

ADMISSION AS SOLICITOR (SCOTLAND) REGULATIONS 2011

Regulations dated 5 August 2011, made on behalf of the Council of the Law Society of Scotland by the Regulatory Committee formed in accordance with section 3B(1) of the Solicitors (Scotland) Act 1980 and with the concurrence of the Lord President of the Court of Session in terms of section 5 of the said Act.

PART 1

INTRODUCTORY

Title and commencement

1. These Regulations may be cited as the Admission as Solicitor (Scotland) Regulations 2011 and shall come into operation on 1 September 2011.

Interpretation

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

"Accreditation Procedure" means the procedure whereby the Council approves (i) the courses offered by Universities for the Foundation Programme and (ii) the courses offered by Universities, and other institutions, for PEAT 1;

"Accredited" means approved in terms of the Accreditation Procedure;

"the Act" means the Solicitors (Scotland) Act 1980;

"Authorisation Procedure" means the procedure whereby the Council approves a provider of TCPD;

"Authorised" means approved in terms of the Authorisation Procedure;

"Certificate of Fitness" means a certificate issued by the Council 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;

"degree" means a degree, other than an honorary degree, awarded by a University;

"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 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 to the effect that the person to whom the certificate applies has fulfilled the applicable conditions and requirements prescribed in these Regulations to entitle him to enter into a standard training contract or a non-PEAT 1 training contract;

"Examiner" means an examiner appointed under regulation 20;

"Foundation Programme" means the academic learning stage of professional legal education and training at degree or degree-equivalent level;

"Foundation Programme Qualification" means

- (a) the degree of Bachelor of Laws or other Foundation Programme qualification awarded by a University, or jointly by any University and any other University, that is from time to time Accredited in respect of such degree or other Foundation Programme qualification; or
- (b) the Society's examinations;

"incorporated practice" has the meaning given in section 34(1A)(c) of the Act;

"intransit" means a person seeking to become a solicitor in Scotland;

"licensed provider" means licensed legal services provider construed in accordance with Part 2 of the Legal Services (Scotland) Act 2010;

"multi-national practice" has the meaning given in section 65(1) of the Act;

"non-PEAT 1 training contract" means a training contract entered into between a training solicitor and an intransit who is exempt from obtaining a PEAT 1 Qualification and who holds an Entrance Certificate;

"PEAT" means professional legal education and training comprising PEAT 1 and PEAT 2;

"PEAT 1" means the vocational learning stage of professional legal education and training;

"PEAT 1 Qualification" means the Diploma in Legal Practice or other PEAT 1 qualification awarded by a University or other institution, or jointly by any University or other institution and any other University or other institution, that is from time to time Accredited in respect of such Diploma or other PEAT 1 qualification;

"PEAT 2" means the work-based learning stage of professional legal education and training;

"PEAT 2 Outcomes" means such outcomes as shall be prescribed by the Council from time to time under the core headings of professionalism, professional communication, professional ethics and standards and business, commercial and practice awareness;

"practice unit" means (i) a sole practitioner, (ii) a firm of regulated persons, (iii) an incorporated practice, (iv) a multi-national practice, (v) a licensed provider, (vi) a solicitor in employment, otherwise than in private practice, being the sole solicitor within the employing organisation or (vii) two or more solicitors in employment, otherwise than in private practice, within the same employing organisation;

"practising certificate" means the certificate referred to in section 4 of the Act;

"pre-PEAT 1 training contract" means a training contract entered into between a training solicitor and an inrant who is qualified under the provisions of regulation 11 and who holds a Preliminary Entrance Certificate;

"Preliminary Entrance Certificate" means a certificate issued by the Council to the effect that the person to whom the certificate applies has fulfilled the applicable conditions and requirements prescribed in these Regulations to entitle him to enter into a pre-PEAT 1 training contract;

