

THE LAW SOCIETY OF SCOTLAND

**ADMISSION AS SOLICITOR
(SCOTLAND) REGULATIONS 2001**

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Rules dated 25th April 2001, made by the Council of The Law Society of Scotland with the concurrence of the Lord President of the Court of Session under section 5 of the Solicitors (Scotland) Act 1980.

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PART I—INTRODUCTORY

Title and commencement

1. These Regulations may be cited as the Admission as Solicitor (Scotland) Regulations 2001 and shall come into operation on 1st May 2001.

Interpretation

2. (1) In these Regulations, unless the context otherwise requires:—

“Accreditation Procedure” means the procedure whereby the Council approves the courses offered by Universities in Scotland for the Degree of Bachelor of Laws and the courses offered by Universities, and other institutions, in Scotland for the Diploma;

“the Act” means the Solicitors (Scotland) Act 1980 (as amended);

“Certificate of Fitness” means a certificate issued by the Council under the hand of the Secretary that the person to whom the certificate applies has fulfilled the applicable conditions and requirements prescribed in these Regulations and in any enactment for admission as a solicitor in Scotland;

“the Council” means the Council of the Society or, where the Council has delegated powers for the consideration of applications under these Regulations, a Committee of the Council or such other body or individual to whom such powers have been delegated;

“degree” means a degree, other than an honorary degree, granted by a University;

“Degree in Law” means, until such date as the Accreditation Procedure first comes into effect, the degree of Bachelor of Laws (LL.B.) granted by one of the Universities of Aberdeen, Dundee, Edinburgh, Glasgow or Strathclyde and, after such date, the degree of Bachelor of Laws granted by any University in Scotland that is from time to time accredited by the Council in respect of the degree of Bachelor of Laws;

“Diploma” means, until such date as the Accreditation Procedure first comes into effect, the Diploma in Legal Practice granted by one of the Universities of Aberdeen, Dundee or Edinburgh or jointly by the Universities of Glasgow and Strathclyde and, after such date, the Diploma in Legal Practice granted by any University, or other institution, in Scotland that is from time to time accredited by the Council in respect of the Diploma in Legal Practice or granted jointly by any such University or other institution with any other such University or institution;

“the Directive” means Directive No. 98/5/EC of the European Parliament and Council and legislation and regulations (including regulations or rules of the Council) implementing that Directive in Scotland;

“employer” means a training solicitor who is a party to a training contract and references to “employ” and similar words include otherwise taking on a trainee under a training contract;

“Entrance Certificate” means a certificate issued by the Council under the hand of the Secretary to the effect that the person to whom the certificate applies has fulfilled the applicable conditions and requirements prescribed in these Regulations and in any enactment for admission as a solicitor in Scotland to entitle him to enter into a post-Diploma training contract or a non-Diploma training contract;

“Examiner” means an examiner appointed under regulation 19 of these Regulations;

“intransit” means a person seeking to become a solicitor in Scotland;

“non-Diploma training contract” means a training contract entered into between a training solicitor and an intransit who is exempt from holding a Diploma under these Regulations;

“post-Diploma training contract” means a training contract under regulation 7 of these Regulations which is entered into between a training solicitor and an inrant who holds an Entrance Certificate;

“practising certificate” has the meaning given by section 4 of the Act;

“pre-Diploma training contract” means a training contract which is entered into between a training solicitor and an inrant who is qualified under the provisions of regulation 11 of, and the Schedule to, these Regulations;

“Preliminary Entrance Certificate” means a certificate issued by the Council under the hand of the Secretary to the effect that the person to whom the certificate applies has fulfilled the applicable conditions and requirements prescribed in these Regulations and in any enactment for admission as a solicitor in Scotland to entitle him to enter into a pre-Diploma training contract;

“Professional Competence Course” means the professional competence course approved by the Council and offered by any University, or other institution, in Scotland that is from time to time approved by the Council in respect of that course or offered jointly by any such University or other institution with any other such University or institution;

“the 1986 Regulations” means the Admission as Solicitor (Scotland) Regulations 1986;

“the 1991 Regulations” means the Admission as Solicitor (Scotland) Regulations 1991;

“the 1994 Regulations” means the EC Qualified Lawyers Transfer (Scotland) Regulations 1994 and any other regulations from time to time applicable to an inrant making an application pursuant to the Directive referred to in regulation 3 of those regulations;

“the Secretary” means the Secretary of the Society and includes any person authorised by the Council to act on behalf of the Secretary for the purpose of these Regulations;

“the Society” means the Law Society of Scotland;

“the Society’s examinations” means examinations set under regulation 21(1) of these Regulations;

“solicitor” means any person enrolled or deemed to have been enrolled as a solicitor in pursuance of the Act;

“Test of Professional Competence” means the test of professional competence set by, or on behalf of, the Society;

“trainee” means an inrant who is a party to a training contract;

“training contract” means a non-Diploma training contract, a post-Diploma training contract or a pre-Diploma training contract;

“training solicitor” means a solicitor who holds a practising certificate issued under section 14 of the Act and who:—

- (a) is engaged as a principal in private practice; or
- (b) is in employment as a solicitor,

and the expression “training solicitor” shall include a firm or an incorporated practice of solicitors as defined in the Act; and

“University” means:—

- (a) any university in the United Kingdom; or

- (b) the former Council for National Academic Awards; or
- (c) any other University or institute recognised by the Council for the purposes of these Regulations.

