31st day of December 2011 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 the 1st day of January 2011: | €1,142.00 |
| (c) | Contribution to the Compensation Fund for the practice year ending on the 31st day of December 2011 payable to the Society on application for a qualifying certificate by an applicant registered lawyer.   | €700.00   |
| (d) | 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 or File B:  | €100.00   |
| (e) | Fee payable to the Society on each application, pursuant to Regulation 8 of these Regulations, for the issue of a duplicate original qualifying certificate for the practice year:  | €50.00    |

## THIRD SCHEDULE

within referred to

Law Society of Ireland  
Qualifying Certificate Application  
for the practice year ending 31 December 2011

## GUIDANCE NOTES

**General****Why you need a qualifying certificate**

It is misconduct and a criminal offence for a registered lawyer (other than a registered lawyer in the full-time service of the State) to practise without a qualifying certificate. Any registered lawyer found to be practising without a qualifying certificate is liable to be referred to the Solicitors Disciplinary Tribunal.

**When you must apply**

A qualifying certificate must be applied for on or before 1 February in each year in order to be dated 1 January of that year and thereby operate as a qualification to practise from the commencement of the year. It is therefore a legal requirement for a practising registered lawyer to deliver or cause to be delivered to the Registrar of Solicitors on or before 1 February 2011 an application in the prescribed form duly completed and signed by the applicant registered lawyer personally together with the appropriate fee. The onus is on each registered lawyer to ensure that his or her application form and fee is delivered by 1 February 2011. Applications should be delivered to the Regulation Department of the Society at **George's Court, George's Lane, Dublin 7, DX 1025 Four Courts.**

**What happens if you apply late**

Any application for a qualifying certificate which is received after 1 February 2011 will result in the qualifying certificate being dated the date of actual receipt by the Registrar of Solicitors, rather than 1 January 2011. There is no legal power to allow any period of grace under any circumstances whatsoever.

Please note that during 2010 a number of solicitors went to the trouble and expense of making an application to the High Court for an order that their practising certificate be backdated to 1 January to ensure continuity in their years of entitlement to practise, because their practising certificate application was received after 1 February and their practising certificate in consequence was dated after 1 February.

The Regulation of Practice Committee is the committee of the Society which has responsibility for supervising compliance with qualifying certificate requirements. A special meeting of this Committee will be held on a date after 1 February 2011 in order to consider any late or unresolved applications for qualifying certificates. At this meeting, any practising registered lawyer who has not

duly applied by then for a qualifying certificate will be considered for referral forthwith to the Solicitors Disciplinary Tribunal and will be informed that the Society reserves the right to take High Court proceedings for an order under section 18 of the Solicitors (Amendment) Act 2002 to prohibit them from practising illegally without a current qualifying certificate.

### **If you are an employed registered lawyer**

Registered lawyers who are employed should note that it is the statutory obligation of every registered lawyer who requires a qualifying certificate to ensure that he or she has a qualifying certificate in force from the commencement of the year. Employed registered lawyers cannot absolve themselves from this responsibility by relying on their employers to procure their qualifying certificates. However, it is the Society's recommendation that all employers should pay for the qualifying certificate of each registered lawyer employed by them.

### **Law Directory 2011**

It is intended that the Law Directory 2011 will note all registered lawyers who have been issued with a qualifying certificate by 9 February 2011 (not those who have applied by 9 February 2011). Therefore, in order to ensure that your qualifying certificate issues by 9 February 2011 you should ensure that the application form you return to the Society is completed correctly. If it is not completed correctly, it will be necessary to return the form, which may result in delaying the issue of your qualifying certificate, despite the fact that you had applied for it prior to 9 February 2011.

### **What can you access on the website ([www.lawsociety.ie](http://www.lawsociety.ie))**

A blank application form for obtaining a qualifying certificate is downloadable from the Becoming a solicitor/Overseas Section of the Society's website. In addition, you may request a form to be emailed to you by emailing [l.darling@lawsociety.ie](mailto:l.darling@lawsociety.ie).

### **If you are ceasing practice**

If you have recently ceased practice or are intending to cease practice in the coming year, please notify the Society accordingly.

### **Acknowledgement of application forms**

Please note that it is not the Society's policy to acknowledge receipt of application forms as received.

### **Duplicate practising certificate**

A fee of €50 will be payable in respect of each duplicate qualifying certificate issued for any purpose.