"principal" means a solicitor who is a sole practitioner or is a partner in a firm of regulated persons or a licensed provider or a multi-national practice or is a director of an incorporated practice or multi-national practice or licensed provider which is a company or is a member of an incorporated practice or multi-national practice or licensed provider which is a limited liability partnership;

"registered European lawyer" has the meaning given in section 65(1) of the Act;

"registered foreign lawyer" has the meaning given in section 65(1) of the Act;

"regulated person" means a solicitor, a registered European lawyer, a registered foreign lawyer and/or a practice unit;

"required TCPD" means, in relation to (i) a standard training contract, sixty hours over the term of that contract of which a minimum of forty hours shall be provided by an Authorised provider of TCPD, (ii) a standard training contract as specified in regulation 33, thirty hours over the term of that contract, of which a minimum of twenty hours shall be provided by an Authorised provider of TCPD, and (iii) a non-PEAT 1 training contract, such number of hours as shall be prescribed by the Council from time to time;

"the 2001 Regulations" means the Admission as Solicitor (Scotland) Regulations 2001;

"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 Directive 2005/36/EC of the European Parliament and Council;

"the Secretary" means the Secretary of the Society or any person authorised by the Council to act on behalf of the Secretary for the purposes of any of these Regulations;

"the Society" means the Law Society of Scotland;

"the Society's examinations" means the examinations set under regulation 22(1);

"solicitor" means any person enrolled as a solicitor in terms of the Act;

"standard training contract" means a training contract entered into between a training solicitor and an inrant who has obtained a PEAT 1 Qualification and who holds an Entrance Certificate;

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

"TCPD" means continuing professional development training for trainees;

"training contract" means a non-PEAT 1 training contract, a standard training contract or a pre-PEAT 1 training contract;

"training supervisor" means a natural person who is a training solicitor, who has been in continuous practice as a solicitor for a period of at least three years immediately prior to designation and who is designated by a practice unit in terms of regulation 14(2);

"training solicitor" means

- (a) a solicitor who holds a practising certificate and who -
 - (i) is engaged as a principal in private practice; or
 - (ii) is in employment as a solicitor, otherwise than in private practice, and
- (b) a practice unit; and

"University" means:-

- (a) any university in the United Kingdom; or
- (b) any other university or institution of equivalent standing recognised by the Council for the purposes of these Regulations.

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

- (3) The headings to these Regulations do not form part of these Regulations.
- (4) Reference to a Part is to a Part of these Regulations.

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, Revocations and Savings

- 4.- (1) These Regulations shall apply to all intrants other than:-
 - (a) intrants who have, prior to the date of commencement of these Regulations, commenced or completed service under a post-Diploma training contract or a non-Diploma training contract (as those terms are defined in the 2001 Regulations), who shall proceed to admission under the 2001 Regulations;
 - (b) intrants eligible under the 1994 Regulations; and
 - (c) intrants eligible under the Directive.
- (2) Where these Regulations apply to an inrant, and that inrant has obtained an Entrance Certificate or a Preliminary Entrance Certificate under the 2001 Regulations, that Certificate shall be treated in all respects as satisfying the requirements as to Entrance Certificates or Preliminary Entrance Certificates of these Regulations and shall have effect as if it had been granted under these Regulations.
- (3) Where these Regulations apply to an inrant, and that inrant has obtained or obtains a Degree in Law or a Diploma or has completed or completes his period of service under a pre-Diploma training contract (as those terms are defined in the 2001 Regulations), that Degree in Law, Diploma or pre-Diploma training contract (as the case may be) shall be treated in all respects as satisfying the requirements of these Regulations in respect of a Foundation Programme Qualification, a PEAT 1 Qualification or a pre-PEAT 1 training contract (as the case may be) and shall have effect as if it had been obtained or completed under these Regulations.
- (4) A registered foreign lawyer shall be responsible, as a member of a multi-national practice, for the compliance of that multi-national practice with any obligation placed upon it by these Regulations as a training solicitor, including without limitation, the obligations placed upon it by regulations 13(1), 13(2), 14(2), 14(5), 17(1), 17(3), 17(5), 17(7), 18, 35, 36(3) and 37(2).