- (2) The provisions of the Interpretation Act 1978 shall apply for the interpretation of these Regulations as they apply to the interpretation of an Act of Parliament.

Conditions precedent to admission

3. Subject to the provisions of section 6 of the Act and these Regulations, every inrant shall, as a condition precedent to his admission as a solicitor, comply with these Regulations so far as applicable to him and the Council may require any inrant to satisfy it by such means as it considers necessary as to such compliance.

Application of these Regulations

4. (1) These Regulations shall apply to all intrants other than:—
- (a) intrants (hereinafter referred to as “1986 intrants”) who have presented themselves for any of the Society’s examinations, obtained a Preliminary Entrance Certificate or obtained an Entrance Certificate under the 1986 Regulations;
 - (b) intrants (hereinafter referred to as “1991 intrants”) who have presented themselves for any of the Society’s examinations, obtained a Preliminary Entrance Certificate or obtained an Entrance Certificate under the 1991 Regulations;
 - (c) intrants eligible under the 1994 Regulations; and
 - (d) intrants eligible under the Directive.
- (2) Any 1986 intrants or 1991 intrants who wish to do so may, by notice in writing to the Council, elect to proceed to admission under these Regulations but such election, once made, shall be irrevocable. In the absence of such an election, 1986 intrants shall proceed to admission under the 1986 Regulations and 1991 intrants shall proceed to admission under the 1991 Regulations.
- (3) Notwithstanding regulation 4(1) of these Regulations, any person who is the subject of a decision by the Council made after the date these Regulations come into operation under the 1986 Regulations, the 1991 Regulations or the 1994 Regulations and who is aggrieved by that decision may, within 21 days of written intimation of the decision, appeal to the Court of Session.

PART II—ENTRANCE QUALIFICATIONS

(A) Entrance Certificate

Issue of Entrance Certificate

5. (1) An inrant may not enter into either a post-Diploma training contract or a non-Diploma training contract unless he holds an Entrance Certificate.
- (2) An inrant shall be entitled to an Entrance Certificate if he satisfies the Council that:—
- (a) he is a fit and proper person to be a solicitor;
 - (b) (i) he holds a Degree in Law or a certificate that he is entitled to graduate in such a Degree notwithstanding that he has not so graduated; or (ii) he has served for a period of three years under a pre-Diploma training contract and has passed or obtained exemption from the Society’s examinations; or (iii) he is an inrant to whom the provisions of any of regulations 29, 31, 32 or 33 of these Regulations apply; and
 - (c) unless exempt in terms of regulation 28(1) or Part V of these Regulations, he has obtained a Diploma.

Lapse of Entrance Certificate

6. An inrant's Entrance Certificate shall automatically lapse if he does not enter into either a post-Diploma training contract or a non-Diploma training contract within one year of the date of said Entrance Certificate or such extended period as may be permitted by the Council in any particular case.

(B) *Post-Diploma training contract*

Service under a post-Diploma training contract

7. (1) Subject to regulation 28(1) and Part V of these Regulations, it shall be a requirement for admission as a solicitor in Scotland that an inrant shall serve under a post-Diploma training contract entered into with a training solicitor.
- (2) The period of training under a post-Diploma training contract shall comprise two years of full-time training, provided always that any inrant may, with the written consent of the Council, undergo training on a part-time basis provided that the Council is satisfied that the total time spent working under such a post-Diploma training contract shall equate to two years of full-time training.
- (3) Every post-Diploma training contract shall be in, or as nearly as may be in, such a form as the Council may from time to time prescribe.

Commencement of post-Diploma training contract

8. (1) In the case of an inrant who is required to hold a Diploma, the commencement of his post-Diploma training contract shall be within a period of two years of the date of 1st January first occurring after the date when the inrant became entitled to the award of the Diploma provided that the Council may in its discretion extend such period but may, in granting such extension, impose such conditions as it thinks fit.
- (2) In exercising its discretion under regulation 8(1) of these Regulations the Council shall have regard to the appropriateness of any work, paid or voluntary, and courses undertaken by the inrant since the inrant became entitled to the award of the Diploma and also the endeavours of the inrant to obtain a post-Diploma training contract.

Service elsewhere in Scotland and in other jurisdictions

9. (1) Subject to the prior approval of the employer and the Council in each case, a trainee under a post-Diploma training contract may be permitted in order to extend the range of his training:—
 - (a) to undertake legal work under appropriate supervision within Scotland on secondment; and/or
 - (b) to undertake legal work under appropriate supervision for a period or periods not exceeding in the aggregate six months in any other part of the United Kingdom or any country which is a member of the European Union.

The period of any such secondment and such other period or periods of legal work shall be reckoned as part of the trainee's period of service under his post-Diploma training contract.

- (2) A trainee may serve under a post-Diploma training contract at his employer's place of business outwith Scotland, but such a trainee shall not, without the prior approval of the Council, during the period of his post-Diploma training contract spend a period or periods exceeding in the aggregate six months at any such place of business outwith Scotland.