**Completion of the application form**

The application form must be properly completed and dated and signed personally by the applicant. If any details are omitted from the application form, it may be returned to the applicant for proper completion and re-submission, which could result in delay in issuing a qualifying certificate to the applicant.

The application form must be properly completed by a registered lawyer engaged (or intending to engage) during the practice year ending 31 December 2011 in the provision of legal services, whether as a sole practitioner or as a partner in a registered lawyer/solicitor's practice or as an employee (whether of a registered lawyer/solicitor(s) or of any other person or body), including a registered lawyer who does not require a qualifying certificate by reason of being a registered lawyer in the full-time service of the State [*within the meaning of section 54 of the Solicitors Act, 1954, as substituted by section 62 of the Solicitors (Amendment) Act 1994*] or by reason of being a registered lawyer employed full-time in the State to provide conveyancing services only to and for his/her non-registered lawyer/solicitor employer [*section 56, Solicitors (Amendment) Act 1994*].

The practice year coincides with the calendar year. The application form must be received by the Registrar at the Society's premises, George's Court, George's Lane, Dublin 7, on or before 1 February 2011 in order for the qualifying certificate to be dated 1 January 2011 and thereby to operate as a qualification to practise from the commencement of the practice year 2011. A qualifying certificate issued after 1 February 2011 must [*under Section 48 (as amended by Section 55 of the Solicitors (Amendment) Act 1994), of the Solicitors Act 1954*] bear the date on which the application is actually received by the Registrar. In April 2011, a listing of registered lawyers holding qualifying certificates as at 31 March 2011 will be forwarded to each County Registrar, District Court Clerk, Taxing Master and Bar Association.

**Section A — Personal Details**

If any details in this section are incorrect, please either amend the form or enclose an explanatory letter with the form.

**Section B — Status**

Please complete this Section as indicated on the application form.

Notes in relation to particular parts of this Section.

- 1(h) For the purposes of this option "independent law centre" has the meaning provided for in The Solicitors Acts 1954 to 2002 (Independent Law Centres) Regulations 2006 (S.I. No. 103 of 2006), as amended.
- 1 (f) A registered lawyer to whom this option applies is not required to hold a qualifying certificate, but should complete the form as if applying for a qualifying certificate. No fee will be charged for a qualifying certificate and no qualifying certificate will be issued.



- 1(g) A registered lawyer to whom this option applies is not required to hold a qualifying certificate, but should complete the form as if applying for a qualifying certificate. No fee will be charged for a qualifying certificate and no qualifying certificate will be issued.
5. The questions of the Registrar of Solicitors are to be answered by each applicant, including a registered lawyer in the full-time service of the State and a conveyancing-only registered lawyer employed by a non-solicitor/registered lawyer.

**Section C — Investment Business Services or Investment Advice**

This Section is required to comply with The Solicitors Acts 1954 to 1994 (Investment Business and Investor Compensation) Regulations 1998 (S.I. No. 439 of 1998) as amended. Part I of this Section applies to a registered lawyer who is an investment business firm or an investment firm within the terms of Section 47(1)(a) or (b) of the Investor Compensation Act 1998. Part II of this Section applies to all other registered lawyers.

Text of Investor Compensation Act 1998 Section 47(1)(a) and (b)

*(a) A solicitor in respect of whom a practising certificate (within the meaning of the Solicitors Acts 1954 to [1994]) is in force shall be an investment business firm—*

- (i) where the solicitor provides investment business services or investment advice in a manner which is not incidental to the provision of legal services, or*
- (ii) where the solicitor holds himself or herself out as being an investment business firm, or*
- (iii) where, when acting as an investment product intermediary in a manner incidental to the provision of legal services, the solicitor holds an appointment in writing other than from—*
  - (I) an investment firm authorised in accordance with the Investment Services Directive by a competent authority of another Member State, or an authorised investment business firm (not being a restricted activity investment product intermediary or a certified person), or a member firm within the meaning of the Stock Exchange Act 1995, or*
  - (II) a credit institution authorised in accordance with Directives 77/780/EEC of 12 December 1977 and 89/646/EEC of 15 December 1989, or*
  - (III) a manager of a collective investment undertaking authorised to market units in collective investments to the public,*

*which is situate in the State or the relevant branch of which is situate in the State,*

*and shall be required to be authorised as an authorised investment business firm pursuant to the provisions of the [Investment Intermediaries Act] 1995.*