- (5) The Admission as Solicitor (Scotland) Regulations 1986 and the Admission as Solicitor (Scotland) Regulations 1991 are hereby revoked: provided that such revocation shall not -
- (a) affect the validity of any application or determination made, certificate granted or other thing done under those Regulations and such application, determination, certificate or thing shall have effect as if it were made, granted or done under these Regulations;
 - (b) cause the interruption of time periods nor affect any obligation to deliver any declaration, application or any other document, information or thing to the Council or the Society nor the rights of the Council or the Society against any person in respect of his failure to deliver such a declaration, application, document, information or thing; or
 - (c) affect the taking or continuation of any proceedings by, or the exercise or continued exercise of any power available to, the Society, the Council or any other person in respect of any act or thing done or omitted to be done under, any breach of, or any matter arising from, those Regulations.

PART 2

ENTRANCE QUALIFICATIONS AND TRAINING CONTRACTS

(A) Entrance Certificate

Issue of Entrance Certificate

- 5.- (1) An inrant may not enter into either a standard training contract or a non-PEAT 1 training contract unless he holds an Entrance Certificate. An inrant shall apply for an Entrance Certificate not less than four weeks prior to the proposed date of commencement of service under a standard training contract or a non-PEAT 1 training contract.
- (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 Foundation Programme Qualification or a certificate that he is entitled to graduate with such a Qualification notwithstanding that he has not so graduated; (ii) he has served for a period of three years under a pre-PEAT 1 training contract and has passed or obtained exemption from the Society's examinations; (iii) he is an inrant to whom the provisions of regulation 28 apply and who has passed such of the Society's examinations as the Council shall have determined within such time period as it may have determined in terms of that regulation; or (iv) he is an inrant to whom the provisions of regulations 30, 32 or 33 apply; and

- (c) unless exempt in terms of regulations 29, 30 or 32, he has obtained a PEAT 1 Qualification.

Lapse of Entrance Certificate

6. An inrant's Entrance Certificate shall automatically lapse if he does not enter into either a standard training contract or a non-PEAT 1 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 on cause shown.

(B) Standard training contract

Service under a standard training contract

- 7.- (1) Subject to regulations 29, 30, 31 and 32, it shall be a requirement for admission as a solicitor in Scotland that an inrant shall serve under a standard training contract entered into with a training solicitor.
- (2) Subject to regulation 33, the period of training under a standard training contract shall comprise two years of full-time training, provided always that an inrant may, at any time, with the prior 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 standard training contract shall equate to two years of full-time training.
- (3) Every standard training contract shall be in, or as nearly as may be in, such form as the Council may from time to time prescribe.

Commencement of standard training contract

- 8.- (1) In the case of an inrant who is required to hold a PEAT 1 Qualification, the commencement of his standard training contract shall be within a period of two years of the date of 1 January first occurring after the date when the inrant became entitled to the award of the PEAT 1 Qualification 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) 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 PEAT 1 Qualification and also to the endeavours of the inrant to obtain a standard training contract.

Service elsewhere in Scotland and in other jurisdictions

- 9.- (1) Subject to the consent of the employer and the prior consent in writing of the Council in each case, a trainee under a standard 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 other 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 the standard training contract.

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

(C) Pre-PEAT 1 training contract

Service under a pre-PEAT 1 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) shall be required to enter into a pre-PEAT 1 training contract with a training solicitor.
- (2) The period of training under a pre-PEAT 1 training contract shall comprise three years of full-time training, provided always that an inrant may, at any time, with the prior 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-PEAT 1 training contract shall equate to three years of full-time training.
- (3) Every pre-PEAT 1 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 18(1), 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 prior consent of the employer, an inrant who is a party to a pre-PEAT 1 training contract may be permitted to attend, during office hours, classes in law at a University or other institution.
- (5) Subject to the consent of the employer and the prior consent in writing of the Council in each case, a trainee under a pre-PEAT 1 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 other 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 the pre-PEAT 1 training contract.

