



LAW SOCIETY OF SCOTLAND REGISTERED PARALEGAL SCHEME

SCHEME OF OPERATION

In association with:



DEFINITIONS

'Additional Competencies' means the knowledge, skills, attitudes and values a Registered Paralegal is required to adhere to, according to the Legal Domain(s) in which they work, and as contained in Part 2 of Schedule B to this document.

'AP(E)L' means Accreditation of Prior (Experiential) Learning, which is a widely recognised educational methodology for recognising prior experiential learning, or learning, against specified educational standards for entry to a programme;

'Council' is the Council of the Law Society of Scotland, governing body of the Society;

'CPD' is continuing professional development;

'Formally recognised and assessed qualification' is deemed to be a qualification from a Scottish university or college; a university or college in another jurisdiction which has similar requirements in relation to teaching, quality assurance and assessment as a Scottish university or college; or a training organisation which has similar requirements in relation to teaching, quality assurance and assessment as a Scottish university or college.

'Full Route' opens on 15 August 2011 and is from that date the only method (other than through a waiver) of entering the Scheme, as a Trainee Registered Paralegal;

'General Competencies' means the knowledge, skills, attitudes and values a Registered Paralegal is required to adhere to, irrespective of Legal Domain, and as contained in Part 1 of Schedule B to this document.

'Guide Areas' are Legal Domains in the areas of Civil Litigation: Debt Recovery'; 'Conveyancing'; 'Wills and Executries'; 'Criminal Litigation' and 'Liquor Licensing'.

'Legal Domain(s)' means the practice area(s) in which an individual Registered Paralegal is licensed to practice.

'Registered Paralegal' is a paralegal who satisfies the entry criteria associated with the Scheme, and thereafter adheres to the requirements of Scheme

'Regulated Employer' means an employer of the Registered Paralegal which is a practice regulated by the Law Society of Scotland pursuant to the Solicitors (Scotland) Act 1980, as amended

'Panel' is a panel of the Standing Committee, comprising not less than three representatives including a solicitor, paralegal, and lay representative.

'Scheme' is the Law Society of Scotland Registered Paralegal scheme

'Secretary' is the Secretary to the Standing Committee

'SLCC' is the Scottish Legal Complaints Commission

'Society' is the Law Society of Scotland

'SPA' is the Scottish Paralegal Association

'Standards' means Standards for Registered Paralegals, contained in Schedule C to this document

'Standing Committee' is the Registered Paralegal Standing Committee

'Supervising Solicitor' is any Scottish solicitor, with an unrestricted Practising Certificate, who from time to time the Registered Paralegal does work.

'Trade Mark Licence Conditions' are the trade mark licence conditions outlining the rights of the Registered Paralegal, or Trainee Registered Paralegal, to use the term 'Registered Paralegal' and 'Trainee Registered Paralegal', associated trade marked logo, contained in Schedule D.

'Trainee Registered Paralegal' is a trainee registered paralegal, working for a Supervising Solicitor for a period of twelve months, during which period they are monitored and after which twelve months they are deemed by the Supervising Solicitor to be a Registered Paralegal

'Transition – Stage 1' lasts from 16 August 2010 to 15 November 2010 and is a period of grandfathering into the Scheme existing paralegals who are a particular category of SPA member, or a particular category of member of any other paralegal association whose standards have been recognised by the Standing Committee as being equivalent, as outlined in section 4 of this document.

'Transition – Stage 2' lasts from 15 November 2010 to 15 August 2011 and is a window of opportunity for any paralegal who does not meet the Transition – Stage 1 criteria to submit an application to be grandfathered into the Scheme, as outlined in section 4 of this document.

INTRODUCTION

This Scheme of Operation, inclusive of the Appendices, details the manner in which the Society will operate the Law Society of Scotland Registered Paralegal Scheme. The Scheme of Operation may be amended from time to time by the Society, with the approval of the Society's Council.

1. DEFINITION OF THE SCHEME AND A REGISTERED PARALEGAL

- 1.1 The Scheme defines and credits the role of the paralegal in Scotland, through the creation of a Registered Paralegal status and Trade Mark Licence Conditions, and incorporating:
 - 1.1.1 a set of educational competencies in the form of General Competencies, and Additional Competencies in the Legal Domain(s) in which the Registered Paralegal works;
 - 1.1.2 Standards;
 - 1.1.3 CPD regime; *and*
 - 1.1.4 complaints regime.
- 1.2 As further outlined in the Standards, the Trainee Registered Paralegal and Registered Paralegal are entitled only to train and thereafter practise in the Legal Domain in which they are registered.
- 1.3 The relationship between a Trainee Registered Paralegal, or Registered Paralegal, and a Supervising Solicitor is indivisible. A Registered Paralegal works in (a) Legal Domain(s), always in support of a Supervising Solicitor, in delivering legal advice to clients. A Trainee Registered Paralegal or a Registered Paralegal is not entitled to work in his or her capacity as a Registered Paralegal other than in connection with work done in support of a Scottish solicitor.
- 1.4 The Scheme is intended to capture the expertise of paralegals whose work is intrinsically linked and supports the work of a Supervising Solicitor. The term Registered Paralegal does not incorporate legal advisers who do not work in support of Supervising Solicitors and according to the criteria outlined in sections 1.2 and 1.3 above.

2. LEGAL DOMAINS

- 2.1 The Scheme identifies particular Legal Domains, being common areas of practice for paralegals in Scotland, as Guide Areas.
- 2.2 It will be competent for the Standing Committee to develop additional Legal Domains, within the following parameters:
 - 2.2.1 the term 'Registered Paralegal' is intended to become the benchmark standard for paralegals working in the Guide Areas.
 - 2.2.2 The Scheme is not intended to capture the different types of work carried out by individual paralegals in Scotland.
 - 2.2.3 The Standing Committee will therefore consult fully on the introduction of a new Legal Domain where:
 - 2.2.3.1 there is demand from paralegals and their Supervising Solicitors and employers, indicating that a new Legal Domain should be developed.
 - 2.2.3.2 there is no overlap with the proposed new Legal Domain and the existing Guide Areas, or other new Legal Domains which have already been established.
 - 2.2.4 The Standing Committee will be entitled to advise any person who wishes to apply to become a Registered Paralegal through Transition – Stage 1, Transition – Stage 2, or through the Full Route, at the appropriate time, and who wishes to create a new Legal Domain, that their application is timeous, but is subject to the following:
 - 2.2.4.1 section 2.2.3 above; and in the event that the requirements in that section have been fulfilled;
 - 2.2.4.2 sufficient time being dedicated to the development, and approval by the Standing Committee, of Additional Competencies in the new Legal Domain which are of a consistently high standard to the Guide Areas or any other new Legal Domains which have already been established
 - 2.2.4.3 the Standing Committee will act reasonably in setting a time scale for the consultation on and, if appropriate, creation of, a new Legal Domain.

3. REGISTERED PARALEGAL STANDING COMMITTEE

- 3.1 The Registered Paralegal Standing Committee is a committee of the Council, its remit being contained in Schedule A to this document, and has full delegated authority from the Council to:
 - 3.1.1 Take decisions in response to applications for entry to the scheme, in respect of entry standards and the 'character and suitability' requirements.
 - 3.1.2 Approve any new Legal Domains
- 3.2 The Standing Committee delegates certain functions to the Panel, and the Secretary:

- 3.2.1 Standard applications may be delegated to the Secretary.
- 3.2.2 Non-standard decisions may be delegated to a Panel. There must be consensus amongst Panel members for a decision in relation to entry to be taken.
- 3.2.1 Should there be any request to change the delegated powers of the Panel and the Secretary, this will be competent but will require the approval of Council.

4. ADMISSION AS A REGISTERED PARALEGAL – ENTRY REQUIREMENTS

- 4.1 Admission as a Registered Paralegal will be through either Transition – Stage 1, Transition – Stage 2, or the Full Route.
- 4.2 The criteria associated with Transition – Stage 1 are based on existing requirements of the SPA. SPA members who meet the following criteria exactly will be grandfathered into the scheme during Transition – Stage 1:
 - 4.2.1 they hold a formally recognised and assessed qualification relevant to their work as a paralegal (including, but not necessarily limited to, an HNC/HND in Legal Studies, a Strathclyde/CLT or Reward Training Qualification, or a degree with law in the awarding title from a Scottish University).
 - 4.2.2 they have more than two years work experience gained under the supervision of a Scottish solicitor holding a current Practising Certificate from the Law Society of Scotland.
 - 4.2.3 they have been registered with the Scottish Paralegal Association, at Grade 1 on the SPA grades scale, for a period of two years or more at the date of application.
 - 4.2.4 they have not been the subject of any complaints to the SPA for breaching the SPA Code of Conduct.
 - 4.2.5 they have met the CPD requirements in each year they have been registered with the SPA.
- 4.3 It is competent for any paralegal association, other than the SPA, to make an application to the Standing Committee, proposing that a particular category of their members should be grandfathered under Transition – Stage 1, on the basis that that category of member meets standards equivalent to those outlined in sections 4.2, set by the applicant paralegal association in question:
 - 4.3.1 each application received pursuant to section 4.3 above will be considered on its own merit, by the Registered Paralegal Standing Committee
 - 4.3.2 If successful, the category of membership identified will be entitled to benefit from Transition – Stage 1
- 4.4 In the event that an applicant during Transition – Stage 1 works in more than one Legal Domain, the criteria outlined in section 4.2 above must be met for all of the Legal Domains in which they work.
- 4.5 In relation to Transition – Stage 2:
 - 4.5.1 Applicants during this stage are applying for a ‘waiver’ from the requirement to enter through the Full Route.

- 4.5.2 Given it is an essential underpinning element of the Scheme, applicants during Transition – Stage 2 will be split into two main categories:
- 4.5.2.1 those holding a formally recognised and assessed qualification relevant to their work as a paralegal
 - 4.5.2.2 those not holding a formally recognised and assessed qualification relevant to their work as a paralegal
- 4.5.3 Applicants with a formally recognised and assessed qualification relevant to their work as a paralegal may be processed by the Secretary, through the delegated powers of the Standing Committee. An application will be deemed to be successful if the following criteria are met, all of which must be supported by a declaration from (a) Supervising Solicitor(s) covering the entirety of the two year period outlined in section 4.5.3.2 without gaps, as part of an application form produced by the Society for completion:
- 4.5.3.1 the supervising solicitor(s) believe(s) the applicant operates at a level equivalent to the General Competencies and Additional Competencies for the Legal Domain in which the applicant works.
 - 4.5.3.2 there is evidence of at least two years' experience working in the Legal Domain, under the supervision of a Scottish solicitor holding a current Practising Certificate from the Law Society of Scotland.
 - 4.5.3.3 during this time, the paralegal has demonstrated a commitment to CPD or equivalent.
 - 4.5.3.4 During this time, the supervising solicitor(s) was/were not aware of any complaints raised about the work of the paralegal;
- 4.5.4 The Society will issue applicants without a formally recognised and assessed qualification relevant to their work as a paralegal with a similar application form, but with an additional section relating to AP(E)L, all of which must be supported by a declaration from (a) supervising solicitor(s) covering the entirety of the period being used in the application to demonstrate competence, without gaps:
- 4.5.4.1 Guidance will be issued by the Society that in the absence of a qualification, and with reference to the requirements of Transition Stage 1 applicants, and Transition Stage 2 applicants who do hold a qualification, that 'significant' experiential learning relevant to the Legal Domain is what the Standing Committee is looking to be evidenced, and that the AP(E)L procedure is designed to facilitate that process for the applicant.
 - 4.5.4.2 Guidance on AP(E)L as it applies to Transition – Stage 2, will be issued by the Society.
 - 4.5.4.3 The onus is on the applicant to prove that the General Competencies and Additional Competencies in the Legal Domain have been met, using AP(E)L procedures
 - 4.5.4.4 The application will require to evidence that during the time being used to demonstrate competence, the paralegal has demonstrated a commitment to CPD/life-long learning to the supervising solicitor(s).
 - 4.5.4.5 The application will require to evidence that during the time being used to demonstrate competence, the supervising solicitor(s) was/were not aware of any complaints raised about the work of the paralegal.