(C) *Pre-Diploma training contract*

Service under a pre-Diploma training contract

10. (1) Any inrant who for the purpose of qualifying for an Entrance Certificate proposes to meet the requirements of regulation 5(2)(b)(ii) of these Regulations without obtaining a Degree in Law shall be required to enter into a pre-Diploma training contract with a training solicitor.
- (2) The period of training under a pre-Diploma training contract shall comprise three years of full-time training, provided always that any inrant may, with the written consent of the Council, undergo training on a part-time basis provided that the Council is satisfied that the total time spent working under such a pre-Diploma training contract shall equate to three years of full-time training.
- (3) Every pre-Diploma training contract shall be in, or as nearly as may be in, such form as the Council may from time to time prescribe and shall, subject to the provisions of regulation 17(1) of these Regulations, contain an obligation on the training solicitor to provide training for the inrant in:—
- (a) conveyancing;
 - (b) litigation; and
 - (c) either
 - (i) trusts and executries; or
 - (ii) where the training solicitor is not engaged in private practice, the legal work of the training solicitor.
- (4) Subject to the consent of the employer, an inrant who is a party to a pre-Diploma training contract may be permitted to attend, during office hours, classes in law at a University or other institution.

(D) *Preliminary Entrance Certificate*

Issue of Preliminary Entrance Certificate

11. (1) An inrant may not enter into a pre-Diploma training contract unless he holds a Preliminary Entrance Certificate.
- (2) An inrant shall be entitled to a Preliminary Entrance Certificate if he satisfies the Council that :—
- (a) he is a fit and proper person to be a solicitor; and
 - (b) he is qualified under the provisions of the Schedule to these Regulations.
- (3) The Council shall have power, in the case of an inrant who, being at least 21 years of age, satisfies the Council both that he is a fit and proper person to be a solicitor and, having regard to evidence of academic attainment and to any experience of legal work, as to his fitness to enter into a pre-Diploma training contract, to grant to such an inrant a Preliminary Entrance Certificate without requiring compliance with regulation (2)(b) of this regulation.
- (4) In the event that any of the certificates referred to in paragraphs (a), (b) or (c) of the Schedule are no longer generally available, the Council may specify such alternative qualifications and/or levels of attainment for the purpose of those paragraphs as seem to it to be the nearest equivalent to those certificates and level of pass referred to in the Schedule.

(E) *Non-Diploma training contract*

Service under a non-Diploma training contract

12. (1) Subject to regulation 30 of these Regulations, an inrant who is exempt from holding a Diploma under regulation 28(1) or Part V of these Regulations shall serve under a non-Diploma training contract entered into with a training solicitor.

- (2) The non-Diploma training contract shall be in similar terms to a post-Diploma training contract and shall be subject to the same conditions and requirements as are specified in these Regulations in relation to post-Diploma training contracts; provided that the minimum period of time which an inrant is required to serve under a non-Diploma training contract shall be either three years or, where applicable, the appropriate period specified in regulations 29, 31 or 32 of these Regulations.

(F) *General provisions affecting training contracts*

Provisions as to training solicitors and intrants

13. (1) A training solicitor shall not, without the consent in writing of the Council, employ any trainee, unless he is in practice as a solicitor at the time and has been in continuous practice for a period of at least three years immediately prior to his employing the trainee or, where the training solicitor is a firm or incorporated practice, at least one of the partners or directors (in the case of an incorporated practice which is a company) or members (in the case of an incorporated practice which is a limited liability partnership) thereof, as the case may be, has been in such continuous practice.
- (2) The total number of intrants employed at any time under training contracts shall not, except with the consent of the Council, exceed:—
- (a) in the case of a solicitor practising on his own under his own name or as a sole solicitor under a firm name, one;
 - (b) in the case of a firm or an incorporated practice of solicitors, twice the number of partners in the firm, or twice the number of directors (being individuals) of an incorporated practice which is a company, or twice the number of members (being individuals) of an incorporated practice which is a limited liability partnership, as the case may be;
 - (c) in the case of a firm or an incorporated practice of solicitors having more than one office, within each such office, twice the number of solicitors having their principal place of business within that office but subject always, in respect of the firm or incorporated practice of solicitors as a whole, to the maximum specified by paragraph (b) above;
 - (d) in the case of a solicitor in employment, twice the number of solicitors employed by the solicitor's employer who are entitled, in terms of regulation 13(1) of these Regulations, to employ a trainee without the consent in writing of the Council but subject always, in respect of the solicitor's employer as a whole, (i) where the solicitor's employer falls within paragraph (a) or (b) above, to the maximum specified by, as the case may be, paragraph (a) or (b) above, and (ii) in any other case, to a maximum of twice the number of solicitors employed by the solicitor's employer who are so entitled;
 - (e) in the case of a solicitor in employment where the solicitor's employer has more than one office, within each such office, twice the number of solicitors having their principal place of business in that office but subject always, in respect of the solicitor's employer as a whole, to the maxima specified by paragraph (d) above; and
 - (f) in the case of any other solicitor, such number as the Council may in each case determine.

Registration of training contracts

14. (1) For the purposes of these Regulations, the Council shall establish and maintain a register of pre-Diploma training contracts, a register of post-Diploma training contracts and a register of non-Diploma training contracts.

