



STATUTORY INSTRUMENTS.

S.I. No. 35 of 2010



SOLICITORS ACTS 1954 TO 2008 (SECTION 44) REGULATIONS 2009

(Prn. A10/0157)

SOLICITORS ACTS 1954 TO 2008 (SECTION 44) REGULATIONS 2009

The Law Society of Ireland, in exercise of the powers conferred on it by Section 44 (as substituted by section 52 of the Solicitors (Amendment) Act 1994) of the Solicitors Act 1954 and every other power enabling it HEREBY MAKE the following Regulations.

Recitals

1. Whereas:

- (a) the Solicitors Act 1954 (Section 44) Order 1997 (S.I. No. 241 of 1997) dated 9 June 1997 provided that the Minister, in exercise of the powers conferred on the Minister by subsection (6) of Section 44, was satisfied that reciprocal provisions were in operation in the jurisdictions to which this Order related in respect of solicitors whose names are on the roll and appointed 13 June 1997 as the day on which Section 44 came into operation in relation to the profession of attorney in the States of New York and Pennsylvania in the United States of America;
- (b) the Solicitors Act 1954 (Section 44) Order 1999 (S.I. No. 133 of 1999) dated 17 May 1999 provided that the Minister, in exercise of the powers conferred on the Minister by subsection (6) of Section 44, was satisfied that reciprocal provisions were in operation in the jurisdiction to which this Order related in respect of solicitors whose names are on the roll and appointed 1 June 1999 as the day on which Section 44 came into operation in relation to the profession of solicitor in New Zealand;
- (c) the Solicitors Act 1954 (Section 44) Order 2003 (S.I. No. 459 of 2003) dated 26 September 2003 provided that the Minister, in exercise of the powers conferred on the Minister by subsection (6) of Section 44, was satisfied that reciprocal provisions were in operation in the jurisdiction to which this Order related in respect of solicitors whose names are on the roll and appointed 1 October 2003 as the day on which Section 44 came into operation in relation to the profession of attorney and counselor at law in the State of California in the United States of America;
- (d) the Solicitors Act 1954 (Section 44) Order 2007 (S.I. No. 127 of 2007) dated 21 March 2007 provided that the Minister, in exercise of the powers conferred on the Minister by subsection (6) of Section 44, was satisfied that reciprocal provisions were in operation in the jurisdiction to which this Order related in respect of solicitors whose

Notice of the making of this Statutory Instrument was published in "Iris Oifigiúil" of 9th February, 2010.

names are on the roll and appointed 21 March 2007 as the day on which Section 44 came into operation in relation to the profession of solicitor in the State of New South Wales in the Commonwealth of Australia;

- (e) the text of Section 44 is set forth in the Schedule to these Regulations;
- (f) the Society has not heretofore prescribed by regulations for the requirements of clauses (c), (d) (e) and (f) of subsection (3) of Section 44 and subsection (4) of Section 44 but is now resolved to do so, as enabled by and pursuant to Section 44, as hereinafter in these Regulations provided.

Citation, construction and commencement

2. These Regulations may be cited as the Solicitors Acts 1954 (Section 44) Regulations 2009 and shall be construed together with and in accordance with the provisions of the Solicitors Acts 1954 to 2008 and specifically Section 44 and the Orders and shall come into operation on the 1st day of March 2010.

Definitions

3. In these Regulations:

“applicant” means a person who is qualified to practise—

- (a) the profession of attorney in the State of New York and/or the State of Pennsylvania in the United States of America, and/or
- (b) the profession of solicitor in New Zealand, and/or
- (c) the profession of attorney and counselor at law in the State of California in the United States of America, and/or
- (d) the profession of solicitor in the State of New South Wales in the Commonwealth of Australia,

and is thereby, for the purpose of Section 44 and these Regulations, a person qualified to practise in one of the corresponding professions;

“corresponding profession” means a profession in another jurisdiction the subject of one of the Orders;

“Education Committee” means the education committee for the time being appointed by the Council of the Society;

“Education Regulations” means the Solicitors Acts 1954 to 1994 (Apprenticeship and Education) Regulations 2001 (S.I. No. 546 of 2001), as amended by the Solicitors Act 1954 to 2008 (Apprenticeship and Education) (Amendment) Regulations 2009 (S.I. No. 144 of 2009) or by any other subsequent regulations;

“Minister” means the Minister for Justice, Equality and Law Reform;

“Orders” means the Orders of the Minister referred to in Regulation 1 and, respectively contained in S.I. No. 241 of 1997, S.I. No. 133 of 1999, S.I. No. 459 of 2003 and S.I. No. 127 of 2007;

“Qualified Lawyers Transfer Test” means the examination provided for in the Solicitors Acts 1954 and 1960 (European Community) Regulations, 1991 (S.I. No. 85 of 1991);

“Regulation” means a regulation in these Regulations;

“roll” means the roll of solicitors maintained pursuant to section 9 (as substituted by section 65 of the Solicitors (Amendment) Act 1994) of the Solicitors Act 1954;

“Section 44” means section 44 (as substituted by section 52 of the Solicitors (Amendment) Act 1994) of the Solicitors Act 1954;

“Society” means the Law Society of Ireland.