- 4.6 The Society will accept no more than 100 Transition - Stage 2 applications per calendar month.
- 4.7 Applicants who are unsuccessful during Transition – Stage 2, will not be precluded from applying to enter the scheme during the Full Route.
- 4.8 In the event that an applicant during Transition – Stage 2 works in more than one Legal Domain, the criteria outlined in section 4.5 above must be met for all of the Legal Domains in which they work.
- 4.9 In order to qualify for the 'Full Route', applicants must hold a formally recognised and assessed qualification relevant to the work they will be doing as a Trainee Registered Paralegal.
- 4.10 In the event that the requirements contained in section 4.9 are satisfied, the 'Full Route' requires a paralegal to:
 - 4.10.1 Spend twelve months, or the equivalent of twelve months, as a Trainee Registered Paralegal, working under a Supervising Solicitor, in delivering legal advice to clients.
 - 4.10.2 Demonstrate to the Supervising Solicitor during the twelve month (or equivalent to twelve month) training period that they are applying the knowledge, skills, attitudes and values contained in the General Competencies and Additional Competencies for the Legal Domain in which they work, and that they understand and are abiding by the Standards.
 - 4.10.3 At the end of the twelve month period, be declared as competent by the Supervising Solicitor according to the General Competencies and Additional Competencies in the Legal Domain in which they work, and the Standards.
- 4.10 The Society will accept no more than 100 Full Route applications per calendar month.

5. ADMISSION - CHARACTER AND SUITABILITY

- 5.1 Each applicant, regardless of whether applying through Transition – Stage 1, Transition - Stage 2, or the Full Route, will require to pass the character and suitability test. The test will apply as follows:
 - 5.1.1 The applicant will complete a self-declaration of criminal convictions, sequestration, bankruptcy, or discipline by another regulator.
 - 5.1.2 The Standing Committee will oversee the process of considering any such declaration.
 - 5.1.3 Applicants during Transition – Stage 2, and the Full Route, will require a character reference from a supervising solicitor and, where there is no supervising solicitor in the case of certain applicants to the Full Route, a reference from an educational institution or former employer.

6. WAIVER

- 6.1 It will be competent for any applicant to apply for a waiver of any element of the entry criteria associated with the scheme:
 - 6.1.1 Applications for a waiver will be considered on their own merit

- 6.1.2 the discretion to grant the waiver belongs to the Standing Committee
- 6.1.3 the Standing Committee may request further information, or an interview with the applicant.
- 6.1.4 the Standing Committee may grant the waiver subject to such conditions as it considers appropriate.

7. STANDARDS, AND COMPLAINTS AGAINST REGISTERED PARALEGALS

- 7.1 Registered Paralegals must comply with the General Competencies, Additional Competencies relevant to the Legal Domain in which they work, as well as Standards.
- 7.2 Responsibilities incumbent on Registered Paralegals do not in any way affect the overall responsibility of the Supervising Solicitor for legal work undertaken, and in respect of complaints, as contained in the Legal Profession and Legal Aid (Scotland) Act ('the Act').
- 7.3 The Society and the SLCC will share details of complaints naming Registered Paralegals.
 - 7.3.1 As Registered Paralegals always work directly in support of a Scottish solicitor, the Society will advise the SLCC of any complaint received by it, about a Registered Paralegal, and vice versa. Whilst neither organisation has a remit to investigate complaints against paralegals under the Act, this may instigate either (a) a complaint against a Solicitor, capable of investigation under the Legal Profession and Legal Aid (Scotland) Act 2008 or (b) the Society's own process, governed by this Scheme of Operation, of investigating complaints against Registered Paralegals.
 - 7.3.2 The SLCC and Society in dealing with an ongoing complaint, in which a Registered Paralegal is named, will equally advise each other, as this may instigate either (a) a complaint against a Solicitor, capable of investigation under the Legal Profession and Legal Aid (Scotland) Act 2007 or (b) the Society's own process, governed by this Scheme of Operation, of investigating complaints against Registered Paralegals.
- 7.4 The Society has its own process, governed by this Scheme of Operation, of investigating complaints against Registered Paralegals for the purpose of establishing whether that paralegal should be entitled to remain registered with the Scheme, in order to maintain the integrity of the scheme for all remaining paralegals registered with the Scheme. This might occur in the following circumstances:
 - 7.4.1 The situations outlined in section 7.4, above.
 - 7.4.2 The Society reacting to non-compliance of CPD requirements associated with the Scheme as required in the General Competencies, as a matter of conduct according to Standards.
 - 7.4.3 The Society reacting to non-compliance with the Scheme, or the Trade Mark Licence conditions.
- 7.5 In the event that a complaints process against a Registered Paralegal is instigated as outlined in section 7.5, this will be investigated by the Regulation Department of the Society, and the decision taken by the Professional Conduct Committee. The sanctions

applicable to Registered Paralegals, where a complaint is upheld, include the following, which are not mutually exclusive:

7.5.1.1 A restriction on the Registered Paralegal's work;

7.5.1.2 The imposition of a supervision order in terms of the Registered Paralegal's work;

7.5.1.3 Censure

7.5.1.4 Suspension from the Registered Paralegal scheme;

7.5.1.5 Removal from the Registered Paralegal scheme

7.5.1.6 Revocation of the licence to use the Trade Mark Licence Conditions.

7.5 Existing processes and relations between the SLCC and Society in respect of paralegals who are not Registered Paralegals are not affected by the scheme.

8. RIGHT OF APPEAL

8.1 There is a right of appeal to the Standing Committee in respect of any decision in relation to entry by:

8.1.1 The Secretary

8.1.1 a Panel, in which case no member of the original Panel should form part of the decision making process in response to the appeal.

8.2 There is a right of appeal to the Council in respect of any decision:

8.2.2 by the Standing Committee in relation to entry to the Scheme

8.2.3 by the Professional Conduct Committee in respect of a finding of a complaint against a Registered Paralegal.

9. SCOTTISH PARALEGAL ASSOCIATION

9.1 The scheme is titled 'The Law Society of Scotland Registered Paralegal scheme', marketed as being 'in partnership with the Scottish Paralegal Association', which reflects:

9.1.1 the involvement of the SPA in establishing and setting standards for the Scheme

9.1.2 the Society's recommendation to all applicants that those joining the Scheme should ensure they are sufficiently represented as well as regulated through the Scheme; and therefore

9.1.3 the Society's endorsement of SPA, to applicants as the sole representative body the Society perceives to represent Registered Paralegals.

9.2 The relationship between the Society and the Scottish Paralegal Association, in relation to the Scheme, is governed by a separate partnership agreement. The partnership agreement will last two years in the first instance, until 15 August 2012, and be reviewed thereafter.

10. OTHER REQUIREMENTS ON REGISTERED PARALEGALS

- 10.1 For the first two years of the scheme, until 15 August 2012 in line with section 9.2, the following are associated requirements of the Scheme
- 10.1.1 The annual cost of joining the Scheme, inclusive of membership of the SPA, will be £100 (subject to annual increase/decrease as the Society deems appropriate)
- 10.1.2 The Society recommends that members joining the Scheme also elect membership of the only independent representative body for paralegals in Scotland, the Scottish Paralegal Association.
- 10.1.3 It is possible to opt out of membership of the SPA, and therefore the support of SPA as a representative body for Registered Paralegals.
- 10.2 The Society will maintain and publish a register of Trainee Registered Paralegals and Registered Paralegals who have met all the requirements and hold the 'Trainee Registered Paralegal' and 'Registered Paralegal' status.
- 10.2.1 The data will be limited to names, Legal Domain(s) in which the Trainee Registered Paralegal is training, or Registered Paralegal is registered, and place of work.
- 10.2.2 The information will be published on the Society's website
- 10.2.3 The Society will not share other data about the Trainee Registered Paralegal or Registered Paralegal with any other organisation, either for free or for commercial purposes.
- 10.2.4 Additional data held about Trainee Registered Paralegals and Registered Paralegals will only be shared with the SPA where the Trainee Registered Paralegal or Registered Paralegal has not opted out of SPA membership during the registration process.
- 10.3 Membership of the Scheme will not preclude members from holding membership of other professional associations, as long these do not create a conflict in terms of requirements.
- 10.4 All applicants to the Scheme will require to submit their application for entry through an online Customer Relationship Management ('CRM') system designated by the Society, as may be amended from time to time.
- 10.5 All Trainee Registered Paralegals and Registered Paralegals are obliged to keep their details up to date, including CPD and performance review information, using the self-service method offered by the CRM system.

11. MEMBERSHIP BENEFITS

- 11.1 Trainee Registered Paralegals and Registered Paralegals will be entitled to a range of benefits. These include:
- 11.1.1 Dedicated membership area on the Society's website, in which performance reviews during the twelve month training period can be uploaded (Trainee Registered Paralegals)

- 11.1.2 Dedicated membership area on the Society's website, in which CPD can be logged (Registered Paralegals)
- 11.1.3 Copy of the Journal of the Law Society of Scotland every month, including regular paralegal features (Registered Paralegals)
- 11.1.4 Access to the Law Society of Scotland's Professional Practice Guidelines (Trainee Registered Paralegals and Registered Paralegals)
- 11.1.5 Preferential rates on CPD offered by the Society through its Update department (Trainee Registered Paralegals and Registered Paralegals)
- 11.1.6 Lifestyle benefits from time to time (Trainee Registered Paralegals and Registered Paralegals)

SCHEDULE A – REMIT OF THE REGISTERED PARALEGAL STANDING COMMITTEE

1. STANDING COMMITTEE

- 1.1 The Standing Committee has fully delegated powers from the Society's Council to:
 - 1.1.1 Take decisions in response to applications for entry to the scheme, in respect of entry standards and the 'character and suitability' requirements, and as more fully outlined in the Scheme of Operation
 - 1.1.2 Approve any new Legal Domains, as more fully outlined in the Scheme of Operation.

2. COMPOSITION

- 2.1 The Standing Committee will comprise the following members:
 - 2.1.1 up to two members nominated by the Council of the Law Society of Scotland (nominated from among the membership of Council or a relevant Committee)
 - 2.1.2 two representatives of the Scottish Paralegal Association
 - 2.1.3 representatives of associations with a 'relevant interest' in the development of paralegals in Scotland, including for example the Society of Specialist Paralegals (SSP), or the Society of Law Accountants in Scotland (SOLAS).
 - 2.1.4 up to two solicitors (not a member of Council or Committee)
 - 2.1.5 two ordinary 'Registered Paralegals', with elections taking place once the first 100 registrations have taken place.
 - 2.1.6 up to three 'public interest' members. These members should not be, or have been, a solicitor, paralegal, advocate, or equivalent, within any jurisdiction

3. REMIT

- 3.1 There will be a pre-launch and post-launch remit for the Standing Committee. Within the post-launch phase, there are three stages (**Transition – Stage 1, Transition – Stage 2, Full Route**).
- 3.2 Pre-launch, it is envisaged the Standing Committee will meet for one (extended) meeting only:
 - 3.2.1 to assess applications from organisations representing paralegal associations, who wish for a certain category of their membership to be grandfathered into the scheme during the post-launch stage of Transition – Stage 1, against criteria contained in the Scheme of Operation.
 - 3.2.2 to consider any issues arising out of the character and suitability test, as contained in the Scheme of Operation.
 - 3.2.3 To start to assess any Additional Competencies in new Legal Domains proposed by those paralegal associations and their member paralegals who do not do legal work covered by the Society's Guide Areas, to ensure a fair policy on entry, consistency of approach, and the maintenance of high standards
- 3.3 Post-launch, there are three stages of entry. These are **Transition – Stage 1, Transition – Stage 2**, and the **Full Route**.

