STATUTORY INSTRUMENTS

2008 No. 81

LEGAL PROFESSION, ENGLAND AND WALES

LEGAL PROFESSION, NORTHERN IRELAND

The European Communities (Lawyer's Practice and Services of Lawyers) (Amendment) Regulations 2008

Made - - - -	*15th January 2008*
Laid before Parliament	*16th January 2008*
Coming into force - -	*11th February 2008*

The Lord Chancellor is a Minister designated(**a**) for the purposes of section 2(2) of the European Communities Act 1972(**b**), in relation to matters relating to the practice of the profession of lawyer.

The Lord Chancellor makes the following Regulations in exercise of his powers conferred under section 2(2) of, as read with paragraph 1A of Schedule 2(**c**) to, the European Communities Act 1972.

These Regulations make provision for a purpose mentioned in section 2(2) of the European Communities Act 1972 and it appears to the Lord Chancellor that it is expedient for the references to the following Directives to be construed as references to those Directives as amended from time to time. Those Directives are: Council Directive 77/249/EEC(**d**) of the European Parliament and the Council of 22nd March 1977 to facilitate the effective exercise by lawyers of freedom to provide services; and Council Directive 98/5/EC(**e**) of the European Parliament and the Council of 16th February 1998 to facilitate the practice of the profession of lawyer on a permanent basis in a Member State other than that in which the qualification was obtained.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the European Communities (Lawyer's Practice and Services of Lawyers) (Amendment) Regulations 2008 and come into force on 11th February 2008.

(2) These Regulations extend to England and Wales and Northern Ireland.

(**a**) S.I. 2000/738.
(**b**) 1972 c.68; Section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c.51) and modified by paragraph 15(3) of Schedule 8 to the Scotland Act 1998 (c.46).
(**c**) Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 (c.51).
(**d**) OJ No L 078, 2603.77, p.0017 – 0018 as amended by Council Directive 2006/100/EC.
(**e**) OJ No L77, 14.03.98, p.36 - 43 as amended by Council Directive 2006/100/EC.

Amendments to the European Communities (Services of Lawyers) Order 1978

2. In article 2 of the European Communities (Services of Lawyers) Order 1978(**a**), in the table—

(a) after the entry for Belgium insert—

"Bulgaria Адвокат"; and

(b) after the entry for Portugal insert—

"Romania Avocat".

Amendments to the European Communities (Lawyer's Practice) Regulations 2000

3. In regulation 2(4) of the European Communities (Lawyer's Practice) Regulations 2000(**b**), in the table, after the entry relating to Slovakia(**c**) insert—

"Bulgaria Адвокат

Romania Avocat".

Transitional Provision

4.—(1) In this regulation—

(a) "the 2000 Regulations" means the European Communities (Lawyer's Practice) Regulations 2000; and

(b) "relevant lawyer" means a European lawyer (as defined in the 2000 Regulations as amended by these Regulations) who satisfies either or both of the conditions set out in paragraph (2).

(2) Those conditions are—

(a) that the person is a national of either Bulgaria or Romania;

(b) that the person is authorised in either of those States to pursue professional activities under any of the professional titles appearing in regulation 2(4) of the 2000 Regulations as it is amended by these Regulations, opposite the name of that State.

(3) Regulation 1(2) to (5) of the 2000 Regulations shall apply to a relevant lawyer with the following modifications—

(a) for "22nd May 2000", where it occurs in paragraph (2), substitute "11th February 2008";

(b) for "21st November 2000", wherever it occurs, substitute "10th August 2008"; and

(c) for "22nd November 2000", wherever it occurs, substitute "11th August 2008".

(4) Regulation 21(1)(b) and (2) and regulation 22 of the 2000 Regulations shall apply to a relevant lawyer only from 11th August 2008.

Signed by the authority of the Lord Chancellor

Bridget Prentice
Parliamentary Under Secretary of State
Ministry of Justice

15th January 2008

(**a**) S.I. 1978/1910 as amended by S.I. 1980/1964, 2004/1117, S.S.I. 2004/186, S.S.I. 2007/359.
(**b**) S.I. 2000/1119 amended by S.I. 2001/644, 2003/435, 2004/1628, 2007/358.
(**c**) That entry was inserted by European Communities (Lawyer's Practice) (Amendment) Regulations 2004, S.I. 2004/1628, regulation 3.

EXPLANATORY NOTE

(This note is not part of the regulations)

The amendments made in these Regulations are made in consequence of the Treaty concerning the accession of Bulgaria and Romania to the European Union, signed at Luxembourg on 25th April 2005 (OJ No L 157, 21.6.2005, p11). These Regulations implement the adaptations to Article 1(2) of the Services Directive made by Council Directive 2006/100/EC (OJ No L 363, 20.12.2006, p 141).

Regulation 2 extends the definition of "European Lawyer" in the European Communities (Services of Lawyers) Order 1978 (S.I. 1978/1910) ("the 1978 Order") to refer to Bulgaria and Romania and the national designations of lawyers in those countries. This confers certain rights to practise as a lawyer on lawyers who are nationals of, and lawyers professionally qualified in, either Bulgaria or Romania. The 1978 Order implemented Council Directive No. 77/249/EEC dated 22nd March 1977 to facilitate the effective exercise by lawyers of the freedom to provide services.

Regulation 3 extends the definition of "European lawyer" in the European Communities (Lawyer's Practice) Regulations 2000 (S.I. 2000/1119) (the "2000 Regulations) to refer to Bulgaria and Romania and the national designations of lawyers in those countries. This confers certain rights to practise on a permanent basis as a lawyer on those lawyers authorised to practice in Bulgaria or Romania, and lawyers who are nationals of either of those countries. The 2000 Regulations implemented Council Directive No. 98/5/EC, dated 16th February 1998 to facilitate the practice of the profession of a lawyer on a permanent basis in certain Member States other than the State in which the professional qualification was obtained.

Regulations 4 makes transitional provision as to the application of the 2000 Regulations to lawyers authorised to practice in, and who are nationals of, either Bulgaria or Romania.

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

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£3.00

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E1855 1/2008 181855T 19585