Requirements to be admitted as a solicitor

4. (a) An applicant who is a person qualified to practise the profession of attorney in the State of New York and/or the State of Pennsylvania and/or the profession of attorney and counselor at law in the State of California in the United States of America and who makes application to the Society pursuant to Section 44 to be admitted as a solicitor and who satisfies the Society that he or she is a fit and proper person to be admitted as a solicitor shall, as provided for in subsection (3) of Section 44—
 - (i) be required at the time of such application to have engaged in practice in his/her profession full-time in the jurisdiction of one of the corresponding professions for a minimum period of one year; and
 - (ii) be required, before being so admitted, to attend such course or courses of education or training (or both) and pass such examination or examinations as more particularly provided for in Regulation 5.
- (b) An applicant who is a person qualified to practise the profession of solicitor in New Zealand and/or the profession of solicitor in the State of New South Wales in the Commonwealth of Australia and who makes application to the Society pursuant to Section 44 to be admitted as a solicitor and who satisfies the Society that he or she is a fit and proper person to be admitted as a solicitor shall, as provided for in subsection (3) of Section 44, be required, before being so admitted, to attend such course or courses of education or training (or both) and pass such examination or examinations as more particularly provided for in Regulation 5.

Required courses and examinations

5. (a) Subject to Regulation 7, the course or courses of education or training (or both) which an applicant shall be required to attend shall be as designated by the Education Committee after consideration of the previous professional education or training (or both) of the applicant as a person qualified to practise in a corresponding profession and may include the requirement to attend a specified course or courses comprising all or part of the PPC I or the PPC II (or both) as provided for in the Education Regulations.
- (b) Subject to Regulation 7, an applicant shall be required to sit and pass such examination or examinations as designated by the Education Committee after consideration of the previous professional examinations passed by the applicant as a person qualified to practise in a corresponding profession and may include sitting and passing one or more or all of the individual examinations comprising the Final Examination — First Part, the Final Examination — Second Part and/or the Final Examination — Third Part as provided for in the Education Regulations and/or one or more or all of the individual examinations comprising the Qualified Lawyers Transfer Test.

Entitlement to be admitted as a solicitor

6. An applicant who complies with the requirements of Regulation 4 and Regulation 5 shall be entitled to be admitted as a solicitor.

Long-standing member of a corresponding profession

7. Notwithstanding the provisions of Regulations 4 and 5, an applicant who at the time of making application to the Society has engaged in practice in the jurisdiction of a corresponding profession full-time for a minimum period of five years may be considered by the Education Committee to be a person who, in order to be entitled to be admitted as a solicitor, should not be required to attend a course or courses of education or training (or both) or to sit and pass an examination or examinations other than all or such part of the Qualified Lawyers Transfer Test as may be designated by the Education Committee.

Modification of requirements of Regulations in exceptional circumstances

8. Subject to the provisions of the Solicitors Acts 1954 to 2008, the Education Committee may, having regard to the circumstances and subject to such conditions as it deems appropriate, modify any requirement or provision of these Regulations.

Signed on behalf of the Law Society of Ireland pursuant to Section 79
of the Solicitors Act, 1954.
29th January 2010.

GERARD J. DOHERTY,
President of the Law Society of Ireland.

**Schedule
within
referred to**

Text of Section 44 (as substituted by section 52 of the (Solicitors (Amendment) Act 1994) of the Solicitors Act 1954

Exemptions (reciprocal provisions) (section 44 of Principal Act).

52. The Principal Act is hereby amended by the substitution of the following section for section 44:

“Exemptions (reciprocal provisions).

44. (1) In this section ‘corresponding profession’ means a profession in another jurisdiction, other than the jurisdiction of a Member State of the European Communities, which in the opinion of the Society corresponds substantially to the profession of solicitor.

(2) This section applies to a person who—

- (a) is qualified to practise in a corresponding profession,
- (b) has applied to the Society to be admitted as a solicitor or who has been admitted as a solicitor under subsection (5) of this section having so applied, and
- (c) has satisfied the Society that he is a fit and proper person to be admitted as a solicitor.

(3) Subject to subsections (4) and (6) of this section, the following provisions shall have effect in relation to a person to whom this section applies:

- (a) he shall not be required to become bound under indentures of apprenticeship;
- (b) he shall not be required to comply with the provisions of section 40(3) of this Act;
- (c) he shall be required to have practised his profession in the jurisdiction in which he is qualified to practise for such minimum period as may be prescribed;
- (d) he shall attend such course or courses of education or training (or both) and pass such examination or examinations as may be prescribed;
- (e) he shall not, for such period as may be prescribed (not to exceed three years) following the date of his admission as a solicitor (during which period he shall have worked full-time in the provision of legal services) commence to carry on practise—

(i) as a sole practitioner, or

(ii) as a partner with another practising solicitor or other practising solicitors unless that other practising solicitor or one of such other practising solicitors has been engaged full-time in the provision of legal services for a period of not less than three years at the time of such commencement;

(f) he shall, during the period referred to in paragraph (e) of this subsection, be required to attend such courses of further education or training (or both) as may be prescribed.

(4) The Society may waive in the prescribed manner, in whole or in part, any one or more of the provisions of paragraphs (c), (d), (e) or (f) of subsection (3) of this section in relation to any prescribed category of person to whom this section applies.

(5) A person to whom this section applies who has complied with the provisions of paragraphs (c) and (d) of subsection (3) of this section (insofar as they have not been waived in whole or in part under subsection (4) of this section) shall be entitled to be admitted as a solicitor.

(6) The Minister may by order appoint a day or days for the coming into operation of this section in relation to a corresponding profession in any jurisdiction being a day or days on which he is satisfied that reciprocal provisions will be in operation in that jurisdiction in respect of solicitors whose names are on the roll and he may revoke an order so made if such reciprocal provisions cease to apply.”.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation).

The principal purpose of this instrument is to provide for:

- the requirements to be fulfilled by a person qualified to practise in a corresponding profession, the subject of an Order of the Minister for Justice, Equality and Law Reform made under section 44 (as substituted by section 52 of the Solicitors (Amendment) Act 1994) of the Solicitors Act 1954, in order to be admitted as an Irish solicitor.

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