- 3.4 **Transition – Stage 1** will last for three months, as contained in the Scheme of Operation and it is envisaged that the Standing Committee will meet monthly during this time, this being a streamlined process based on the pre-launch decisions in relation to paralegal associations:
- 3.4.1 to deal with any applications which exceed the delegated authority of the Secretary
 - 3.4.2 to consider any issues arising out of the character and suitability test
 - 3.4.3 To assess any Additional Competencies in new Legal Domains, proposed by paralegals who do not do legal work covered by *either* the Society's Guide Areas *or* the Additional Competencies for Guide Areas. This is to ensure a fair policy on entry, consistency of approach, and the maintenance of high standards.
 - 3.4.4 to ensure a fair policy on entry, consistency of approach, and the maintenance of high standards.
- 3.5 **Transition – Stage 2** will follow Transition – Stage 1, and last for nine months, as contained in the Scheme of Operation. It is envisaged that the Standing Committee will meet monthly during this time. This stage specifically provides a 'window of opportunity' to deal with applications from those who believe that they meet the standards required in the Scheme. The Standing Committee will meet:
- 3.6 The **Full Route** will be opened up at month 13.
- 3.7 There will be no further grandfathering of existing paralegals, and entry will be as a Trainee Registered Paralegal.
- 3.8 It is envisaged that the Standing Committee will meet on a bi-monthly basis during this time, as applications should unlike Transition – Stage 2 be streamlined and typically dealt with through authority delegated to the Secretary. The Standing Committee will meet:
- 3.8.1 to consider non-standard aspects of applications
 - 3.8.2 to consider any issues arising out of the character and suitability test
 - 3.8.3 To assess any Additional Competencies in new Legal Domains, proposed by paralegals who do not do legal work covered by *either* the Society's Guide Areas *or* the Additional Competencies for Guide Areas. This is to ensure a fair policy on entry, consistency of approach, and the maintenance of high standards.
 - 3.8.4 to ensure a fair policy on entry, consistency of approach, and the maintenance of high standards.
 - 3.8.5 to consider any non-standard applications which may continue to arise, or which because of time-constraints could not be dealt with during the nine months allocated to Transition – Stage 2.

SCHEDULE B – EDUCATIONAL COMPETENCIES

1. EDUCATIONAL COMPETENCIES

1.1 Entry to the scheme will require competence to have been demonstrated in:

1.1.1 General Competencies, which apply irrespective of the Legal Domain in which the Registered Paralegal is working.

1.1.2 Additional Competencies, which are relevant to the Legal Domain in which the Registered Paralegal is working.

2. The General Competencies are below:

SCHEDULE B

PART I - GENERAL KNOWLEDGE, SKILLS, VALUES AND ATTITUDES

The Law Society of Scotland Registered Paralegal Scheme will set new, high standards for the 'Registered Paralegal'.

The Registered Paralegal is expected to work to a high level of competence, within these parameters:

1. The Registered Paralegal works solely within the practice area in which they are registered – the 'Legal Domain'. It will be possible to be registered in more than one Legal Domain.
2. The Registered Paralegal works under the supervision of a Scottish solicitor - that is the Supervising Solicitor, who retains full responsibility for the legal work undertaken.

SUMMARY OF KNOWLEDGE, SKILLS, VALUES AND ATTITUDES

KNOWLEDGE		<ul style="list-style-type: none"> • Knowledge, understanding, familiarity and awareness as required in the particular Legal Domain
SKILLS	Technical Skills	<ul style="list-style-type: none"> • Accuracy, literacy and numeracy • Information Technology • Office equipment • Office systems and procedures
	Organisational Skills	<ul style="list-style-type: none"> • Personal management • File management
	Communication Skills	<ul style="list-style-type: none"> • Generally • Face to face communication • Written communication • Electronic communication
	Inter-personal Skills	
	Practice Skills	<ul style="list-style-type: none"> • Research • Interviewing • Writing and drafting • Negotiation (if required in the Legal Domain) • Advocacy (if required in the Legal Domain)
VALUES AND ATTITUDES	Legal and ethical values	
	Attitude/s	
	Focus:	<ul style="list-style-type: none"> • Professional • Client

KNOWLEDGE

By the end of the one year period as a 'Trainee Registered Paralegal', a paralegal eligible to qualify for Registered Paralegal status should be able to:

- demonstrate knowledge, understanding familiarity and awareness of the relevant law and procedure/s relevant to the particular Legal Domain for the work he/she is undertaking on behalf of the Supervising Solicitor
- apply his/her knowledge and understanding of the law and procedure/s to a particular matter effectively, and carry out procedures appropriately and efficiently so as to meet the needs of the (i) Supervising Solicitor, and ultimately (ii) the client's needs, objectives and priorities, based on a clear understanding of the client's instructions.

SKILLS

By the end of the one year period as a Trainee Registered Paralegal, a paralegal eligible to qualify for Registered Paralegal status should demonstrate:

<p>Technical skills</p>	<p>Accuracy, literacy and numeracy</p>	<ul style="list-style-type: none"> • an understanding of the importance of correct detail and the consequences/risks of carelessness. • attention to detail in his/her work. • that he/she is able to produce accurate work in terms of spelling, presentation and layout, as well as content. • that he/she is able to deal with figures and carry out computations accurately and proficiently, as required. • <u>additional or specific accuracy, literacy and numeracy skills relevant to the particular Legal Domain.</u>
	<p>Information Technology</p>	<ul style="list-style-type: none"> • that he/she is able to use available technology effectively and efficiently • that he/she is able to use computers and word processors appropriately for carrying out and producing his/her work • that he/she is able to use case management systems and maintain electronic files, where appropriate • <u>additional or specific information technology skills relevant to the particular Legal Domain</u>

	Office equipment	<ul style="list-style-type: none"> • that he/she is able to use office equipment such as voicemail, photocopier, fax competently and effectively. • that he/she is able to use the telephone effectively to communicate with clients and others, and to carry out legal business on the telephone efficiently. • <u>additional or specific use of office equipment relevant to the particular Legal Domain.</u>
	Office systems and procedures	<ul style="list-style-type: none"> • that he/she is able to use office business systems and resources appropriately and effectively, whether paper-based or computerised, including employing organisation's forms and precedents. • compliance with office procedures, including time recording. • compliance with all quality standards, and other policies and processes of employer organisation. • <u>additional or specific use of office systems and procedures relevant to the particular Legal Domain.</u>
Organisational Skills:	Personal management	<ul style="list-style-type: none"> • an understanding of the importance of time-limits and of the risks of breaching time-limits. • that he/she is able to exercise effective judgement in respect of realistic timescales for completion of tasks and delivery of objectives, and manage his/her own time effectively. • that he/she is able to manage his/her personal workload, including managing a number of concurrent matters effectively so as to meet all objectives, priorities and deadlines in each matter. • that he/she is able to use paper-based and/or electronic diaries and electronic task management systems to plan time and work effectively. • that he/she only accepts work which he/she feels competent to undertake. • that he/she is clear as to the work and responsibilities delegated to him/her by the Supervising Solicitor, and understands the limits in relation to that role • that he/she recognises the requirement to keep his/her Supervising Solicitor fully informed on a regular basis, the Supervising Solicitor having a responsibility to supervise matters, and that he/she does so. • that he/she recognises that it is paramount to raise concerns/issues relating to completion of

		<p>tasks and meeting of deadlines with his/her Supervising Solicitor at the earliest opportunity, and that he/she does so.</p> <ul style="list-style-type: none"> • that he/she recognises when it is necessary to seek support and/or advice from his/her Supervising Solicitor, when it is necessary or required to refer an issue in its entirety to the Supervising Solicitor, and that he/she does so. • that he/she recognises where a transaction is non-standard or includes non standard elements, and refers this to his/her supervising solicitor • that he/she passes on messages promptly and undertakes communications/ action arising from telephone calls, meetings or client interviews. • <u>additional or specific personal management skills relevant to the particular Legal Domain</u>
	File management	<ul style="list-style-type: none"> • good file management practices in terms of: <ul style="list-style-type: none"> - opening new files - filing documents and correspondence as appropriate - keeping filing up to date - taking and filing accurate notes of telephone calls and meetings - closing file when completed or instructed to close file • that he/she is able to lodge documents or applications in the correct form, at the correct place and at the correct time • <u>additional or specific file management skills relevant to the particular Legal Domain.</u>
Communication Skills	Generally	<ul style="list-style-type: none"> • that he/she is able to communicate effectively with those with whom he/she needs to work, particularly the Supervising Solicitor, and with clients, the other side, relevant bodies and authorities, as appropriate, including: <ul style="list-style-type: none"> - identifying different communication options and selecting the communication form which is appropriate to the particular situation and/or client. - producing communications which meet client or Supervising Solicitor instructions, and which are fit for purpose. • confidence and assurance in his/her dealings with people, whether in person or over the telephone.

		<ul style="list-style-type: none"> • <u>additional or specific general communication skills relevant to the particular Legal Domain.</u>
	Face to face communication	<ul style="list-style-type: none"> • that he/she is able to communicate effectively in face-to-face situations, can listen and check understanding. • that he/she is able to communicate effectively by telephone, including: <ul style="list-style-type: none"> - using appropriate telephone answering and handling techniques - using a good telephone manner which is efficient and polite - being able to establish the content and nature of telephone calls from the caller, whether or not a client • <u>additional or specific verbal communication skills relevant to the particular Legal Domain.</u>
	Written communication	<ul style="list-style-type: none"> • that he/she is able to communicate effectively in writing: <ul style="list-style-type: none"> - using clear language, correct spelling and appropriate grammar, syntax and punctuation - demonstrating attention to detail - adopting a style appropriate to the recipient • <u>additional or specific written communication skills relevant to the particular Legal Domain.</u>
	Electronic communication	<ul style="list-style-type: none"> • that he/she is able to use electronic communications effectively and appropriately, including: <ul style="list-style-type: none"> - understanding and using proper business and professional etiquette within an electronic environment - understanding the difference between letters and e-mails and when the latter are appropriate - properly managing e-communications to avoid risk, including archiving e-mails safely and accurately. • <u>additional or specific electronic communication skills relevant to the particular Legal Domain.</u>

<p>Inter-personal Skills</p>		<ul style="list-style-type: none"> • that he/she is able to develop and maintain effective working relationships with clients, colleagues (in particular the Supervising Solicitor) and others to achieve goals and to identify and resolve problems. • that he/she is able to work effectively as part of a team including: <ul style="list-style-type: none"> - working co-operatively and willingly with others in own and other's teams - communicating effectively with those with whom the paralegal needs to work - knowing when to ask for support from, or to offer support to, other team members - knowing when to refer issues or ask for guidance from Supervising Solicitor • <u>additional or specific inter-personal skills relevant to the particular Legal Domain.</u>
<p>Practice Skills</p>	<p>Research</p>	<ul style="list-style-type: none"> • that he/she knows where to look for and find information required to carry out his/her work. • that he/she is able to use key primary (eg Acts, Regulations etc) and secondary (eg key text and reference books) sources • <u>additional or specific research skills relevant to the particular Legal Domain.</u>
	<p>Interviewing</p>	<ul style="list-style-type: none"> • that he/she is able to conduct a client-centred interview effectively, including: <ul style="list-style-type: none"> - preparing for the interview appropriately - listening and eliciting required legal, personal and factual information, and full instructions from client - recording all relevant factual, legal, procedural and evidential matters arising in relation to the client's matter in a file note for future reference • <u>additional or specific interviewing skills relevant to the particular Legal Domain.</u>
	<p>Writing and drafting</p>	<ul style="list-style-type: none"> • that he/she is able to write letters or reports appropriate for the recipient or audience and which achieve their purpose, including: <ul style="list-style-type: none"> - communicating clearly, concisely and unambiguously and appropriately with clients, solicitors, non-solicitors and others - tailoring style of communication to suit the purpose of the communication and the needs of different clients and other recipients - producing communications which meet client or Supervising Solicitor instructions following internal protocols, conventions and using required styles and/or precedents.