- (6) A trainee may, subject to the consent of the employer, serve under a pre-PEAT 1 training contract at his employer's place of business outwith Scotland, but such a trainee shall not, during the period of his pre-PEAT 1 training contract and without the prior consent in writing of the Council, spend a period or periods exceeding in the aggregate six months at any such place of business outwith Scotland.

(D) Preliminary Entrance Certificate

Issue of Preliminary Entrance Certificate

- 11.- (1) An inrant may not enter into a pre-PEAT 1 training contract unless he holds a Preliminary Entrance Certificate. An inrant shall apply for a Preliminary Entrance Certificate not less than four weeks prior to the proposed date of commencement of service under a pre-PEAT 1 training contract.
- (2) An inrant shall be entitled to a Preliminary Entrance Certificate if he satisfies the Council that he:-
- (a) is a fit and proper person to be a solicitor; and
- (b) has attained such educational qualifications as shall be prescribed from time to time by the Council.
- (3) The Council may, in the case of an inrant who satisfies the Council, having regard to evidence of academic attainment and to any experience of legal work, as to his fitness to enter into a pre-PEAT 1 training contract, grant to such an inrant a Preliminary Entrance Certificate without requiring compliance with regulation 11(2)(b).

- (4) An inrant's Preliminary Entrance Certificate shall automatically lapse if he does not enter into a pre-PEAT 1 training contract within one year of the date of said Preliminary Entrance Certificate or such extended period as may be permitted by the Council in any particular case on cause shown.

(E) Non-PEAT 1 training contract

Service under a non-PEAT 1 training contract

- 12.- (1) An inrant who is exempt from obtaining a PEAT 1 Qualification under regulations 29, 30 or 32 shall serve under a non-PEAT 1 training contract entered into with a training solicitor.
- (2) A non-PEAT 1 training contract shall be in similar terms to a standard training contract and shall be subject to the same conditions and requirements as are specified in these Regulations in relation to standard training contracts including, for the avoidance of doubt, regulation 9; provided that the period of time which an inrant is required to serve under a non-PEAT 1 training contract shall be as specified in regulations 29, 30 or 32, as the case may be.

(F) General provisions affecting training contracts

Provisions as to training solicitors and intrants

- 13.- (1) A training solicitor shall not, without the prior 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 as a solicitor for a period of at least three years immediately prior to his employing the trainee or, where the training solicitor is a practice unit, at least one of the principals thereof has been in such continuous practice.
- (2) The total number of intrants employed at any time under training contracts shall not, except with the prior consent in writing 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 practice unit (other than a sole practitioner, a sole solicitor in employment otherwise than in private practice, or two or more solicitors in employment otherwise than in private practice), twice the number of principals within the practice unit who are (a) natural persons and (b) solicitors;
- (c) in the case of a practice unit (as specified in paragraph (b)) 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 practice unit as a whole, to the maximum specified by paragraph (b);

- (d) in the case of a solicitor in employment otherwise than in private practice, twice the number of solicitors employed by the solicitor's employer who are entitled, in terms of regulation 13(1), to employ a trainee without the prior 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), to the maximum specified by, as the case may be, paragraph (a) or (b), 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 otherwise than in private practice, 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 within that office but subject always, in respect of the solicitor's employer as a whole, to the maxima specified by paragraph (d); and
- (f) in the case of any other solicitor, such number as the Council may in each case determine.