- (2) Every training contract shall be produced by the inrant to the Council for registration within three months from its commencement and thereafter shall be presented for registration in the Books of Council and Session by the Society at the expense of the inrant.
- (3) When an inrant produces his training contract to the Council, he shall pay such registration fee as the Council may from time to time prescribe.
- (4) If an inrant's training contract and the prescribed registration fee are not presented to the Council within three months from the date of the commencement of the training contract, the period of service under the training contract shall for the purposes of these Regulations be reckoned, if the Council so directs, as commencing only from the date of presentation of the training contract to the Council or such earlier date as the Council may determine.
- (5) Every assignation of a training contract shall, together with the relevant supporting documents, be produced by the trainee to the Council within six weeks from the date of assignation for registration in the relevant register of training contracts and, where the assignation has not been registered within said period, service after the assignation, but prior to its registration, shall be reckoned as part of the trainee's service under the training contract only to such extent as the Council may determine.
- (6) Any person seeking registration of an assignation of a training contract shall pay to the Council such fee as it may from time to time determine.

Service under training contracts

15. (1) The employer and the trainee shall each comply with their respective obligations under any training contract.
- (2) For the purposes of these Regulations and subject to regulations 7, 9, 10 and 12 of these Regulations:—
 - (a) a trainee during the term of his training contract shall not during office hours engage in any other gainful employment or otherwise absent himself from his employer's business without the prior consent of his employer and of the Council;
 - (b) service by a trainee under a training contract shall be continuous, provided however that in exceptional circumstances, the Council may, in considering whether or not such service has been continuous and provided that the employer is prepared to certify the trainee's fitness to become a solicitor in due course or to continue as a solicitor, as the case may be, disregard short periods of absence by the trainee from employment, not exceeding an aggregate of six months; and
 - (c) service by a trainee under a training contract shall be in Scotland.

Intervention in training contracts

16. (1) The Council may make enquiries concerning any aspect of a training contract and the conduct of the parties to that contract and the Council shall be entitled to require the evidence of the employer, the trainee, any solicitor and any inrant and to call for and recover such evidence and documents from any such person as the Council thinks proper.
- (2) If the Council, after enquiry and after affording the parties to the training contract the opportunity to make representations, is of the opinion that a party to a training contract is not, as a result of the acts or omissions of the other party to the training contract, receiving the benefits it should receive from that training contract, the Council may require that other party to take such steps as the Council may request to ensure that those benefits are so received.
- (3) Without prejudice to the generality of regulation 16(2) of these Regulations, if:—
 - (a) during the term of any training contract either the trainee or the employer has been continuously absent from the employer's place of business for an aggregate period of at least three months within any period of six months without reasonable cause; or

- (b) the Council, after enquiry and after affording the parties to the training contract the opportunity to make representations, is of the opinion that a training contract ought to be terminated, assigned or extended; or
- (c) there is a dispute between the parties to a training contract

the Council may by notice in writing to the parties to the training contract require the termination of the training contract with effect from such date as may be specified in the notice or may require an assignation of the training contract or an extension to it, as the case may be, or may take such other action as it thinks fit. Where the Council has by notice required the termination of a training contract any service by the trainee under that training contract after the date specified in the notice shall not be reckoned as part of his period of service for the purpose of regulation 34 of these Regulations.

- (4) Where, before the expiration of the period of service under a training contract, such training contract is terminated for any reason, an inrant shall be entitled and may be required, subject to such conditions as the Council may impose, to enter into a further training contract with another training solicitor.
- (5) An employer shall be obliged to assign a post-Diploma training contract or non-Diploma training contract if called upon to do so by the Council.
- (6) An inrant's Entrance Certificate may be withdrawn by the Council in such exceptional circumstances as the Council may in its sole discretion determine.
- (7) If the Council after enquiry decides that a training solicitor would be unable to fulfil or is not fulfilling the proper obligations of an employer under a training contract either in relation to a particular application to employ a trainee or in relation to a particular training contract or generally, it shall intimate its decision to the solicitor and the solicitor, notwithstanding that he satisfies the provisions of regulation 13(1) of these Regulations, shall not thereafter engage or retain the services of any trainee without the consent in writing of the Council.

Consent to transfer of training contract

- 17. (1) An employer under a pre-Diploma training contract shall, if requested by his trainee or if called upon to do so by the Council, assign such pre-Diploma training contract to another training solicitor, approved by the Council, to enable the trainee either to complete his training in the three areas of practice described in (a), (b) and (c)(i) of regulation 10(3) of these Regulations or to extend the range of his training generally, or for any other reason which the Council shall consider reasonable.
- (2) A training contract shall not be assigned by the employer without the consent in writing of the Council.

(G) Professional Competence Course and Test of Professional Competence

Requirement

- 18. For an inrant to whom these Regulations apply it shall, subject to regulation 28(2) and (3) and Part V of these Regulations, be a requirement for admission as a solicitor in Scotland that he shall have:—
 - (a) completed the Professional Competence Course or given the undertaking referred to in regulation 38(2)(a) of these Regulations; and
 - (b) passed the Test of Professional Competence or given the undertaking referred to in regulation 38(2)(b) of these Regulations.