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| | | <ul style="list-style-type: none">• that he/she is able to draft documents which are:<ul style="list-style-type: none">- well-organised- valid in terms of content and form- use correct legal terminology- address relevant legal and factual issues accurately- ensuring documents are validly executed and registered in relevant registers, where necessary• that he/she is able to use precedent documents and styles by:<ul style="list-style-type: none">- identifying the appropriate precedent document or style required- adapting the precedent document or style to the particular context- understanding when non-standard variations may be needed and referring to Supervising Solicitor.• that he/she is able to complete prescribed forms accurately• that he/she is able to produce or prepare other required documentation which is:<ul style="list-style-type: none">- accurate- well-organised- appropriate.• <u>additional or specific writing and/or drafting skills relevant to the particular Legal Domain</u> |
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<p>(if required for the specific Legal Domain)</p>	<p>Negotiation</p>	<ul style="list-style-type: none"> • that he/she is able to take part in a negotiation effectively, including: <ul style="list-style-type: none"> - preparing appropriately for the negotiation - negotiating - within the agreed instruction and remit - negotiating according to the practice and conventions of the particular Legal Domain • <u>additional or specific negotiation skills relevant to the particular Legal Domain</u>
<p>(if required for the specific Legal Domain)</p>	<p>Advocacy</p>	<ul style="list-style-type: none"> • that he/she is able to advocate a case on behalf of a client effectively in accordance with relevant rules and procedure, in cases where a Registered Paralegal has jurisdiction and authority to appear, or where preparing on behalf of the Supervising Solicitor where the Supervising Solicitor will appear, including: <ul style="list-style-type: none"> - preparing appropriately for the submission - using legal authorities, relevant facts and documentation in preparation for, and during, a submission - using effective speaking skills - demonstrating an understanding of the relevant rules, ethics and conventions governing advocacy • <u>additional or specific advocacy skills relevant to the particular Legal Domain.</u>

VALUES AND ATTITUDES

By the end of the period as a Trainee Registered Paralegal, a paralegal eligible to qualify for Registered Paralegal status should demonstrate that he/she :

<p>Legal and ethical values</p>		<ul style="list-style-type: none"> • understands and complies with the Standards, and refers to the Standards of Conduct and Service for Scottish Solicitors • adheres to rules issued by the Society in respect of completion of ten hours of Registered Paralegal CPD per annum by way of qualifying activities recognised for solicitors' CPD.
<p>Attitude/s</p>		<ul style="list-style-type: none"> • understands that responsibility for legal work undertaken rests with the Supervising Solicitor, including in relation to execution and signing of documentation • only accepts work which they feel competent to undertake. • is clear as to the work and responsibilities delegated to them by the Supervising Solicitor, and understands the limits in relation to that role. • recognises the requirement to keep his/her Supervising Solicitor fully informed on a regular basis, the Supervising Solicitor having a responsibility to supervise matters, and does so. • recognises it is paramount to raise concerns/issues relating to completion of tasks and meeting of deadlines with his/her Supervising Solicitor at the earliest opportunity, and does so. • recognises when it is necessary to seek support and/or advice from Supervising Solicitor when required or refers an issue in its entirety to the Supervising Solicitor, and does so. • recognises where a transaction is non-standard or includes non standard elements and refers to Supervising Solicitor. • updates Supervising Solicitor, client, court or others as appropriate, by conveying the appropriate information to the appropriate person. • engages with continuing professional and personal development, including: <ul style="list-style-type: none"> - being aware of the importance to self-assess, reflect and develop personally and professionally

		<ul style="list-style-type: none"> - assessing/identifying where development is required - evaluating strengths and weaknesses of own skills and knowledge, and working with Supervising Solicitor to set learning targets - <u>specific attitudes relevant to the particular Legal Domain</u>
Focus	Professional	<ul style="list-style-type: none"> • understands and adheres to good practice in carrying out the work he/she is instructed to do. • <u>demonstrates a professional focus relevant to the particular Legal Domain</u>
	Client	<ul style="list-style-type: none"> • works in a client-centred way and manages client service well, including: <ul style="list-style-type: none"> - being aware of the differences in acting for different types of client - communicating effectively with clients, following the terms of engagement that have been agreed with the client keeps client informed of progress on a regular basis - informs Supervising Solicitor of any client complaint immediately that it arises - regularly updating Supervising Solicitor on work being done for clients • manages client expectations • is able to advise the client on the legal consequences of the client's instructions • <u>demonstrates the client focus relevant to the particular Legal Domain</u>

PART II - ADDITIONAL COMPETENCIES FOR REGISTERED PARALEGALS

LEGAL DOMAIN: Criminal Litigation

SCOPE OF REGISTERED PARALEGAL'S COMPETENCE

The paralegal should be able to progress a criminal litigation case when acting for the defender, from taking client's initial instructions through to conclusion of the case, including attending court with the solicitor, if required.

Specifically, the paralegal should be competent to:

- interview and correspond with client;
- correspond and liaise with the Crown Office and Procurator Fiscal Service, the police and other relevant bodies and authorities
- advise client on procedural aspects of case, and on legal aid qualification and application procedure;
- prepare a case for court, including undertaking precognitions and preparing productions, and preparing and drafting required documentation, including court documentation
- assist in the instruction of counsel in jury and appeal cases
- assist solicitor in attendance at court if required,
- process legal aid applications.

KNOWLEDGE

By the end of the one year period as a Trainee Registered Paralegal, a paralegal eligible to qualify for Registered Paralegal status in relation to Criminal Litigation should, in addition to the general document and specifically in relation to Criminal Litigation, be able to:

Demonstrate knowledge and understanding of:

- the steps involved in a criminal prosecution, both summary and solemn, and in the appeal process
- the duty to the court
- the rights and obligations of the defender
- the information required from the client in order to prepare the case for court
- defences, including the principles and procedures involved in investigating and preparing a defence
- the different types of criminal procedure, both summary and solemn, and appeal
- the court rules and procedures for the particular procedure
- the deadlines and timescales relevant to criminal litigation cases, particularly the court rules regarding deadlines and time scales, custody timescales and appeal timescales
- the implications of early or late plea
- the implications of sentencing, including sentencing discount
- the qualifying rules for legal aid, and the procedures for obtaining legal aid, as well as legal aid procedure for different types of process.

Demonstrate knowledge and familiarity with:

- Criminal court procedures and documentation
- Legal Profession and Legal Aid (Scotland) Act 2007
- Scottish Legal Aid Board Handbook
- Vulnerable witnesses provisions in the Criminal Procedure (Scotland) Act 1995
- common law and statutory criminal offences
- Code of Conduct for Criminal Work, as amended.

Demonstrate understanding of:

- the structure of the criminal court system
- the requirements imposed by the Scottish Legal Aid Board
- the differences between privately-funded and legal aid-funded cases
- challenges to Crown certificates, if relevant
- the importance of court and legal aid deadlines
- rules of evidence
- VIPER parades.

Demonstrate awareness of:

- human rights law
- Criminal Procedure (Scotland) Act 1995
- Act of Adjournal (Criminal Procedure Rules) 1996.

SKILLS

By the end of the one year period as a Trainee Registered Paralegal, a paralegal eligible to qualify for Registered Paralegal status in relation to Criminal Litigation should, in addition to the general document and specifically in relation to Criminal Litigation, demonstrate:

Technical skills	Accuracy, literacy and numeracy	<ul style="list-style-type: none"> • that he/she is able to complete legal aid accounts or to render private fees, as appropriate
	Information Technology	<ul style="list-style-type: none"> • that he/she is able to use the Scottish Legal Aid Board on-line system
Practice Skills	Writing and drafting	<ul style="list-style-type: none"> • that he/she is able to draft or prepare: <ul style="list-style-type: none"> - documentation for intermediate or first or preliminary diet, including notices of defences and special defences - lists of defence witnesses - lists of productions - citing of witnesses - agreement of evidence - statement of uncontroversial evidence - section 275 applications, if appropriate - instructions to Counsel • that he/she is able to complete applications to the Scottish Legal Aid Board, including applications for legal aid, sanction applications and applications for authorised increases • that he/she is able to record narrative of evidence in court • that he/she is able to prepare and paginate productions

VALUES AND ATTITUDES

By the end of the one year period as a Trainee Registered Paralegal, a paralegal eligible to qualify for Registered Paralegal status in relation to Criminal Litigation should, in addition to the general document and specifically in relation to Criminal Litigation, demonstrate:

Legal and ethical values		<ul style="list-style-type: none"> • compliance with the obligations imposed by the Code of Conduct for Criminal Work
Focus	Client	<ul style="list-style-type: none"> • that he/she is aware: <ul style="list-style-type: none"> - of the costs of litigation - of the possibilities for funding if the client does not qualify for legal aid and - that if the client does not qualify for legal aid, the importance of obtaining money in order to cover payment for agency work

COMPONENT PART: Civil Litigation (NB: The Civil Litigation Component Part must always be supplemented by competency statements relevant to the area of litigation, before it can be a full Legal Domain)

SCOPE OF REGISTERED PARALEGAL'S COMPETENCE

The paralegal should be able to progress a civil litigation case, whether acting for pursuer or defender, from taking client's initial instructions through to conclusion of the case, including attending court with the solicitor, and appearing in court, if appropriate.

Specifically, the paralegal should be competent to:

- interview and correspond with client
- correspond and liaise with other side and with relevant bodies and authorities, as required
- advise client on procedural aspects of case, and on legal aid qualification and application procedure
- prepare a case for court, including preparing evidence productions and preparing and drafting other documentation, as appropriate, including court documentation
- assist in the instruction of counsel, if appropriate
- assist solicitor in attendance at court and, where appropriate, appear.

KNOWLEDGE

By the end of the one year period as a Trainee Registered Paralegal, a paralegal eligible to qualify for Registered Paralegal status in relation to Civil Litigation should, in addition to the general document and specifically in relation to Civil Litigation, be able to:

Demonstrate knowledge and understanding of:

- the steps involved in a civil litigation action, and in any appeal process
- the duty to the court
- the rights and obligations of the pursuer and defender
- the information required from the client in order to prepare the case for court
- the procedure and options appropriate to the particular type of litigation
- the choice of procedure available depending on the type of litigation
- the court rules and procedures appropriate to the particular type of litigation,
- the court and other deadlines and times scales
- appeal procedures
- appropriate methods of enforcement of court orders, such as diligence
- appropriate protective measures
- the use of caveats
- the implications of court judgements

- the qualifying rules for legal aid, and the procedures for obtaining legal aid, as well as legal aid procedure for different types of process

Demonstrate knowledge and familiarity with:

- relevant Court rules
- relevant legislation for the particular type of litigation

Demonstrate understanding of:

- the structure of the civil court system
- the rules of evidence
- the requirements imposed by the Scottish Legal Aid Board
- the differences between privately-funded and legal aid-funded cases
- the importance of court and legal aid deadlines

Demonstrate awareness of:

- alternative dispute resolution procedures, including mediation, and their application
- taxation implications for the particular type of litigation

SKILLS

By the end of the one year period as a Trainee Registered Paralegal, a paralegal eligible to qualify for Registered Paralegal status in relation to Civil Litigation should, in addition to the general document and specifically in relation to Civil Litigation, demonstrate:

Technical skills	Accuracy, literacy and numeracy	<ul style="list-style-type: none"> • that he/she is able to complete legal aid accounts or to render private fees, as appropriate
	Information Technology	<ul style="list-style-type: none"> • that he/she is able to use the Scottish Legal Aid Board on-line system
Practice Skills	Writing and drafting	<ul style="list-style-type: none"> • that he/she is able to use precedents, prescribed forms and styles appropriate for the particular type of action • that he/she is able to draft relevant procedural documentation such as: <ul style="list-style-type: none"> - defences - records - motions - minutes

		<ul style="list-style-type: none"> - specification of documents - notifications to witnesses - caveats, <p>and in relation to diligence, obtaining warrants, and protective measures.</p> <ul style="list-style-type: none"> • that he/she is able to record narrative of evidence in court • that he/she is able to prepare and paginate productions
	Negotiation	<ul style="list-style-type: none"> • that he/she is able to negotiate settlement terms in order to avoid litigation
	Advocacy	<ul style="list-style-type: none"> • where appropriate, that he/she is able to advocate a case effectively as a paralegal on behalf of a client in those courts in which a paralegal is entitled to appear

VALUES AND ATTITUDES		
<i>By the end of the one year period as a Trainee Registered Paralegal, a paralegal eligible to qualify for Registered Paralegal status in relation to Civil Litigation should, in addition to the general document and specifically in relation to Civil Litigation, demonstrate:</i>		
Focus	Client	<ul style="list-style-type: none"> • an awareness of: <ul style="list-style-type: none"> - the costs of litigation - the possibilities for funding different types of litigation, including the likely cost of defending or pursuing litigation balanced against the likely benefits of exercising the remedy • an understanding that it is for the client to judge whether litigation is worthwhile.

