



Irish qualified solicitors based in the European Union seeking a practising certificate

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What does an Irish practising certificate entitle the holder to do?

An Irish practising certificate entitles a solicitor practising from an establishment in Ireland to provide legal services as defined by, and subject to the provisions of, the Solicitors Acts 1954 to 2015 and the rules and regulations made thereunder. A practising certificate issued by the Society does not permit practice outside of Ireland. Practising solicitors must have a physical presence in Ireland in order to practise in Ireland.

There is no provision of the Solicitors Acts 1954 to 2015 (or in any rules or regulations made thereunder) for Irish practising certificates to be used to provide legal services outside Ireland and within the EU save for the limited exception under the Services Directive.

The 2020 review of practising certificates

The Society conducted a review in 2020 which confirmed the Society's position that, under the Solicitors Acts 1954 to 2015 and the regulations implementing those statutes, a practising certificate only entitles a solicitor to practise in Ireland from an establishment in Ireland. The review also confirmed that a practising certificate can only be issued to a solicitor on that basis. Therefore, the Society will no longer issue practising certificates to Irish qualified solicitors based outside of Ireland.

The practice of issuing practising certificates to solicitors outside the jurisdiction may create the erroneous impression that the Society permits practice pursuant to the Irish practising certificate outside Ireland. It is clear that no such practice is permitted and, by adopting this approach, the Society will be making clear that such practice is not permitted.

Practising certificates will now only be issued to solicitors who practise from an establishment within Ireland which has a qualifying policy of professional indemnity insurance in place. Practising certificates will also be issued to in-house solicitors in Ireland who provide legal services to their non-solicitor employer only.

Can an Irish qualified solicitor based in Europe seek a practising certificate from the Society?

Irish qualified solicitors who wish to practise as a Registered European Lawyer ("REL") in another EU Member State will not be entitled to a practising certificate. Those solicitors may be issued with alternative certification attesting to their registration/enrolment as a solicitor instead of a practising certificate. Evidence of registration/enrolment is all that is required in order to register as an REL under the Establishment Directive (Directive 98/5/EC). There is a clear EU regulatory framework under the Establishment Directive and the Court of Justice of the European Union decision in *Eirinaios v Athinon* stated that only evidence of registration as a professional in the home Member State is required to register as an REL in a host Member State.

Therefore, an Irish qualified solicitor seeking to register as an REL in another EU Member State or seeking to maintain their registration does not require a practising certificate. This is because a certificate attesting to their registration/enrolment as a solicitor will suffice for the purposes of the Establishment Directive.

The above approach should not have any impact on the ability of Irish qualified solicitors who wish to register or to maintain their registration as an REL with a relevant bar in an EU Member State.