*(b) A solicitor, in respect of whom a practising certificate (within the meaning of the Solicitors Acts 1954 to [1994]) is in force, who is an insurance intermediary or who holds himself [or herself] out to be an insurance intermediary shall be an investment firm for the purposes of this Act and shall inform the [Irish Financial Services Regulatory Authority] and [The Investor Compensation Company Limited] that he or she is an investment firm for the purposes of this Act.*

### **Part I**

The terms of the description referred to in Part I of this Section and the terms of the evidence in writing referred to in Part I of this Section are as follows:

1. I am a registered lawyer who—

(a) provides investment business services (including acting as an insurance intermediary) or investment advice in a manner which is not incidental to the provision of legal services, or

(b) holds himself/herself out as being an investment business firm, or

(c) when acting as an investment product intermediary in a manner incidental to the provision of legal services, holds an appointment in writing other than from

(i) an investment firm authorised in accordance with the Investment Services Directive by a competent authority of another Member State, or an authorised investment business firm (not being a restricted activity investment product intermediary or a certified person), or a member firm within the meaning of the Stock Exchange Act 1995, or

(ii) a credit institution authorised in accordance with Directives 77/780/EEC of 12 December 1977 and 89/646/EEC of 15 December 1989, or

(iii) a manager of a collective investment undertaking authorised to market units in collective investments to the public,

which is situate in the State or the relevant branch of which is situate in the State,

and am therefore an investment business firm required to be authorised as an authorised investment business firm pursuant to the provisions of the Investment Intermediaries Act 1995 (as amended by the Investor Compensation Act 1998), or am an insurance intermediary and/or have held myself out as an insurance intermediary who is required to inform the Central Bank of Ireland and The Investor Compensation Company Limited of that fact.

2. I attach to my application form evidence in writing:

(a) either—

- (i) of having been authorised by the Central Bank of Ireland as an authorised investment business firm; or
- (ii) of having informed the Central Bank of Ireland and The Investor Compensation Company Limited that I am an insurance intermediary and/or that I have held myself out as an insurance intermediary;

(b) of the fact of the payment by me (or on my behalf) of such contribution to the fund established and maintained pursuant to section 19 of the Investor Compensation Act 1998 as may be required by The Investor Compensation Company Limited under section 21 of that Act;

(c) of having in place, valid and irrevocable for at least the duration of the practice year ending on 31 December 2010, a bond or bank guarantee and a policy of insurance, each acceptable to the Society, by way of providing indemnity against losses that may be suffered by a client in respect of default (whether arising from dishonesty or from breach of contract, negligence or other civil wrong) on my part, or any employee, agent or independent contractor engaged by me, as shall, in the opinion of the Society (taking into account the maximum amount of compensation for default that would be payable to a client secured by reason of the payment made by me referred to in (b) above), be equivalent to the indemnity against losses that would be provided to a client of a solicitor (in respect of whom a practising certificate is in force) in the provision of legal services by means of—

- (i) the Compensation Fund as provided for in accordance with section 21 (as substituted by section 29 of the Solicitors (Amendment Act 1994) of the Solicitors (Amendment) Act 1960, and
- (ii) the minimum level of cover as provided for in accordance with The Solicitors Acts 1954 to 2002 (Professional Indemnity Insurance) Regulations 2007 (S.I. No. 617 of 2007), as amended.

## **Part II**

The terms of the undertaking referred in Part II of this Section are as follows:

I hereby undertake that:

(a) I will not provide investment business services (including acting as an insurance intermediary) or investment advice to clients or, if I do so, I will do so only when incidental to the provision of legal services to such clients;

(b) I will not hold myself out as being an investment business firm or an insurance intermediary;

(c) If I provide investment business services or investment advice to clients incidental to the provision of legal services to such clients and when acting as

an investment product intermediary, I will not hold an appointment in writing other than from:

- (i) an investment firm authorised in accordance with Directive 93/22/EEC of 10 May 1993 by a competent authority of another Member State, or an authorised investment business firm (not being a restricted activity investment product intermediary or a certified person), or a member firm within the meaning of the Stock Exchange Act 1995, or
- (ii) a credit institution authorised in accordance with Directives 77/780/EEC of 12 December 1977 and 89/646/EEC of 15 December 1989, or
- (iii) a manager of a collective investment undertaking authorised to market units in collective investments to the public, which is situate in the State or the relevant branch of which is situate in the State; and

(d) if at any time during the course of the practice year ending on 31 December 2011 I propose to become an investment business firm or an investment firm in one or more of the circumstances set forth in Section 47(1)(a) or (b) of the Investor Compensation Act 1998, I will notify the Society in writing of that fact at least seven days before such proposed event and shall, within fourteen days of such notification, comply with the provisions of Regulation 6 of The Solicitors Acts 1954 to 1994 (Investment Business and Investor Compensation) Regulations 1998 (S.I. No. 439 of 1998), as amended.