Training supervisors

- 14.- (1) By each date set out in regulation 14(2) a practice unit which is a training solicitor and which employs or intends to employ trainees, or which has training solicitors who employ or intend to employ trainees within the practice, shall designate a training supervisor.
- (2) A practice unit shall designate a training supervisor, and shall notify the Council of the identity of the person so designated:-
- (a) not later than 28 days after the date of commencement of these Regulations where, at such date, it employs trainees, or
 - (b) not later than 28 days after the commencement of service under a training contract by a trainee where, at the date of commencement of these Regulations, it does not employ trainees.
- (3) A practice unit which, at any date referred to in regulation 14(2), is a solicitor who is a sole practitioner or a solicitor in employment, otherwise than in private practice, being the sole solicitor within the employing organisation shall be deemed, provided that solicitor has been in continuous practice as a solicitor for a period of at least three years immediately prior to designation, to have designated that solicitor as its training supervisor at that date.
- (4) A training supervisor shall have the following responsibilities:-
- (a) acting as a named point of contact for the Council with the practice unit in respect of trainees in that practice unit,

- (b) the supervision of trainees in that practice unit, and
 - (c) overseeing (i) the completion by trainees in that practice unit of the required TCPD and (ii) the assessment of achievement of the PEAT 2 Outcomes by the trainees in that practice unit.
- (5) A practice unit shall notify the Council of any change in the identity of a person designated as a training supervisor in terms of regulation 14(2) not later than 28 days after the date of such change.
 - (6) The Council may publish, and may from time to time amend, guidance in relation to the training of training supervisors. The Council may publish such guidance both in relation to training upon designation as training supervisor and training on an ongoing basis.

Registration of training contracts

- 15.-
- (1) For the purposes of these Regulations, the Council shall establish and maintain a register of pre-PEAT 1 training contracts, a register of standard training contracts and a register of non-PEAT 1 training contracts.
 - (2) Every training contract shall be produced by the trainee 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 trainee.
 - (3) When a trainee produces his training contract to the Council, he shall pay such administration fee as the Council may from time to time prescribe.
 - (4) If a trainee's training contract and the prescribed administration fee in terms of regulation 15(3) are not produced 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 production of the training contract together with the prescribed administration fee to the Council or such earlier date as the Council may determine.
 - (5) Subject to compliance with the requirements of regulation 18 as to the approval or consent of the Council, every assignation of a training contract shall, together with the relevant supporting documents and the prescribed administration fee in terms of regulation 15(6), be produced by the trainee to the Council for registration within six weeks from the date of assignation and where the assignation, together with the relevant supporting documents and the prescribed administration fee, has not been produced within the 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) When a trainee produces an assignation of his training contract to the Council, he shall pay such fee as the Council may from time to time prescribe.

Service under training contracts

- 16.- (1) The employer and the trainee shall each comply with their respective obligations under any training contract.
- (2) For the purposes of these Regulations but subject to regulations 7, 9, 10 and 12:-
- (a) during the term of his training contract a trainee shall not, during office hours, engage in any other gainful employment or otherwise absent himself from his employer's business without the consent of his employer and the prior consent in writing of the Council;
- (b) service by a trainee under a training contract shall be continuous, provided that 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 six months in aggregate; and
- (c) service by a trainee under a training contract shall be in Scotland.

Intervention in training contracts

- 17.- (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 trainee, his employer, any solicitor, registered foreign lawyer, registered European lawyer and any other intransigent and to call from and recover such evidence and documents from any such person as the Council thinks proper.
- (2) If the Council, after due 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 17(2), 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 the 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.

- (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 standard training contract or non-PEAT 1 training contract if called upon to do so by the Council.
- (6) An inrant's Entrance Certificate or Preliminary 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 training solicitor and the training solicitor, notwithstanding that he satisfies the provisions of regulation 13(1), shall not thereafter engage or retain the services of any trainee without the consent in writing of the Council.

Consent to assignation of training contract

- 18.- (1) An employer under a pre-PEAT 1 training contract shall, if requested by his trainee or if called upon to do so by the Council, assign such pre-PEAT 1 training contract to another training solicitor, approved in writing by the Council, to enable the trainee either to complete his training in the three areas of practice described in (a), (b) or (c)(i) of regulation 10(3) 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 prior consent in writing of the Council, and may not be assigned during the final three months of its term.