LEGAL DOMAIN: Civil Litigation - Debt Recovery (NB: The Civil Litigation Component Part must always be supplemented by competency statements relevant to the area of litigation, before it can be a full 'Legal Domain', as evidenced by the Civil Litigation – Debt Recovery Legal Domain)

SCOPE OF REGISTERED PARALEGAL'S COMPETENCE

The paralegal should be able to progress a debt recovery case, whether acting for creditor or debtor, from taking client's initial instructions through to conclusion of the case, including attending court with the solicitor, and appearing in court, if appropriate.

Specifically, the paralegal should be competent to:

- interview and correspond with client;
- correspond and liaise with the other side and with relevant bodies and authorities, as required
- advise client on procedural aspects of case, and on legal aid qualification and application procedure
- prepare case for court, including preparing and drafting, as appropriate, documentation, including court documentation, as required
- when acting for the creditor, obtain decree and proceed with enforcement measures;
- when acting for the debtor, prepare a defence and/or time to pay application;
- assist solicitor in attendance at court and, where appropriate, appear in court on behalf of solicitor to advocate case,
- negotiate settlement of debt in order to avoid litigation, where appropriate

KNOWLEDGE

By the end of the one year period as a Trainee Registered Paralegal, a paralegal eligible to qualify for Registered Paralegal status in relation to Civil Litigation - Debt Recovery should, in addition to the general document and specifically in relation to Civil Litigation - Debt Recovery, be able to:

Demonstrate knowledge and understanding of:

- the steps involved in a debt recovery action, and in the appeal process
- the duty to the court and other authorities such as the liquidator and Accountant in Bankruptcy
- the rights and obligations of the creditor and debtor
- the information required from the client in order to prepare the case for court
- the procedure and options appropriate to the particular debt value
- the court rules and procedures appropriate to the particular debt action, and in relation to time to pay applications and debt arrangement scheme applications
- diligence on the dependence and in execution
- a creditor's pre-decree protective measures
- a debtor's protective measures and remedies
- the use of caveats
- court rules relating to prescription, deadlines and timescales in relation to debt recovery cases, as well as other relevant deadlines and time scales

- the implications of court judgements

Demonstrate knowledge and familiarity with:

- Bankruptcy Scotland Act 1986
- Small Claim Rules 2002
- Summary Cause Rules 2002
- Ordinary Cause Rules 1993
- Bankruptcy and Diligence [etc??] (Scotland) Act 2008
- Debtors (Scotland) Act 1987
- Debt Arrangement and Attachment (Scotland) Act 2002
- Late Payment of Commercial Debts (Interest) Act 1998,

as amended.

Demonstrate understanding of:

- the rules of evidence.
- the law relating to:
 - personal and commercial insolvency, as appropriate
 - prescription and limitation
- implications of the Data Protection Act 1998
- implications of the Freedom of Information Act 2000
- Insolvency Act 1986
- Consumer Credit Act 2006

Demonstrate awareness of:

- Sheriff Court Caveat Rules 2006
- Enforcement Abroad of Sheriff Court Judgements Act 1982
- Enforcement of Judgements under the Civil Jurisdiction and Judgements Act 1982
- Alternative Dispute Resolution procedures, including mediation, and their application.

SKILLS

By the end of the one year period as a Trainee Registered Paralegal, a paralegal eligible to qualify for Registered Paralegal status in relation to Civil Litigation - Debt Recovery should, in addition to the general document and specifically in relation to Civil Litigation - Debt Recovery, demonstrate:

Technical skills	Information Technology	<ul style="list-style-type: none"> • that he/she is able to use debt recovery software where appropriate
Practice Skills	Writing and drafting	<ul style="list-style-type: none"> • that he/she is able to use precedents, prescribed forms and styles appropriate for debt recovery actions • that he/she is able to draft procedural documentation for debt recovery cases, such as writ, summons, petition, incidental application, motions • that he/she is able to draft small claim summons, summary cause summons and writ for payment documentation • that he/she is able to draft petition for sequestration, petition for winding up and associated documentation • that he/she is able to record narrative of evidence in court • that he/she is able to prepare and paginate productions
	Negotiating	<ul style="list-style-type: none"> • that he/she is able to negotiate settlement terms in order to avoid litigation
	Advocacy	<ul style="list-style-type: none"> • that he/she is able to advocate a case effectively as a paralegal on behalf of a client for such matters as: <ul style="list-style-type: none"> - taxations - small claim hearings - summary cause first calling - time to pay hearings - exceptional attachment hearings

VALUES AND ATTITUDES

By the end of the one year period as a Trainee Registered Paralegal, a paralegal eligible to qualify for Registered Paralegal status in relation to Civil Litigation - Debt Recovery should, in addition to the general document and specifically in relation to Civil Litigation - Debt Recovery, demonstrate:

Legal and ethical values		<ul style="list-style-type: none"> • that he/she complies with duty to the courts, and other authorities, such as liquidator or Accountant in Bankruptcy
Focus	Client	<ul style="list-style-type: none"> • that he/she is aware of: <ul style="list-style-type: none"> - the costs of litigation - the possibilities for funding of court action, including the likely cost of debt recovery procedures balanced against the likely recovery of funds • that he/she understands that it is for the client to judge whether litigation is worthwhile.

LEGAL DOMAIN: Domestic Conveyancing

SCOPE OF REGISTERED PARALEGAL'S COMPETENCE

The paralegal should be able to progress a Domestic Conveyancing transaction, whether acting for purchaser, seller, and/or secured lender, from taking client's initial instructions through to completion and registration of title.

Specifically, the paralegal should be competent to:

- interview and correspond with client
- advise client on procedural aspects of the transaction
- carry out searches with relevant authorities
- report search results and valuation report to client, obtaining instructions as appropriate
- produce and negotiate missives on behalf of client
- arrange and attend to the concluding of missives
- arrange and attend to settlement, including execution of the disposition and discharge of any encumbrance on the title
- complete Sasine Application Form or Land Registration Form, as appropriate, for acceptance by the Keeper
- complete Her Majesty's Revenue and Customs Stamp Duty Land Tax forms
- ensure valid execution of documentation;
- prepare completion statements
- arrange for registration of the disposition and registration of any charges following completion.

KNOWLEDGE

By the end of the one year period as a Trainee Registered Paralegal, a paralegal eligible to qualify for Registered Paralegal status in relation to Domestic Conveyancing should, in addition to the general document and specifically in relation to Domestic Conveyancing, be able to:

Demonstrate knowledge and understanding of:

- the steps involved in a domestic conveyancing transaction
- the rights and obligations of the client as purchaser, seller, and/ or secured lender
- the various searches required for the particular type of transaction,, how to obtain them, and the fees payable/chargeable
- the significance of search results and valuation reports
- Letters of comfort, Letters of Obligation and special destinations
- Missives, their negotiation and their significance
- the law and basic principles of sasines and registered title
- the law on execution of deeds in Scotland, including signing, witnessing and testing clauses
- how a purchaser obtains a good, valid and marketable title
- the timescales involved in conveyancing transactions, particularly in relation to registration of deeds and registration of charges
- the process of registration in the different registers
- the requirements for registration of charges
- procedure and requirements in relation to SDLT

Demonstrate knowledge and familiarity with:

- Conveyancing (Scotland) Act 1992
- Land Registration (Scotland) Act 1979
- Contract (Scotland) Act 1977
- Requirements of Writing (Scotland) Act 2000
- Title Conditions (Scotland) Act 2003
- Housing (Scotland) Act 1988
- Conveyancing & Feudal Reform (Scotland) Act 1970
- Abolition of Feudal Tenure (Scotland) Act 2000
- Building Standard (Scotland) Act 2003
- Tenement (Scotland) Act 2004

Demonstrate understanding of:

- the impact of the law in relation to matrimonial homes, civil partnerships and family legislation in relation to residential conveyancing transactions

Demonstrate awareness of:

- the law and basic principles of personal and real rights; Sasines and registered titles; special destinations; the giving and taking of security;
- Civil Partnership Act 2004
- Matrimonial Homes (Family Protection) (Scotland) Act 1981
- Family Law (Scotland) Act 2006
- Stamp Duty Land Tax requirements and operational procedures
- situations when notices may be required to be served.

SKILLS

By the end of the one year period as a Trainee Registered Paralegal, a paralegal eligible to qualify for Registered Paralegal status in relation to Domestic Conveyancing should, in addition to the general document and specifically in relation to Domestic Conveyancing, demonstrate:

Technical skills	Accuracy, literacy and numeracy	<ul style="list-style-type: none"> • that he/she is able to carry out calculations to produce accurate completion statements.
	Information Technology	<ul style="list-style-type: none"> • that he/she is able to complete applications and carry out other aspects of a domestic conveyance electronically, where appropriate • that he/she is able to submit Stamp Duty Land Tax forms electronically
Practice Skills	Research	<ul style="list-style-type: none"> • that he/she knows where to look for and find information required to carry out his/her work
	Interviewing	<ul style="list-style-type: none"> • that he/she is able to conduct a client-centred interview effectively, including: <ul style="list-style-type: none"> - preparing for the interview appropriately - listening and eliciting required legal and factual information, and full instructions from the client - recording all relevant factual, legal, procedural and evidential matters arising in relation to the client's matter in a file note for future reference
	Writing and drafting	<ul style="list-style-type: none"> • that he/she is able to complete: <ul style="list-style-type: none"> - Sasine Application Forms - registration forms - Registers of Scotland Forms 10, 11, 12 and 13

		<ul style="list-style-type: none"> - Stamp Duty Land Tax forms - Standard securities form • that he/she is able to draft: <ul style="list-style-type: none"> - missives, using Standard Missives clauses where appropriate - Declarations - Letters of obligations - Land registration forms - Completion statements • that he/she is able to prepare plans
	Negotiating	<ul style="list-style-type: none"> • that he/she is able to take part in a negotiation effectively, including: <ul style="list-style-type: none"> - preparing appropriately for the negotiation - negotiating within the agreed instruction and remit - negotiating according to the practice and conventions of Domestic Conveyancing transactions

LEGAL DOMAIN: Premises Licensing

SCOPE OF REGISTERED PARALEGAL'S COMPETENCE

The paralegal should be able to progress a premises licence application, acting for applicant, from taking client's initial instructions through to completion of the application..

Specifically, the paralegal should be competent to:

- interview and correspond with client
- correspond and liaise with the licensing board and local authority departments and other agencies, including the Licensing Police, as required
- advise client on procedural aspects of a premises licence application;
- prepare an application for a premises licence
- submit a premises licence application to the appropriate licensing board, and progress the application in compliance with the licensing board's procedures and policies;
- attend at licensing board meetings to represent solicitor;
- attend to the transfer of a premises licence
- progress an appeal against a decision of a licensing board.