#### **Section D — Solicitors Accounts Regulations 2001 to 2006**

This Section should be completed only by an employed registered lawyer in private practice or by a registered lawyer employed by a non-solicitor/registered lawyer (e.g. financial institution, commercial entity, statutory body), in either case who has not handled clients' moneys during the practice year 2010 other than on behalf of your employer.

#### **Section E — Professional Indemnity Insurance**

This Section should be completed only by a registered lawyer who provides legal services for a non-solicitor/registered lawyer (e.g. financial institution, commercial entity, statutory body). If this status applies to you, please complete the Section.

For the purposes of this Section words and phrases which are assigned meanings by The Solicitors Acts 1954 to 2002 (Professional Indemnity Insurance) Regulations 2007 (S.I. No. 617 of 2007), as amended shall have the meanings so assigned.

#### **Section F — Continuing Professional Development (CPD)**

Completion of Section F of this application is the initial means of verifying compliance with the 2010 minimum CPD requirement. The CPD requirement for 2010 applies to a solicitor who held a practising certificate, and/or a solicitor in the full-time service of the State, and/or a European lawyer registered with the Society holding a qualifying certificate, at any time during 2010. A solicitor who does not fall into any of these categories should tick option (d).

Solicitors who have completed the 2010 minimum CPD requirement in accordance with the Scheme should tick option (a). The 2010 CPD Scheme allows for the minimum CPD requirement to be modified in certain limited circumstances, including for (i) a newly admitted solicitor, (ii) a senior practitioner, (iii) maternity/parental/carers/adoptive leave, (iv) part-year practice, (v) unemployment, (vi) part-time practice. The limited circumstances in which these modifications may be claimed and the method of calculating the modified CPD requirement are set out in the 2010 CPD Scheme booklet. No application to the Education Committee is required to claim such a modification. A solicitor who is entitled to modify his/her minimum CPD requirement under the Scheme and who completed that modified CPD requirement should tick option (a). A solicitor who is entitled to modify his/her minimum CPD requirement under the Scheme but who failed to complete that modified CPD requirement should tick option (c).

A solicitor who was admitted to the Roll of Solicitors on or after 1 December 2009 is exempt from the full 2010 minimum CPD requirement and should tick option (a). A solicitor who was admitted to the Roll of Solicitors between January 2009 and November 2009 is entitled to modify his/her minimum CPD requirement in accordance with the Scheme (see above). Any such solicitor should tick option (a) if they completed that modified CPD requirement or option (c) if they failed to do so.

A solicitor may make an individual application to the Education Committee for special dispensation from the minimum CPD requirement (whether by way of full or partial exemption or for an extension of time to complete the necessary CPD hours) in cases of certified long-term illness or other personal circumstances. Only a solicitor who has made such an application to the Education Committee which **has already been granted** should tick option (b).

A solicitor who has failed to complete the 2010 minimum CPD requirement (in full or as may be modified under the Scheme) and who has not made an application to the Education Committee for special dispensation should tick option (c). A solicitor to whom option (c) applies and who now wishes to make an application to the Education Committee for special dispensation should **separately** write to the CPD Scheme Unit.

The 2010 CPD Scheme booklet and S.I. No. 452 of 2009 are available to download from the CPD Scheme section in the Members' Area of the Society's website ([www.lawsociety.ie](http://www.lawsociety.ie)). For further information, contact the CPD Scheme Unit (tel: 01 6724802, post: CPD Scheme Unit, Law Society of Ireland, Blackhall Place, Dublin 7 or email: [cpdscheme@lawsociety.ie](mailto:cpdscheme@lawsociety.ie)).

An applicant should **not** return his/her CPD record card with this practising certificate application. The Society may subsequently request sight of an applicant's record card and proof of completion of the CPD during the 2010 CPD cycle as part of the Society's CPD audit review process.