- (3) If a standard training contract or non-PEAT 1 training contract is assigned in terms of regulation 18(2), the previous employer under that training contract shall submit to the Council such documentation and other evidence as is required to enable his former trainee under that training contract to apply for a Certificate of Fitness, including an employer's declaration in terms of regulation 36(1)(a), 36(2)(a) or 37(1)(a) (as the case may be), provided that the previous employer shall not require to submit such documentation and other evidence if the former trainee applies for a Certificate of Fitness more than three months after the date of assignation of the training contract.

(G) PEAT 2 Outcomes/required TCPD

Requirement

19. For an inrant to whom these Regulations apply it shall, subject to regulation 31, be a requirement for admission as a solicitor in Scotland that he shall have achieved the PEAT 2 Outcomes and completed the required TCPD or given the undertaking referred to in regulation 38(2).

PART 3

SOCIETY'S EXAMINATIONS

Appointment of Examiners

- 20.- (1) The Council shall from time to time nominate and appoint suitably qualified persons to be Examiners and conduct examinations in accordance with this Part, 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

21. An inrant shall not be entitled to present himself for any of the Society's examinations unless:-
- (a) he holds a Preliminary Entrance Certificate and is serving under a pre-PEAT 1 training contract or, that contract having terminated, has already presented himself for one or more of the Society's examinations;
- (b) he holds, or is entitled to graduate with, a Foundation Programme Qualification which does not include the achievement of outcomes equivalent to passes in all the subjects in the syllabus prescribed by regulation 22(1); or

- (c) the Council has determined that he may pursuant to regulation 28.

Examinations

- 22.- (1) The Society's examinations shall consist of examinations in the laws of Scotland in accordance with a syllabus prescribed by the Council from time to time.
- (2) An inrant 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 prior consent in writing of the Council following on a recommendation by the Examiners, which consent may be given subject to such conditions as the Council may determine.

Award of distinction

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

Conduct, date and places of examination

- 24.- (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 four weeks' notice in writing of their intention to the Secretary, provided that the Examiners may at their discretion allow an inrant 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 Secretary of any permanent change of address.

Fees

25. A candidate shall tender with his notice of intention to sit any examination such fee as may be prescribed by the Council from time to time.

PART 4
EXEMPTIONS

Faculty of Advocates' examinees

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

Corresponding passes

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

Further exemptions for intrants from elsewhere in UK

28. Where the terms of regulation 31 or 32 do not apply, the Council may, on application by an inrant 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 inrant shall be required to pass for the purposes of regulation 5(2)(b). Subject always to such conditions as the Council may determine, including conditions as to the period of time during which the examinations must be passed, such an inrant shall be entitled to present himself for the Society's examinations in accordance with regulation 24.

Exemptions from PEAT 1 Qualification

29. An inrant who seeks to obtain an Entrance Certificate and who satisfies the Council that there are exceptional circumstances which justify his being exempted from obtaining a PEAT 1 Qualification may be granted an Entrance Certificate on such conditions, including the passing of examinations, as the Council may in its discretion prescribe; provided that an inrant who receives such exemption shall be required to achieve the PEAT 2 Outcomes and complete the required TCPD and to serve for a period of not less than three years under a non-PEAT 1 training contract.

PART 5

REQUIREMENTS FOR SPECIAL INTRANTS

Scottish Advocates

30. Notwithstanding any other provision of these Regulations, but without prejudice to regulation 41, an inrant 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-PEAT 1 training,
- (b) obtaining a Foundation Programme Qualification, and
- (c) obtaining a PEAT 1 Qualification,

but he shall be required to achieve the PEAT 2 Outcomes and complete the required TCPD and to serve for a period of six months under a non-PEAT 1 training contract prior to applying for admission in terms of regulation 34.