KNOWLEDGE

By the end of the one year period as a Trainee Registered Paralegal, a paralegal eligible to qualify for Registered Paralegal status in relation to Premises Licensing should, in addition to the general document and specifically in relation to Premises Licensing, be able to:

Demonstrate knowledge and understanding of:

- the steps involved in the processing of an application for a premises licence
- the rights and obligations of an applicant for a premises licence
- the information required from the client in order to complete a premises licence application correctly
- the procedures of the appropriate licensing board for an application for a premises licence
- the procedure and policies of the relevant council
- the documentation and evidence required to be submitted in support of an application
- the time scales for submission of an application to a licensing board and the importance of deadlines in relation to applications and appeals
- requirements to display notices, and the consequences of failing to display notices
- the possible outcomes of an application to the licensing board

Demonstrate knowledge and familiarity with:

- the premises licensing system, the regulatory requirements, and the sanctions for not having a valid licence in place
- Licensing (Scotland) Act 2005, as amended.

Demonstrate understanding of:

- the implications of the sale, purchase or lease of licensed premises in respect of the transfer of a premises licence

Demonstrate awareness of:

- the relevant licensing board policies and guidelines.

SKILLS

By the end of the one year period as a Trainee Registered Paralegal, a paralegal eligible to qualify for Registered Paralegal status in relation to Premises Licensing should, in addition to the general document and specifically in relation to Premises Licensing, demonstrate:

Technical skills	Information Technology	<ul style="list-style-type: none">• that he/she is able to complete and submit application forms on-line, where required
Practice Skills	Research	<ul style="list-style-type: none">• that he/she is able to find and apply the policies and procedures of the relevant licensing board to the particular client
	Writing and drafting	<ul style="list-style-type: none">• that he/she is able to complete a premises licence application and transfer forms

LEGAL DOMAIN: Wills and Executries

SCOPE OF REGISTERED PARALEGAL'S COMPETENCE

The paralegal should be able to prepare a will and related documentation for a testator, and to progress the administration of an estate, acting for the executor/s and/or beneficiary/ies, from taking client's initial instructions through to completion of the will or completion of the administration, including simple Inheritance Tax calculations and preparation of Executry Account, as appropriate.

Specifically, the paralegal should be competent to:

- interview and correspond with the client
- correspond and liaise with other parties, relevant bodies and authorities, as required
- advise client on procedural aspects of making a valid will
- advise client on procedural aspects of administering an estate, whether testate or intestate
- draft a will or codicil in accordance with the client's instructions
- prepare and file documentation required for the administration of an estate, including court documentation, if required, and Executry Accounts
- make simple Inheritance Tax calculations

KNOWLEDGE

By the end of the one year period as a Trainee Registered Paralegal, a paralegal eligible to qualify for Registered Paralegal status in relation to Wills and Executries should, in addition to the general document and specifically in relation to Wills and Executries, be able to:

Demonstrate knowledge and understanding of:

- the process of drafting and executing a valid will or codicil
- the rights and obligations of the testator
- the information which is required from a client when taking instructions for preparation of a will or codicil
- the range of will styles and in what circumstances each style would be appropriate
- the requirements for valid execution of a will or codicil
- the steps involved in administering an estate, whether testate or intestate
- the rights and obligations of executor, beneficiary and other claimants in respect of an estate, whether testate or intestate
- the information required in order to carry out the administration of an estate, whether testate or intestate, including preparation of the inventory of the estate
- the documentation and evidence required to be submitted to obtain eg appointment of executor
- the procedure depending on whether the estate is testate or intestate, including court procedure
- the court and other deadlines and timescales for the particular type of administration

Demonstrate knowledge and familiarity with:

- the Requirements of Writing Act 1995
- Succession Scotland Act 1964 and specifically rights under intestacy
- Family Law (Scotland) Act 2006 as far as it relates to the succession rights of cohabitants.
- principles of relevant taxation regimes, including income tax, SDLT, capital gains tax, and inheritance tax

Demonstrate understanding of:

- the importance of accuracy in correctly designing individuals in a will
- the importance of having a will signed and witnessed correctly.
- the necessity for wills to be drafted promptly.
- the importance of providing accurate information to the court and Her Majesty's Revenue and Customs.

Demonstrate awareness of:

- Inheritance Tax planning

SKILLS

By the end of the one year period as a Trainee Registered Paralegal, a paralegal eligible to qualify for Registered Paralegal status in relation to Wills and Executries should, in addition to the general document and specifically in relation to Wills and Executries, demonstrate:

Technical skills	Accuracy, literacy and numeracy	<ul style="list-style-type: none"> • that he/she is able to complete an Executry Account and to prepare distribution calculations. • that he/she is able to prepare calculations of inheritance rights under intestacy i.e. Prior and Legal Rights.
Practice Skills required for Wills and Executries	Interviewing	<ul style="list-style-type: none"> • that he/she is able to take full instructions to enable preparation of appropriate draft wills and codicils • that he/she is able to take full and accurate details of an Executry estate.
	Writing and drafting	<ul style="list-style-type: none"> • that he/she is able to: <ul style="list-style-type: none"> - prepare appropriate draft wills and codicils - prepare Petition for appointment of Executor Dative (if appropriate) - complete forms C1. C5 and a simple IHT400, as appropriate

SCHEDULE C – STANDARDS FOR REGISTERED PARALEGALS

STANDARDS FOR REGISTERED PARALEGALS

Interpretation

1.. In these Standards,

“**additional competencies**” are the knowledge, skills, attitudes values in a particular legal domain and which apply to a Registered Paralegal working in that legal domain.

“**client**” means a client of the supervising solicitor.

“**general competencies**” are the knowledge, skills, attitudes and values which apply to all Registered Paralegals, irrespective of the legal domain a Registered Paralegal works in.

“**legal domain**” is the area of legal work a Registered Paralegal is entitled to practise in, the number of which is not limited.

“**professional practice rules**” are rules made by the Council of the Law Society of Scotland under the Solicitors (Scotland) Act 1980;

“**Registered Paralegal**” is defined in the scheme of Operation, of which these standards form Schedule C.

“**regulated employer**” means an employer of the Registered Paralegal which is a practice regulated by the Law Society of Scotland pursuant to the Solicitors (Scotland) Act 1980, as amended

“**solicitors’ standards**” are the Solicitors (Scotland) (Standards of Conduct) Practice Rules 2008, effective from 1 January 2009, and Standards of Service adopted by the profession at its Special General Meeting in September 2008.

“**Standing Committee**” is defined in the Scheme of Operation, of which these standards form Schedule C.

“**supervising solicitor**” is any Scottish solicitor, with an unrestricted Practising Certificate, who from time to time the Registered Paralegal does work.

“**standards of conduct**” means the standards of conduct set out in the Schedule to these standards.

“**trade mark licence conditions**” are the trade mark licence conditions outlining the rights of the Registered Paralegal, or Trainee Registered Paralegal, to use the term ‘Registered Paralegal’ and associated trade marked logo.

Standards of Conduct

- 2.- (1) A Registered Paralegal shall comply with the standards of conduct. A Registered Paralegal is expected to be familiar with solicitors’ standards.
- (2) In the event that a Registered Paralegal is uncertain about a requirement of the standards of conduct, advice should be sought from the supervising solicitor.
- (3) Failure by a Registered Paralegal to comply with the standards of conduct may result in one or more of the following:
- :
- (i) a restriction being placed on the Registered Paralegal’s work;
 - (ii) specific supervision requirements being imposed on the Registered Paralegal;

- (iii) suspension from the register of Registered Paralegals;
- (iv) ejection from the register of Registered Paralegals.
- (v) suspension or termination of the right to use the trade mark licence conditions.

STANDARDS OF CONDUCT

Trust and Personal Integrity

1. Registered Paralegals must be trustworthy and act honestly at all times so that their personal integrity is beyond question. In particular, they must not behave, whether in a professional capacity or otherwise, in a way which is fraudulent or deceitful.

Independence

2. Registered Paralegals must give independent advice free from external influences or personal interests which are inconsistent with these standards. It is a duty of all Registered Paralegals not to allow their independence to be impaired irrespective of the nature of the matter in which they are acting.

The interests of the client

3. (1) Registered Paralegals must act in the best interests of the client subject to preserving their independence and complying with the law, professional practice rules and the principles of good professional conduct.
- (2) Registered Paralegals must not permit their own personal interests or those of their employer to influence their advice to or actions on behalf of clients.
- (3) Registered Paralegals must at all times do, and be seen to do, their best for the client, but they must also remember that the client's best interests require them to give honest advice however unwelcome that advice may be to the client and that the duty to the client is only one of several duties which they must strive to reconcile.

Proper Instructions

4. (1) Registered Paralegals must have the authority of their regulated employer (and in the absence of which their supervising solicitor) for their actions. Registered Paralegals must not accept improper instructions, for example to assist a client in a matter which they know to be criminal or fraudulent, but they may properly advise on the legal consequences of a proposed course of action or on the scope or application of the law to particular circumstances.
- (2) Registered Paralegals may, on behalf of their regulated employer (and in the absence of which their supervising solicitor) decline to accept new instructions on behalf of their regulated employer (and in the absence of which their supervising solicitor) whether from a new or established client, without giving a reason for doing so, provided the refusal to act was not motivated by discrimination in breach of paragraph 14 in these standards.

Confidentiality

5. Registered Paralegals must maintain client confidentiality. This duty is not terminated by the passage of time. Only the client, Acts of the legislature, subordinate legislation or the court can waive or override the duty of confidentiality. The duty does not apply to information about any crime a client indicates they will commit.

Conflict of Interest

6. (1) Registered Paralegals must not act for two or more clients in matters where there is a conflict of interest between the clients or for any client where there is a conflict between the interest of the client and that of the Registered Paralegal and/or the regulated employer (and in the absence of which the supervising solicitor) Such a conflict must be referred to the supervising solicitor.
- (2) Even where there is only a potential conflict of interest Registered Paralegals must exercise caution. Where the potential for conflict is significant, Registered Paralegals must refer the matter to the supervising solicitor

Disclosure of Interest

7. Where Registered Paralegals are consulted about matters in which they have a personal or financial interest, the position must be made clear to the supervising solicitor and the client as soon as possible. If the interest is such that the Registered Paralegal could not reasonably give independent advice, the Registered Paralegal must refer the matter to the supervising solicitor.

Effective Communication

8. (1) Registered Paralegals must communicate effectively with the client and others. This includes providing clients with any relevant information which the Registered Paralegal or the regulated employer (or in the absence of which the supervising solicitor) has and which is necessary to allow informed decisions to be made by the client. Information must be clear and comprehensive and, where necessary or appropriate, confirmed in writing.
- (2) Registered Paralegals must advise the client of any significant development in relation to their case or transaction and explain matters to the extent reasonably necessary to permit informed decisions by clients regarding the instructions which require to be given by them. In particular the Registered Paralegal must advise clients in writing and refer the matter to the supervising solicitor when it becomes known that the cost of work will materially exceed any estimate that has been given and/or when the limit of the original estimate given to the client is being approached.

Competence/diligence and appropriate skills

9. Registered Paralegals must only act in those matters where they are competent to do so, according to the general competencies and additional competencies (themselves specifying requirements in relation to CPD) for the legal domain(s) in which they are registered, and always under the supervision of the supervising solicitor who retains responsibility for the work undertaken They must also only accept instructions where the matter can be carried out adequately and completely within a reasonable time otherwise the matter must be referred to the supervising solicitor. They must exercise the level of skill appropriate to the matter.