PART III—QUALIFICATIONS AND EXAMINATIONS

Appointment of Examiners

19. (1) In order to test the suitability and qualifications of intrants, the Council shall from time to time nominate and appoint fit and proper persons to be Examiners and hold examinations in accordance with this part of these Regulations, which examinations shall be under the management and control of the Council.
- (2) The Examiners shall comply with all directions that may be given by the Council with respect to the number of papers to be set on any subject, the number of questions to be set and to be answered and the percentage mark to be attained to qualify for a pass and any other matters in connection with the examinations.
- (3) The Examiners shall be appointed for such period of time and be paid such remuneration as the Council may from time to time determine.

Eligibility of intrants

20. An intrant shall not be entitled to present himself for any of the Society's examinations unless he:—
- (a) holds a Preliminary Entrance Certificate and is serving under a pre-Diploma training contract or, that contract having terminated, had, prior to such termination, already presented himself for one or more of the Society's examinations; or
- (b) holds, or is entitled to graduate with, a Degree in Law which does not include passes in all the subjects in the syllabus prescribed by regulation 21(1) of these Regulations.

Examinations

21. (1) The Society's examinations shall consist of examinations in the laws of Scotland in accordance with the syllabus prescribed by the Council from time to time.
- (2) An intrant shall not be permitted to sit any one examination on more than four occasions or later than four years from the date of the first of the Society's examinations for which he presented himself except with the consent of the Council following on a recommendation by the Examiners, which consent may be given subject to such conditions as are deemed appropriate.

Award of distinction

22. A certificate of distinction in any subject may be awarded to an intrant at the discretion of the Examiners.

Conduct, dates and places of examinations

23. (1) Diets for the Society's examinations shall be held in Edinburgh not less than twice each year and additional diets may be held in such circumstances as the Examiners, with the approval of the Council, may determine.
- (2) Intrants intending to present themselves as candidates at any of the Society's examinations shall give three weeks' notice in writing of their intention to the Secretary, provided that the Examiners may at their discretion allow an intrant who has not given such notice to present himself for any examination.
- (3) Every candidate shall be examined in writing and may be required by the Examiners to present himself for oral examination.
- (4) Every candidate shall be required to advise the Society of any permanent change of address.

Fees

24. A candidate shall tender with his application to sit any examination such fee as may be prescribed by the Council from time to time.

PART IV—EXEMPTIONS

Faculty of Advocates' examinees

25. The Council may exempt from any of the Society's examinations an intrant who has obtained a pass in the corresponding examination in the examinations for admission to the Faculty of Advocates.

Corresponding passes

26. Where an intrant seeks exemption from any of the Society's examinations, provided the Council is satisfied that the intrant has passed a corresponding examination in the laws of Scotland to a standard approved by the Council, then the Council may grant such exemption.

Further exemptions for intrants from elsewhere in the UK

27. Where the terms of regulation 30 or 31 of these Regulations do not apply, the Council may, on application by an intrant who has passed the examinations required for admission as a solicitor or barrister in England and Wales or Northern Ireland within a reasonable time prior to such application, determine which of the Society's examinations, if any, such intrant shall be required to pass for the purposes of regulation 5(2)(b) of these Regulations and, notwithstanding regulation 20 of these Regulations, and subject always to such conditions as the Council may impose, including conditions as to the period of time during which the examinations must be passed, such an intrant shall be entitled to present himself for the Society's examinations.

Exemptions from Diploma, Professional Competence Course and Test of Professional Competence

28. (1) An intrant who seeks to obtain a Certificate of Fitness under these Regulations and who satisfies the Council that there are exceptional circumstances which justify his being exempted from obtaining a Diploma may be granted a Certificate of Fitness on such conditions, including the passing of examinations, as the Council may in its discretion prescribe; provided that an intrant who receives such exemption shall be required to serve for a period of not less than three years under a non-Diploma training contract with a training solicitor, in terms similar to those of a post-Diploma training contract.
- (2) An intrant who seeks to obtain a Certificate of Fitness under these Regulations and who satisfies the Council that there are exceptional circumstances which justify his being exempted from completing a Professional Competence Course may be granted a Certificate of Fitness on such conditions as the Council may in its discretion prescribe.
- (3) An intrant who has become entitled to the award of the Diploma prior to 1st October 2000 shall be exempt from both passing the Test of Professional Competence and completing the Professional Competence Course.

PART V—REQUIREMENTS FOR SPECIAL INTRANTS

Scottish advocates

29. Notwithstanding any other provisions herein contained, but always without prejudice to regulation 41 of these Regulations, an intrant who is a member of the Faculty of Advocates, has had two years of recent active practice of Scots law since being called and who provides such evidence as the Council may require that he is a fit and proper person to be admitted as a solicitor in Scotland shall be exempt from:—
- (a) pre-Diploma training,
 - (b) the Society's examinations, and
 - (c) the Diploma

but he shall be required to complete the Professional Competence Course, pass the Test of Professional Competence and undergo six months of non-Diploma training prior to applying for admission in terms of regulation 34 of these Regulations.