English/Welsh and Northern Irish solicitors

31. Notwithstanding any other provision of these Regulations, but without prejudice to regulation 41, an inrant 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) obtaining a Foundation Programme Qualification,
- (b) obtaining a PEAT 1 Qualification,
- (c) any period of training, and
- (d) achieving the PEAT 2 Outcomes and completing the required TCPD,

but he shall be required to pass an intra-UK transfer test comprising examinations in conveyancing, trusts and succession, Scots criminal law, civil and criminal evidence and procedure and (unless admitted as such a solicitor prior to 1 January 1992) European Union 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.

English/Welsh and Northern Irish barristers

32. Notwithstanding any other provision of these Regulations, but without prejudice to regulation 41, an inrant who is a member of the Bar in England and Wales or Northern Ireland, has had five years of recent active practice of law in the United Kingdom 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-PEAT 1 training,
- (b) obtaining a Foundation Programme Qualification, and
- (c) obtaining a PEAT 1 Qualification,

but he shall be required to pass an intra-UK transfer test comprising examinations in conveyancing, trusts and succession, Scots criminal law, civil and criminal evidence and

procedure and (unless called to the Bar prior to 1 January 1992) European Union law and institutions or such other examinations as may be prescribed by the Council from time to time and to achieve the PEAT 2 Outcomes and complete the required TCPD and to serve for a period of six months under a non-PEAT 1 training contract, or such longer period as the Council may in its discretion determine, prior to applying for admission in terms of regulation 34.

Non UK/EU/EEA lawyers

33. Notwithstanding any other provision of these Regulations, but without prejudice to regulation 41, an inrant who has been admitted as a practising lawyer in a jurisdiction outwith the United Kingdom and to whom the 1994 Regulations or the Directive do not apply, shall be exempt from service under a pre-PEAT 1 training contract, but 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 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, to pass the Society's examinations, obtain a PEAT 1 Qualification and to achieve the PEAT 2 Outcomes and complete the required TCPD and to serve for a period of one year under a standard training contract prior to applying for admission in terms of regulation 34.

PART 6

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 holds, or is entitled to graduate with, or is exempt under these Regulations from obtaining, a Foundation Programme Qualification; and
 - (2) he holds or is exempt under these Regulations from obtaining a PEAT 1 Qualification; and
 - (3) (a) he has completed the required TCPD or is exempt therefrom; or
 - (b) he has complied with regulation 34(4)(a) or (c); and
 - (4) (a) he has completed not less than one year of the two-year period of service under a standard training contract and has submitted to the Council:-
 - (i) a declaration in terms of regulation 36(1)(a);

- (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 obligations under that training contract;
 - (iii) an undertaking in terms of regulation 38(1); and
 - (iv) an undertaking in terms of regulation 38(2); or
- (b) he has completed the full period of service under a standard training contract and has submitted to the Council a declaration in terms of regulation 37; or
 - (c) he has completed not less than two years of the full period of service under a non-PEAT 1 training contract pursuant to regulation 29 and he has submitted to the Council a declaration in terms of regulation 36(2)(a) and the undertakings referred to in regulation 34(4)(a)(ii) to (iv); or
 - (d) he has completed the full period of service under a non-PEAT 1 training contract pursuant to regulations 29, 30 or 32 and has submitted to the Council a declaration in terms of regulation 37; or
 - (e) he has completed the full period of service under a standard training contract pursuant to regulation 33 and has submitted to the Council a declaration in terms of regulation 37; 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) while still a party to a standard training contract or a non-PEAT 1 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) and otherwise. For these purposes the Council shall be entitled to require the evidence of the inrant, his employer, any solicitor, registered foreign lawyer, registered European lawyer 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 service under a standard training contract or two years of service under a non-PEAT 1 training contract - employer's declaration