Withdrawing from acting if instructions are accepted

- 10.- Circumstances that are likely to result in the Registered Paralegal and/or the regulated employer (and in the absence of which the supervising solicitor) ceasing to act for the

client must be referred immediately to the supervising solicitor. Registered Paralegals must not cease to act for clients without just cause and without giving reasonable notice, or in a manner which would prejudice the course of justice. So far as possible, the client's interests should not be adversely affected.

Relations with the Courts

- 11.- (1) Registered Paralegals must never knowingly give false or misleading information to the Court. They must maintain due respect and courtesy towards the Court while honourably pursuing the interests of the client.
- (2) Registered Paralegals must not do or say anything which could affect evidence or induce a witness, a party to an action, or an accused person to do otherwise than give in evidence a truthful and honest account of that person's recollection.
- (3) As far as reasonably practical, Registered Paralegals must give reasonable notice to witnesses of court hearings and when questioning witnesses, treat them with appropriate respect and courtesy.
- (4) Where Registered Paralegals appear against a person who represents him or herself, they must avoid taking unfair advantage of that person and must, consistently with their duty to the client, co-operate with the court in enabling that person's case to be fairly stated and justice to be done. However they must not sacrifice the interests of the client to those of the person representing him or herself.
- (5) In paragraphs (1) to (4), reference to the "court" includes tribunals and other bodies or persons exercising judicial or determinative functions.

Relations between Registered Paralegals and other parties

- 12.- (1) Registered Paralegals must act with solicitors or such solicitors' employees, including other Registered Paralegals, in a manner consistent with persons having mutual trust and confidence in each other. They must not knowingly mislead other parties or, where they have given an undertaking, go back on it.
- (2) Other than as permitted by the Solicitors (Scotland) (Advertising and Promotion) Practice Rules 2006, a Registered Paralegal may only communicate with a person known or believed to be the client of another solicitor if:
 - (a) the other solicitor has agreed to the communication;
 - (b) the other solicitor confirms that he or she is no longer acting;
 - (c) the Registered Paralegal or their supervising solicitor is serving a court document or formal notice;
 - (d) the Registered Paralegal is sending a fee note to a former client.
- (3) In paragraphs (1) and (2), reference to other solicitor includes lawyers in any other jurisdiction.

Relations with Employers

- 13.- Registered Paralegals must comply with the reasonable and lawful requirements of their supervising solicitor, provided that those requirements do not conflict with these standards.

Diversity

- 14.- (1) Registered Paralegals must not discriminate on the grounds of race, sex (including on the grounds of marriage), disability, sexual orientation, religion and belief, or age (including perceived orientation, religion and belief, and/or age) in their professional dealings with clients, Registered Paralegals and other employees, or lawyers.
- (2) Registered Paralegals must ensure that, where they act in a managerial capacity or supervise others:
- (a) there is no unlawful discrimination in employment including recruitment, training, employment terms, promotion, advancement and termination of employment;
 - (b) those they manage or supervise do not discriminate unlawfully; and
 - (c) they, and those they manage or supervise, have appropriate awareness and understanding of the issues surrounding equal opportunities, unlawful discrimination, equality and diversity.

SCHEDULE D TRADE MARKS LICENCE

TRADE MARK LICENCE CONDITIONS (adopted August 2010)

1. Interpretation

- 1.1 In these Conditions, including the recitals, unless the context requires otherwise:-
- “Brand Guidelines”** means the guidelines, rules, recommendations and instructions issued from time to time by the Society in relation to the use of the Marks;
- “Marks”** means the logo(s) and other marks from time to time specified by the Society for use by registered paralegals of the same grade (under the Scheme) as that of which the Paralegal is a member, which may include but are not limited to the terms “Registered Paralegal”, “Law Society of Scotland Registered Paralegal” and those registered under United Kingdom trade mark numbers 2473877A and 2473877B;
- “Membership Period”** means the period during which the Registered Paralegal is a registered paralegal under the Scheme;
- “Paralegal Services”** means services undertaken in support of a Supervising Solicitor, limited to the practice area in which the Registered Paralegal is authorised by the Scheme of Operation to practise;
- “Practising Year”** means (in the first year of a Registered Paralegal’s membership of the Scheme) the period of one year commencing on the first day of the month following the month in which the Registered Paralegal’s application to register as a Registered Paralegal under the Scheme is approved or (in subsequent consecutive years of membership) the period of one year commencing on the date on which the Registered Paralegal’s renewal of their registration as a Registered Paralegal becomes effective;
- “Purpose”** means (subject to Condition 10.2) use by the Registered Paralegal in relation to identifying the Registered Paralegal as a registered paralegal with a current membership and authorisation from the Society under the Scheme, in the course of marketing, promoting and supplying Paralegal Services (save that in respect of any Mark which is a registered trade mark, the Purpose shall not include use of that Mark in relation to goods or services in respect of which it is not registered);
- “Registered Paralegal”** means a person who has a current membership and authorisation from the Society under the Scheme and who agrees to comply with these Conditions;
- “Regulated Employer”** means an employer of the Registered Paralegal which is a practice regulated by the Society pursuant to the Solicitors (Scotland) Act 1980, as amended;
- “Scheme”** means the scheme for registering paralegals operated by the Society in association with the Scottish Paralegal Association;
- “Scheme of Operation”** means the General Competencies, Additional Competencies, CPD rules, Standards for Registered Paralegals, admission and registration procedures for Registered Paralegals as approved by the Society’s Council in August 2010, as may be amended from time to time, together with all other rules, guidance, standards promulgated or directions given by the Society in relation to the entry to, and operation and membership of, the Scheme and the conduct of paralegals registered under it;
- “Society”** means the Law Society of Scotland; and
- “Supervising Solicitor”** is any Scottish solicitor, with an unrestricted Practising Certificate, who from time to time the Registered Paralegal does work.

“Territory” means the territory in which the Society has rights in the Marks.

- 1.2 The headings in these Conditions are inserted for convenience only and shall not effect its construction.
- 1.3 Words denoting the singular include the plural and vice versa, words denoting a gender include all genders and words denoting persons include all legal entities.
- 1.4 Unless the context otherwise requires, references in these Conditions to any “Condition” will be deemed to be a reference to the relevant condition of these Conditions.
- 1.5 References in these Conditions to any statute or statutory provision shall include any statute or statutory provision which amends, extends, consolidates or replaces the same and shall include any orders, regulations, instruments or other subordinate legislation made under the relevant statute.

2. Duration

- 2.1 Unless terminated or cancelled earlier under Condition 10, or suspended or revoked by the Society by written notice to the Registered Paralegal, the Registered Paralegal’s right to use the Marks shall come into effect on the commencement of the Membership Period and shall expire automatically at the end of the Membership Period without notice being required.
- 2.2 Save as expressly set out in these Conditions, nothing contained in these Conditions shall vest in the Registered Paralegal any rights of any nature in the Marks or any other proprietary rights of the Society.

3. Licence to use the Marks

- 3.1 The Society hereby grants to the Registered Paralegal a revocable non-exclusive non-transferable licence (without any right to sub-licence except to a Regulated Employer and then only in compliance with Condition 4) to use the Marks in the Territory for the Purpose only and that during the Membership Period and subject to these Conditions.
- 3.2 The Registered Paralegal shall use only those Marks deemed by the Society as suitable for the grade of membership of the Scheme enjoyed by the Registered Paralegal.
- 3.3 No other rights under the Marks are granted to the Registered Paralegal and the Society reserves the right to use (and licence the use of) the Marks for any purpose both inside and outside the Territory.

4. Use of the Marks by Regulated Employers

- 4.1 The Registered Paralegal may permit his or her Regulated Employer to use the Marks, subject to the remainder of this Condition 4.
- 4.2 All use of the Marks by a Regulated Employer shall be subject strictly to the terms of the Conditions, which shall apply to the Regulated Employer *mutatis mutandis*.
- 4.3 The Registered Paralegal shall ensure the Conditions, and in particular this Condition 4, are brought to the attention of the Regulated Employer and in the absence of a Regulated Employer a Supervising Solicitor.
- 4.4 Any permission under Condition 4.1 shall terminate if the Registered Paralegal’s right to use the Marks is terminated under these Conditions (unless the Regulated Employer employs another paralegal registered under the Scheme whose right to use the Marks has not been terminated.)
- 4.5 Any permission under Condition 4.1 shall be suspended if the Registered Paralegal’s right to use the Marks is suspended under these Conditions (unless the Regulated Employer employs

another paralegal registered under the Scheme whose right to use the Marks has not been suspended.)

- 4.6 The Registered Paralegal shall ensure that the use by the Regulated Employer of the Marks complies in all respects with the Conditions, failing which the Registered Paralegal shall immediately notify the Society of any breach or failure on the part of the Regulated Employer and shall provide the Society with all assistance and information required by the Society for it to take such remedial action as it considers necessary.

5. Compliance and standards

- 5.1 The Registered Paralegal shall ensure that the services marketed, promoted and/or supplied by him or her under the Marks conform to and comply in all respects with the Scheme of Operation and all applicable laws and regulations of governmental or other competent authorities in the Territory from time to time, and any established professional standards in the European Union.
- 5.2 The Registered Paralegal will permit the Society or its authorised representative on request to review, inspect and audit the marketing, promotion and supply of the said services and their compliance with the Scheme of Operation. In the event that the Society determines that any such service fails to meet the Scheme of Operation or any of the other standards referred to in Condition 5.2, it shall give notice to the Registered Paralegal. On receipt of such notice, the Registered Paralegal shall forthwith rectify the failure and in the meantime shall if the Society so requires cease all use of the Marks in connection with the marketing, promotion and supply of all services objected to by the Society until the Society confirms in writing that the Registered Paralegal may recommence such use.

6. Use of the Marks and marking

- 6.1 The Registered Paralegal shall use the Marks in the form stipulated from time to time by the Society and shall observe strictly the Brand Guidelines and any directions given by the Society as to the colours and size of representations of the Marks and their manner and disposition in relation to all advertising, promotional and other documentary material which makes use of the Marks, in whatever format (including but not limited to digital or electronic format.) The Registered Paralegal shall not use the Marks in any fashion not permitted by the Brand Guidelines unless with the express prior written approval of the Society.
- 6.2 The Registered Paralegal shall make use of the Marks only for the Purpose and, in particular, shall not use the Marks in any way which would tend to allow any of them to become generic, lose its distinctiveness, become liable to mislead the public, or be materially detrimental to or inconsistent with the goodwill, reputation and image of the Society.
- 6.3 The Registered Paralegal shall not use the Marks accompanied by other trade marks (whether registered or not) logos or words describing products or services unless the Marks is sufficiently distinguished from the surrounding and adjacent graphics and/or text.
- 6.4 The Registered Paralegal shall not adopt or use any trade mark, symbol or device which incorporates or is confusingly similar to, or is a simulation or colourable intimation of, the Marks, or unfairly competes with the Marks.
- 6.5 The Registered Paralegal shall not at any time, whether during or after termination of these Conditions, apply anywhere in the world to register any trade marks identical to or so similar to the Marks as to be likely to deceive or cause confusion.
- 6.6 The Registered Paralegal understands and agrees that the exercise of the licence of the Marks granted to the Registered Paralegal under these Conditions is subject to all applicable laws, enactments, regulations and other similar instruments in the Territory (including, without limitation, all applicable local laws relating to advertising, broadcasting, health and safety, the provision of legal services, and telecommunications), and that the Registered Paralegal shall at all times be solely liable and responsible for such due observance and performance. The

Registered Paralegal will obtain at his or her own expense all licences, permits and consents necessary for the marketing, promotion and supply of services by the Registered Paralegal in the Territory.

6.7 The Society does not warrant that the use of the Marks by the Registered Paralegal shall not infringe the rights of any third party.

6.8 The Society shall not be obliged to procure or prosecute the registration of any of the Marks as registered trade marks nor to maintain any such registration if granted.