**Section G — Data Protection Statement**

The examples of the actual or possible uses of personal data relating to a solicitor also apply to registered lawyers and include the following:

- the provision of data to insurers providing professional indemnity insurance cover and brokers arranging such cover and to the Pool Manager of the Assigned Risks Pool;
- the circulation of the Society's Gazette to a solicitor member of the Society, which may include or be accompanied by commercially-related material;
- publication in the annual Law Directory;
- the reference to a solicitor on the Roll of Solicitors and/or on the Register of Practising Solicitors and/or in the records of professional indemnity insurance cover of solicitors maintained by the Society;
- the reference to a solicitor on the Society's website;
- the provision by the Society to a solicitor candidate for the Society's annual elections or a solicitor candidate for a Dail or Seanad election of the practice address and/or e-mail address of a solicitor;
- the furnishing of information relating to the good standing of a solicitor, including information recorded on the Roll of Solicitors and on the Register of Practising Solicitors or in the records of professional indemnity insurance cover maintained by the Society, when requested, to Irish governmental agencies (e.g. Judicial Appointments Advisory Board) or to foreign governmental agencies (including governmental agencies outside the European Union) or to commercial entities or to individual members of the public;
- the provision by the Society to a specific commercial entity of the practice address and/or e-mail address pursuant to an expressly recorded decision of the Society that it is beneficial to do so for defined marketing or professional or practice development purposes;
- the provision by the Society of the practice address and/or e-mail address of a solicitor to third party non-commercial entities, e.g. Bar Associations, which provide useful information to the profession.
- the provision by the Society to a firm of solicitors or another body employing solicitors of information both electronically and in hard copy form, as to the attendance record of individual solicitors within the firm or body relating to Continuing Professional Development.

**Declaration**

Please sign and date as indicated on the application form.

**Membership of the Society**

Please tick the box if you wish to be a member of the Society for the year ending 31 December 2011.

**Fees**

1. The registration fee and the Compensation Fund contribution are required to be paid by each applicant for a qualifying certificate.
2. A registered lawyer registering as a registered lawyer during the practice year commencing 1 January 2011, if applying for his/her first qualifying certificate during the practice year 2011, may calculate the registration fee and the Compensation Fund contribution payable by him/her on the basis of the number of full calendar months remaining in that practice year following the month of his/her registering as a registered lawyer; and the registered lawyer's membership subscription in respect of the year (or part thereof) of his/her registration shall be at the reduced rate of €20.
3. Payment of the annual membership subscription and/or the Solicitors Benevolent Association contribution and/or the Free Legal Advice Centres contribution and/or Community Law Centres contribution is/are not a condition(s) precedent to the issuing to a solicitor of a qualifying certificate. However, unless a registered lawyer pays the annual membership subscription, he/she cannot enjoy the benefits of being a member of the Society as provided for in the Society's Bye-Laws, including the right to vote in annual and provincial elections and the right to receive the Society's Gazette. The voluntary contribution to Community Law Centres will be allocated to the Ballymun Community Law Centre and the Northside Community Law Centre.

**Payment Methods**

Please pay the fees due by cheque or electronic funds transfer as indicated on the application form.

If paying by electronic funds transfer, it is mandatory to enclose a remittance advice with the application; until the remittance advice is received, your application will be treated in the same way as an application form without a cheque (that is as an incomplete application) notwithstanding that the fees due may have actually been received by the Society. There is no discretion to waive this requirement in any case. In this regard attention is drawn to the deadline of 9 February 2011 for inclusion in the Law Directory 2011 which is more fully described in the general section of these guidance notes.

BAILE ÁTHA CLIATH  
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR  
Le ceannach díreach ón  
OIFIG DHÍOLTA FOILSEACHÁN RIALTAIS,  
TEACH SUN ALLIANCE, SRÁID THEACH LAIGHEAN, BAILE ÁTHA CLIATH 2,  
nó tríd an bpost ó  
FOILSEACHÁIN RIALTAIS, AN RANNÓG POST-TRÁCHTA,  
AONAD 20 PÁIRC MIONDÍOLA COIS LOCHA, CLÁR CHLAINNE MHUIRIS,  
CONTAE MHAIGH EO,  
(Teil: 01 - 6476834 nó 1890 213434; Fax: 094 - 9378964 nó 01 - 6476843)  
nó trí aon díoltóir leabhar.

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