- 36.- (1) In the case of an inrant to whom regulation 34(4)(a) applies –
- (a) 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 standard training contract, the inrant

has fulfilled his obligations under that contract and has undertaken a minimum of twenty hours of TCPD and is, in the opinion of his employer, a fit and proper person to be admitted as a solicitor in Scotland; and

- (b) on completion of his full period of service under his standard training contract, the inrant shall submit to the Council a declaration by his employer in such form as the Council may prescribe certifying that the inrant has fulfilled his obligations under that contract and has achieved the PEAT 2 Outcomes and that, in the employer's 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) applies –

- (a) 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-PEAT 1 training contract, the inrant has fulfilled his obligations under that contract and has undertaken a minimum of thirty hours of TCPD and is, in the opinion of his employer, a fit and proper person to be admitted as a solicitor in Scotland; and

- (b) on completion of his full period of service under his non-PEAT 1 training contract, the inrant shall submit to the Council a declaration by his employer in such form as the Council may prescribe certifying that the inrant has fulfilled his obligations under that contract and has achieved the PEAT 2 Outcomes and that, in the employer's 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 the required period of service under a standard training contract or the required period of service under a non-PEAT 1 training contract - employer's declaration

- 37.- (1) In the case of an inrant to whom regulation 34(4)(b), (d) or (e) applies, the Council shall not grant a Certificate of Fitness to him unless –

- (a) he submits to the Council a declaration by his employer in such form as the Council may prescribe certifying that the inrant has fulfilled his obligations under the training contract and has achieved the PEAT 2 Outcomes and is, in the opinion of his employer, a fit and proper person to be admitted as a solicitor in Scotland; and
- (b) he has completed the required TCPD,

provided always that, in any case where the employer of an inrant has declined to provide a 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 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.

Undertakings by certain intrants

- 38.- (1) In the case of an inrant to whom regulation 34(4)(a) or (c) 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 practice unit in Scotland. Such undertaking shall only bind the inrant until the first to occur of -
- (a) the date of grant of an employer's declaration pursuant to regulation 36(1)(b) or (2)(b);
 - (b) the date the requirement for such a declaration is waived by the Council pursuant to those regulations; and
 - (c) the date of lapse of the inrant's practising certificate current at the last day of his service under his training contract.
- (2) In the case of an inrant to whom regulation 34(4)(a) or (c) applies, the inrant shall, before applying for a Certificate of Fitness, 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 required TCPD, he will not practise as a solicitor after that last day.
- (3) An undertaking given in terms of regulation 38(2) shall only bind the inrant until the date the inrant has completed the required TCPD.

Application 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 for such a Certificate, 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 determine.

PART 7

GENERAL

Right of Appeal

- 40.- (1) Any person who is the subject of a decision by the Council under these Regulations and who is aggrieved by that decision may, within 21 days of written intimation of that decision, appeal to the Council.
- (2) Any such appeal shall be in writing and shall set out, in sufficient detail, the grounds of appeal and the remedy sought.
- (3) Any such appeal will be considered by the Council as soon as reasonably practicable and a written determination issued, within 21 days of consideration of the appeal by the Council, to the person who intimated the appeal.
- (4) In considering any such appeal, the Council will ensure that no person who was party to the decision appealed against shall participate in the determination of the appeal. The Council may take evidence, written or oral, from any person in its determination of the appeal.
- (5) Any person who is the subject of a determination by the Council on an appeal and who is aggrieved by that determination may, within 21 days of written intimation of the determination, 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.
- (2) The Council may, where the circumstances of a particular intransigent are exceptional, waive any provision of these Regulations applying to such intransigent, 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 intransigent are exceptional, determine that any of the exemptions provided by regulations 30, 31, 32 and 33 shall not apply to such intransigent.
- (4) The Council may, where the circumstances of a particular intransigent are exceptional, permit such intransigent to depart from the terms of any undertaking given by him pursuant to regulation 38.

Photograph

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