English/Welsh and Northern Irish solicitors

30. Notwithstanding any other provisions herein contained, but always without prejudice to regulation 41 of these Regulations, an intransit who has been admitted as a solicitor in England and Wales or Northern Ireland and who provides such evidence as the Council may require that he is a fit and proper person to be admitted as a solicitor in Scotland shall be exempt from:—

- (a) the Society's examinations,
- (b) the Diploma,
- (c) any period of training, and
- (d) completing the Professional Competence Course and passing the Test of Professional Competence

but he shall be required to pass in such manner as the Council may require an intra-UK transfer test comprising examinations in conveyancing, trusts and succession, Scots criminal law, with civil and criminal evidence and procedure and (unless admitted as aforesaid prior to 1st January 1992) European Community law and institutions or such other examinations as may be prescribed by the Council from time to time prior to applying for admission in terms of regulation 34 of these Regulations.

English/Welsh and Northern Irish barristers

31. Notwithstanding any other provisions herein contained, but always without prejudice to regulation 41 of these Regulations, an intransit who is a member of the Bar in England and Wales or Northern Ireland, who provides such evidence as the Council may require that he is a fit and proper person to be admitted as a solicitor in Scotland and can demonstrate that he has had five years of recent active practice of law in the United Kingdom since his call to the Bar shall be exempt from:—

- (a) pre-Diploma training,
- (b) the Society's examinations, and
- (c) the Diploma

but he shall be required to complete the Professional Competence Course, pass the Test of Professional Competence, pass in such manner as the Council may require an intra-UK transfer test comprising examinations in conveyancing, trusts and succession, Scots criminal law, with civil and criminal evidence and procedure and (unless called as aforesaid prior to 1st January 1992) European Community law and institutions or such other examinations as may be prescribed by the Council from time to time and undergo a period of six months of non-Diploma training, or such longer period as the Council may in its discretion determine, prior to applying for admission in terms of regulation 34 of these Regulations.

Colonial solicitors

32. Notwithstanding any other provisions herein contained, but always without prejudice to regulation 41 of these Regulations, an intransit to whom the Colonial Solicitors Act 1900, and any Order in Council made thereunder, apply and who provides such evidence as the Council may require that he is a fit and proper person to be admitted as a solicitor in Scotland shall be exempt from

- (a) pre-Diploma training, and
- (b) the Diploma

but he shall be required to complete the Professional Competence Course, pass the Test of Professional Competence, pass the Society's examinations and undergo one year of non-Diploma training prior to applying for admission in terms of regulation 34 of these Regulations.

Other overseas lawyers

33. Notwithstanding any other provisions herein contained, but always without prejudice to regulation 41 of these Regulations, a practising lawyer from outwith the United Kingdom to whom the Colonial Solicitors Act 1900, and any Order in Council made thereunder, the 1994 Regulations or the Directive do not apply shall be exempt from pre-Diploma training but he shall be required to satisfy the Council that he is qualified to undertake within the jurisdiction in which he qualified or practises professional work equivalent in its nature to that of a solicitor or advocate in Scotland,

to provide such evidence as the Council may require that he is a fit and proper person to be admitted as a solicitor in Scotland and to pass the Society's examinations, gain the Diploma, complete the Professional Competence Course, pass the Test of Professional Competence and complete one year of post-Diploma training prior to applying for admission in terms of regulation 34 of these Regulations.

PART VI—PROCEDURE FOR ADMISSION AS SOLICITOR

Eligibility for Certificate of Fitness

34. Subject to the provisions of section 6 of the Act and these Regulations, an inrant shall be entitled to apply for a Certificate of Fitness for the purposes of section 6 of the Act if:—

- (1) (a) he has passed or obtained exemption from all of the required Society's examinations;
or
(b) he has obtained or is entitled to obtain a Degree in Law which includes passes in subjects which the Council is satisfied correspond to all the subjects prescribed in the syllabus referred to in regulation 21(1) of these Regulations or, where such Degree does not include passes in subjects which correspond to all the subjects prescribed, he obtains passes in the remaining prescribed subjects in the Society's examinations, or otherwise passes corresponding subjects at the standard required for a Degree in Law; and
- (2) he holds a Diploma, unless he is exempted from the requirement to hold a Diploma in terms of these Regulations; and
- (3) (a) he has completed the Professional Competence Course, or is exempt therefrom, and has passed the Test of Professional Competence, or is exempt therefrom; or
(b) he has complied with regulation 34(4)(a) or (c) of these Regulations; and
- (4) (a) he has completed not less than one year of his two-year period of service under a post-Diploma training contract and has submitted to the Council:—
 - (i) a declaration in conformity with regulation 36(1) of these Regulations;
 - (ii) an undertaking in such form as the Council may prescribe that he will complete the remaining period of service under such training contract in fulfilment of his obligation under that training contract;
 - (iii) an undertaking in conformity with regulation 38(1) of these Regulations; and
 - (iv) undertakings in conformity with regulation 38(2) of these Regulations; or
(b) he has completed the full period of service under a post-Diploma training contract and has submitted to the Council a declaration in conformity with regulation 37 of these Regulations; or
(c) he has completed not less than two years of the full period of service under a non-Diploma training contract and he has submitted to the Council a declaration in conformity with regulation 36(2) of these Regulations and the undertakings referred to in regulation 34(4)(a) of these Regulations; or
(d) he has completed the full period of service under a non-Diploma training contract as is prescribed for him under these Regulations and has submitted to the Council a declaration in conformity with regulation 37 of these Regulations; or
(e) he is an inrant to whom regulation 33 of these Regulations applies and he has completed not less than one year of service under a post-Diploma training contract and has submitted to the Council a declaration in conformity with regulation 37 of these Regulations; and

- (5) he has submitted to the Council such further evidence as it may require that he continues to be a fit and proper person to be admitted as a solicitor in Scotland.