6.9 Without limitation to the Rules of the Scheme, the Society may at any time without liability or penalty whatsoever in its sole discretion withdraw, alter or replace any of the Marks by written notice to the Registered Paralegal, and the Registered Paralegal shall be bound to comply with the terms of any such notice forthwith.

7. Misuse of the Marks

7.1 If the Registered Paralegal learns of any misuse, infringement or threatened infringement of the Marks or of any action detrimental to the Marks or of any third party allegation that the Marks are liable to cause deception or confusion to the public, the Registered Paralegal shall forthwith and without delay notify the Society giving full particulars of such circumstances and shall make no comment or admission to any person other than the Society in respect of such circumstances. The Society shall have the conduct of all proceedings relating to the Marks and shall in its sole discretion decide what action (including but not limited to litigation, arbitration or compromise) if any to take in respect of any infringement or alleged infringement of the Marks or passing-off or any other claim or counterclaim brought or threatened in respect of the use of the Marks.

7.2 All rights of the Registered Paralegal as licensee pursuant to Section 30 of the Trade Marks Act 1994 are hereby expressly excluded.

7.3 The Registered Paralegal will at the request of the Society give full co-operation to the Society (including the provision of documentation and making relevant people available) in any action, claim or proceedings brought or threatened in respect of the Marks.

8. Ownership of the Marks

8.1 The Registered Paralegal shall not, by virtue of these Conditions or his or her registration under the Scheme, obtain or claim any right, title or interest in or to the Marks except the rights of use as are specifically set out in these Conditions, and hereby acknowledges and agrees that all such use of the Marks by the Registered Paralegal shall be for the benefit of the Society and the goodwill accrued to the Registered Paralegal arising from his or her use of the Marks (but no greater or other goodwill) shall accrue to and be held in trust by the Registered Paralegal for the Society which goodwill the Registered Paralegal agrees to assign to the Society forthwith at the Society's request at any time whether during or after the expiry or termination of these Conditions.

8.2 The Registered Paralegal undertakes not to do or permit to be done any act which would or might jeopardise or invalidate any registration of the Marks nor to do any act which might assist or give rise to an application to revoke or remove the Marks or which might prejudice the right or title of the Society to the Marks, nor to challenge the right or title of the Society to the Marks.

8.3 The Registered Paralegal will on request give to the Society or its authorised representative any information as to the Registered Paralegal's use of the Marks which the Society may require and will render any assistance required by the Society in maintaining the registration of the Marks.

9. Liability

- 9.1 Nothing in these Conditions will exclude or limit in any way either party's liability for death or personal injury caused by its negligence, for fraud or fraudulent misrepresentation, or for any matter for which it would be illegal for that party to limit or exclude, or attempt to limit or exclude, its liability.
- 9.2 The Society accepts no liability for any loss of income or revenue, loss of business, loss of profits or contracts, loss of anticipated savings, loss of data, waste of management or office time or for any indirect or consequential loss or damage of any kind however arising and whether caused by delict (including negligence), breach of contract or otherwise, even if foreseeable.
- 9.3 Subject to Conditions 9.1 and 9.2 above, **the liability of the Society to the Registered Paralegal in any Practising Year for any loss, damage or claim arising in respect of these Conditions is limited to an amount equal to the registration fee actually paid by the Registered Paralegal to the Society for the Registered Paralegal's membership of the Scheme for that Practising Year.**
- 9.4 **The Registered Paralegal shall indemnify and keep the Society (together with its officer-bearers, employees and agents) fully indemnified against any and all claims, liabilities, actions, proceedings, costs, expenses, losses, injuries, interest, damages and demands whatsoever which may be brought against or suffered by the Society arising out of or resulting from (a) breach of these Conditions by the Registered Paralegal, (b) acts or omissions of the Registered Paralegal, (c) the use by the Registered Paralegal of the Marks and/or (d) the marketing, promotion and/or supply of any products or services by the Registered Paralegal.**

10. Suspension, Termination and Cancellation

- 10.1 The Registered Paralegal's right to use the Marks for the Purpose is conditional upon their employment either with a Regulated Employer or, in the absence of a Regulated Employer, an organisation which employs a Supervising Solicitor.
- 10.2 In the event that the Registered Paralegal is not in the type of employment described in Condition 10.1, the Purpose for which the Registered Paralegal may use the Marks shall, until the Registered Paralegal enters such employment, be limited solely to the use of the term 'Registered Paralegal' in order to seek new employment.
- 10.3 The Society may forthwith terminate the Registered Paralegal's right to use the Marks under these Conditions by written notice to the Registered Paralegal if:
- (a) the Registered Paralegal is in material breach of his or her obligations under these Conditions and fails to rectify that breach within 30 days of being called upon to do so;
 - (b) the Registered Paralegal is in breach of his or her obligations under the Scheme of Operation and either fails to rectify that breach within 30 days of being called upon to do so, or the Society takes the view that the breach is so serious that the Registered Paralegal's right to the Mark should be immediately terminated;
 - (c) the Registered Paralegal is unable to pay his or her debts as they fall due or grants a trust deed for creditors or is sequestrated or ceases for any reason to carry on business or takes or suffers any similar action in consequence of a debt or is otherwise insolvent;
 - (d) the reputation or public standing of the Registered Paralegal becomes damaged in such a way that the Society considers the continuance of the Registered Paralegal's participation in the Scheme is likely to cause detriment to the reputation or goodwill of the Society or of Scottish solicitors or of Scottish paralegals;
 - (e) in the opinion of the Society, the Registered Paralegal has engaged in conduct which has damaged, or is likely to damage, the reputation of the Society or of Scottish solicitors or of

Scottish paralegals or has brought, or is likely to bring, the Society or Scottish solicitors or Scottish paralegals into disrepute; or

- (f) the Registered Paralegal challenges any of the Society's rights in or to the Marks or any of them.

10.4 The Registered Paralegal's right to use the Marks under these Conditions shall forthwith terminate without notice of any kind being required to be given to the Registered Paralegal if the Registered Paralegal ceases to be registered under the Scheme.

10.5 On expiry or termination of the Registered Paralegal's right to use the Marks under these Conditions however arising:-

- (a) all rights and licences granted in favour of the Registered Paralegal under these Conditions shall cease forthwith;

- (b) the Registered Paralegal shall (notwithstanding the expiry or termination of these Conditions for any reason) at the reasonable request and expense of the Society do all acts and execute all such further documents, forms and authorisations as may be required to vest in the Society or its nominee the full property, right, title and interest in and to the intellectual property rights referred to in Condition 8.1;

- (c) the licence to use the Marks shall cease except in relation to actions permitted or required by this Condition 10;

- (d) the Registered Paralegal shall not market, promote and/or supply any products or services of any type or description under or by reference to the Marks or any confusingly similar mark;

- (e) the Registered Paralegal shall return to the Society or (at the Society's option) destroy any and all promotional and other items or materials bearing or incorporating the Marks, or shall ensure that the Marks are removed from all such items or materials;

- (f) the Registered Paralegal shall cease to describe or hold himself or herself out as a registered paralegal under the Scheme;

- (g) the Registered Paralegal shall (if so requested by the Society) deliver to the Society a certificate in the form required by the Society signed by the Registered Paralegal warranting that the terms of this Condition 10.3 have been complied with in full and agreeing to indemnify the Society fully for any breach of such warranty; and

- (h) all provisions of these Conditions which in order to give effect to their meaning need to survive its termination (including but not limited to Conditions 4.4, 4.6, 6.5, 6.7, 6.8, 7.3, 8, 9, 10.5, 10.6, 10.7, 10.8, 11, 12 and 13) shall remain in full force and effect after termination.

10.6 The Registered Paralegal shall do nothing after the expiry or termination of this Agreement which might lead any person to believe that the Registered Paralegal is still licensed to use the Marks or is a registered paralegal or is in any way connected with the Society or the Scheme.

10.7 The Registered Paralegal hereby irrevocably appoints the Society to be the Registered Paralegal's attorney empowered to execute and deliver on behalf of the Registered Paralegal any deed or other document necessary to give effect to the provisions of this Condition 10.

10.8 On expiry or termination of these Conditions for any reason the accrued rights of either party against the other in respect of the period up to and including the date of termination or expiry shall remain unaffected.

11. **No endorsement**

Nothing contained in these Conditions shall be interpreted as an endorsement by the Society of the products or services or the activities or undertakings (commercial or otherwise) sold,

advertised, promoted or marketed by or on behalf of the Registered Paralegal. Save as expressly provided for in these Conditions in relation to the Marks, the Registered Paralegal undertakes not to use or permit the use by his or her employers, partners, employees, agents, representatives, associated companies or contractors of, the name, logos, trade marks or any other aspect of the branding or public identity of the Society nor to state or imply that the Society (or of any of the officers or office bearers of the Society), endorses or supports any products supplied or services provided by the Registered Paralegal or any such employer, partner, employee, agent, representative, associated company or contractor.

12. Notices

Any notice required to be given under these Conditions will be served personally, by first class recorded delivery post or by fax. Any such notice shall be served on the Society at its head office address. Any such notice shall be served on the Registered Paralegal at the address held by the Society for him or her on its register of members of the Scheme. Any notice so given will be deemed to have been duly served if personally delivered, on the date of delivery, if posted, forty eight (48) hours after posting, or if faxed at the time and date specified on the fax confirmation receipt issued by the sender's fax machine, and in proving service it will be sufficient to produce a copy of the notice properly addressed or numbered with the relevant post office receipt for despatch by first class recorded delivery post or the fax confirmation receipt (as the case may be).

13. General

- 13.1 The Society shall not be held responsible for any failure or delay by it in carrying out its obligations in terms of these Conditions which is due to circumstances beyond its reasonable control.
- 13.2 If any provision of these Conditions is found by any court of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it shall to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness be deemed severable and the remaining provisions of this letter and the remainder of such provision shall remain in full force and effect.
- 13.3 These Conditions constitute the entire understanding between the parties regarding the arrangements between them concerning the use by the Registered Paralegal of the Marks, and supersedes any prior arrangements, understandings, promises or agreements made or existing between the parties in relation thereto, save that nothing in this Condition shall preclude the Society from enforcing the Rules of the Scheme against the Registered Paralegal.
- 13.4 Nothing in these Conditions shall operate to create a partnership or joint venture between the Registered Paralegal and the Society or (save as expressly set out herein) constitute one of them the agent of the other for any purpose.
- 13.5 These Conditions do not create any legal rights, benefits or causes of action for any other party other than the Society and the Registered Paralegal.
- 13.6 No amendment, waiver or variation of these Conditions shall be binding on the Society unless it is in writing signed on behalf of both parties.
- 13.7 No failure or delay by either party in enforcing any provision of these Conditions shall be construed as a waiver of any of its rights under these Conditions.
- 13.8 Any waiver granted by either party of any breach of, or any default under, any provision of these Conditions by the other party shall not be deemed a waiver of any subsequent breach of or default and will in no way affect the other terms of these Conditions.
- 13.9 The parties agree that an action for damages may be an insufficient remedy to protect the interests of the Society fully, and the Registered Paralegal agrees that notwithstanding any rule

of law to the contrary the Society shall at its option be entitled to seek interdict, injunction or any other interim remedy against the Registered Paralegal or any other person.

- 13.10 These Conditions and the rights to the Marks granted under them are strictly personal to the Registered Paralegal, who will not be entitled to assign, transfer or sub-contract any of his or her rights or obligations under these Conditions without the Society's prior written consent (except as expressly provided for in Condition 4.) The Society shall be entitled in its sole discretion to sub-contract, licence or assign any of its rights or obligations under these Conditions.
- 13.11 These Conditions shall be governed by and interpreted in accordance with Scots Law, and the Registered Paralegal and the Society hereby submit to the exclusive jurisdiction of the Scottish Courts, save that the Society may take action and/or raise proceedings in such courts as it deems appropriate and in any jurisdiction if such action and/or proceedings are in its opinion required in order to enforce, protect, defend or maintain its intellectual property rights.