Enquiries by Council

35. Without prejudice to any obligation in these Regulations on an inrant, including any inrant who is admitted as a solicitor by virtue of regulation 34(4)(a) or (c) of these Regulations while still a party to a post-Diploma training contract or a non-Diploma training contract, to satisfy the Council he is a fit and proper person to be admitted as, or be, a solicitor in Scotland, the Council may make enquiries concerning the inrant, both as regards those matters mentioned in regulation 36(3) of these Regulations and otherwise. For these purposes the Council shall be entitled to require the evidence of the inrant, his employer, any solicitor and any other inrant and to call for and recover such evidence and documents from any such person as the Council thinks proper.

Applicants admitted after one year of post-Diploma training or two years of non-Diploma training — employer's declaration

36. (1) In the case of an inrant to whom regulation 34(4)(a) of these Regulations applies, the Council shall not grant a Certificate of Fitness to him unless he submits to the Council a declaration by his employer in such form as the Council may prescribe certifying that, during the first year of his post-Diploma training contract, he has fulfilled his obligations under such contract and is, in the opinion of his employer, a fit and proper person to be admitted as a solicitor in Scotland and, on completion of his full period of service under his post-Diploma training contract, such an inrant shall submit to the Council a declaration by his employer in such form as the Council may prescribe certifying that in his opinion the inrant continues to be a fit and proper person to be a solicitor in Scotland, provided always that, in any case where the employer of an inrant has declined to provide any such declaration, the Council may, after due enquiry and where it appears reasonable to do so, waive the requirement for such declaration from the employer, subject to such conditions as it may in its discretion determine.
- (2) In the case of an inrant to whom regulation 34(4)(c) of these Regulations applies, the Council shall not grant a Certificate of Fitness to him unless he submits to the Council a declaration by his employer in such form as the Council may prescribe certifying that, during the first two years of his non-Diploma training contract, he has fulfilled his obligations under such contract and is, in the opinion of his employer, a fit and proper person to be admitted as a solicitor in Scotland and, on completion of his full period of service under his non-Diploma training contract, such an inrant shall submit to the Council a declaration by his employer in such form as the Council may prescribe certifying that in his opinion the inrant continues to be a fit and proper person to be a solicitor in Scotland, provided always that, in any case where the employer of an inrant has declined to provide any such declaration, the Council may, after due enquiry and where it appears reasonable to do so, waive the requirement for such declaration from the employer, subject to such conditions as it may in its discretion determine.
- (3) In forming an opinion whether the inrant is a fit and proper person to be admitted as a solicitor, the employer shall have regard not only to the moral character of the inrant but also to his aptitude for, and application to, his duties and his conduct generally.

Applicants admitted after two years of post-Diploma training or to whom regulation 33 applies — employer's declaration

37. (1) In the case of an inrant to whom regulation 34(4)(b), (d) or (e) of these Regulations applies, the Council shall not grant a Certificate of Fitness to him unless he submits to the Council a declaration by his employer in such form as the Council may prescribe certifying that in his opinion the inrant has fulfilled his obligations under the training contract and is a fit and proper person to be admitted as a solicitor in Scotland, provided always that, in any case where the employer of an inrant has declined to provide any such declaration, the

Council may, after due enquiry and where it appears reasonable to do so, waive the requirement for such declaration from the employer.

- (2) In forming an opinion whether the inrant is a fit and proper person to be admitted as a solicitor, the employer shall have regard not only to the moral character of the inrant but also to his aptitude for and application to his duties and his conduct generally.

Undertaking by certain intrants

38. (1) In the case of an inrant to whom regulation 34(4)(a) or (c) of these Regulations applies, the inrant shall, before applying for a Certificate of Fitness, give an undertaking in such form as the Council may prescribe that he will not engage in professional practice on his own account and will only act as a professional assistant to a practising solicitor or a firm of practising solicitors or an incorporated practice (as defined in the Act) in each case in Scotland. Such undertaking shall only bind the inrant until the date of grant of an employer's declaration that the inrant continues to be a fit and proper person to be a solicitor in Scotland pursuant to regulation 36(1) or (2) of these Regulations or the date the requirement for such a declaration is waived by the Council in terms of those regulations.
- (2) Subject to regulation 38(4) of these Regulations, in the case of an inrant to whom regulation 34(4)(a) or (c) of these Regulations applies, the inrant shall, before applying for a Certificate of Fitness:—
- (a) give an undertaking in such form as the Council may prescribe that, if he has not on or before the last day of his service under his training contract completed the Professional Competence Course, he will not practise as a solicitor after that last day; and
 - (b) give an undertaking in such form as the Council may prescribe that, if he has not on or before the last day of his service under his training contract passed the Test of Professional Competence, he will not practise as a solicitor after that last day.
- (3) Undertakings given for the purpose of regulation 38(2) of these Regulations shall only bind the inrant until the later to occur of the date the inrant completes the Professional Competence Course and the date the inrant passes the Test of Professional Competence.
- (4) An inrant who is exempt from completing the Professional Competence Course or who has, at the date he applies for a Certificate of Fitness, completed the Professional Competence Course shall not be required to give the undertaking referred to in regulation 38(2)(a) of these Regulations and an inrant who is exempt from passing the Test of Professional Competence or who has, at the date he applies for a Certificate of Fitness, passed the Test of Professional Competence shall not be required to give the undertaking referred to in regulation 38(2)(b) of these Regulations.

Applicants for admission after five years

39. Where an application for a Certificate of Fitness is made by an inrant under these Regulations more than five years after the date on which he became entitled to apply therefor, the Council may, after due enquiry and where it appears reasonable to do so, refuse the application or grant the application subject to such conditions as it may require.

PART VII—GENERAL

Right of appeal

40. Any person who is the subject of a decision by the Council under any of these Regulations and who is aggrieved by that decision may, within 21 days of written intimation of the decision, appeal to the Court of Session.

Council's discretion

41. (1) The Council may in its discretion relieve any person from the consequences of any failure to comply with these Regulations where it is satisfied that such failure to comply is due to mistake, oversight or excusable cause, such not being wilful non-observance of these Regulations.
- (2) The Council may, where the circumstances of a particular intransit are exceptional waive any provision of these Regulations applying to such intransit, provided that any such waiver may be subject to such conditions as the Council may in its discretion determine.
- (3) The Council may, where the circumstances of a particular intransit are exceptional, determine that any of the exemptions provided by regulations 29, 30, 31, 32 and 33 of these Regulations shall not apply to such intransit.
- (4) The Council may, where the circumstances of a particular intransit are exceptional, permit such intransit to depart from the terms of any undertaking given by him pursuant to regulation 38 of these Regulations.

Photograph

42. The Council may require any intransit to supply the Council with a recent photograph of the intransit for the purpose of verifying the identity of the intransit or otherwise and the Council may retain any photograph so supplied.

SCHEDULE

An intransit will be deemed to be duly qualified for the purposes of regulation 11(2)(b) of these Regulations if he complies with any of paragraphs (a) to (f) below:—

Scottish Certificate of Education

- (a) (1) passes in at least five of the subjects in the Scottish Certificate of Education, as approved from time to time by the Universities Central Council on Admissions, at no more than two sittings, said passes to include:—
- (i) a pass at Higher grade in English at not less than "B",
 - (ii) a pass at Higher grade in a subject chosen from one of the following groups:—
 - (a) a group comprising mathematics or an approved science, or
 - (b) a group comprising an approved language other than English, and
 - (iii) a pass at Higher, Ordinary or Standard grade in a subject chosen from the group not chosen under sub-paragraph (ii) above, provided that if at Ordinary or Standard grade, such pass is at not less than grade 3 and
- (2) a total of such points as the Council may from time to time determine in respect of the subjects passed, calculated as follows:—
- a pass at Higher grade at:—
 - "A" being valued at three points,
 - "B" being valued at two points, and
 - "C" being valued at one point.

Provided that if he has insufficient points or subject passes, he may add to these equivalent passes and points under (b)(1) and (2) below.

General Certificate of Education

- (b) (1) passes in at least five of the subjects in the General Certificate of Education, as approved from time to time by the Universities Central Council on Admissions, at no more than two sittings, said passes to include:—
- (i) a pass at the Advanced level in English, at not less than "C" standard,
 - (ii) a pass at the Advanced level in a subject chosen from one of the following groups:—
 - (a) a group comprising mathematics or an approved science, or
 - (b) a group comprising an approved language other than English, and
 - (iii) a pass at the Advanced or Ordinary level or GCSE in a subject chosen from the group not chosen under subparagraph (ii) above; and
- (2) a total of such points as the Council may from time to time determine in respect of the subjects passed, calculated as follows:—
- a pass at the Advanced level at:—
- "A" being valued at four points,
 - "B" being valued at three points,
 - "C" being valued at two points, and
 - "D" being valued at one point.

Provided that if he has insufficient points or subject passes, he may add to these equivalent passes and points under (a)(1) and (2) above.

HND in Legal Studies

- (c) a Scottish Higher National Diploma in Legal Studies from any College of Further Education approved by the Council offering such Diploma and also a pass in English at Higher grade in the Scottish Certificate of Education at not less than "B" or its equivalent.

University Degree

- (d) a degree of any University, other than a Degree in Law, or an entitlement to graduate in such a degree notwithstanding that he has not so graduated.

Chartered Accountant

- (e) membership of the Institute of Chartered Accountants of Scotland or of the Institute of Chartered Accountants in England and Wales or of the Association of Certified and Corporate Accountants.

Commissioned Officer

- (f) a commission as a commissioned officer in one of the British armed services, where his commission has been obtained following study at a Royal Naval, Army or Royal Air Force college.

In this Schedule references to the Scottish Certificate of Education shall be construed as including the Scottish Qualifications Certificate.