

**REGULATIONS
AS TO INTRANTS**



FACULTY OF ADVOCATES

July 2009 Edition

**REGULATIONS
AS TO INTRANTS**

31 July 1996

(As amended March 2004, December 2006 and March 2017)

FACULTY OF ADVOCATES

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INTRODUCTION

A candidate for admission to the Faculty is known as an "Intrant".

The Clerk of Faculty is the officer responsible for advising Intrants and prospective Intrants about the procedure and requirements for admission to the Faculty. All enquiries should be addressed to: -

The Clerk of Faculty
Advocates' Library
Parliament House
Edinburgh, EH1 1RF

Procedure for Admission of an Intrant

An Advocate is not only a member of the Faculty of Advocates but also a member of the College of Justice and an officer of the Court. The Procedure for admission of an Intrant is therefore subject in part to the control of the Court, and in part to the control of the Faculty. The stages in procedure are as follows: -

<i>Court</i>	<i>Faculty</i>
1. Petition to the Court	
2. Remit to the Faculty (Regulation 1) by the Court	
3.	Matriculation (Regulation 2)
4.	Examination in Legal Scholarship (Regulation 3)
5.	Professional Training (Regulation 4)
6.	Application for Admission (Regulation 6)
7.	Admission to membership of the Faculty (Regulation 6)
8. Declaration of Allegiance	
9. Admission by the Court to the public office of Advocate	

Presentation of the Petition is a purely formal procedure. The Petition of an Intrant will be presented to the Court through the Clerk of Faculty.

The remit to the Faculty by the Court follows automatically upon presentation of the Petition, and the prospective Intrant may then proceed to Matriculation. Before matriculating an Intrant must produce to the Clerk of Faculty a certificate of good character and provide references from two persons of standing in the community.

Professional Training. The period of training may, but need not, be undertaken before presentation of the Petition. Prospective Intrants are warned that, although the Faculty may be prepared to grant partial exemption from the prescribed period of training, solicitors may be reluctant to accept trainees for a period of less than 21 months. Prospective Intrants are also advised to enter into a training contract before starting their training in order that they may, if they so wish, enter the Solicitors' rather than the Advocates' branch of the profession. It is not essential, for the purpose of qualifying for admission to the Faculty, that this training should be undertaken in any particular part of Scotland; and it is not desirable that this training should be confined to work in connection with litigation.

Fees payable by Applicants or Intrans

1. A Court Fee of £300 is payable on the Petition.
2. The Fee for Matriculation is £150, but part of this fee may be refunded if the Intrans name is removed from the Roll before admission. Payment of the Matriculation Fee entitles the Intrans, subject to Regulation 14, to study in the Advocates' Library.

The Court and Matriculation fees are normally paid together when the Petition is presented through the Faculty.

3. Entry Money of £850 is payable immediately before admission, subject to the transitional provisions of Appendix F. This may, however, be paid by instalments of £250 per annum, totalling £1,000 over a period of 3 years, the first instalment being due on the date of admission to the Faculty. Entry money represents the Intrans capital contribution to the corporate facilities provided by the Faculty for its members, and should be compared with the capital outlay which other professional men and women have to make before setting up in practice. Annual Rates, graduated according to status and seniority, are levied after admission on all members of Faculty.
4. A fee of £150 plus VAT is charged for every examination paper which an Intrans sits in the Faculty examinations. The fee is payable on application. Refunds to candidates who cancel will be made at the discretion of the Treasurer.
5. A fee of £25 is payable by any person who: (a) seeks to matriculate as an Intrans under paragraph (1)(d)(ii) of Regulation 2; or (b) not being a matriculated Intrans, wishes to apply for an exemption other than an automatic exemption under Regulations 8, 9 and 10.

All cheques, etc., should be made payable to:- "The Faculty of Advocates".

REGULATIONS AS TO INTRANTS

General Regulations for Admission

1. The Petition

- (1) Every candidate for admission must first present a Petition to the Court, on a form provided by the Faculty, for admission to the public office of Advocate. The Court fee of £180 is due on the Petition.
- (2) The Court thereafter remits to the Faculty for matriculation of the candidate as an Intrans.
- (3) Not later than 28 days before presenting a Petition to the Court in terms of paragraph (1) of this Regulation, the candidate must intimate his intention to do so to the Clerk of Faculty.
- (4) Not later than 21 days before the intended date of presentation of a Petition to the Court by a candidate in terms of paragraph (1) of this Regulation, the Clerk of Faculty shall publish the intimation of the candidate's intention to present a Petition by posting a notice at the outer door of Parliament House, stating (a) the name and address of the candidate; (b) the date on which the candidate intends to present his petition; and (c) that any objection to the admission of the candidate to membership of the Faculty may be made by intimation in writing to the candidate personally and to the Clerk of Faculty.

2. Matriculation

- (1) Before any person may be matriculated as an Intrans, and subject to the provisions of Regulation 6(4), he must: -
 - (a) produce to the Clerk of Faculty a certificate in the form in Appendix D, subscribed by the applicant and disclosing: -
 - (i) any prior criminal convictions or outstanding criminal proceedings;
 - (ii) any complaints of professional misconduct or negligence which have been upheld against him or which are outstanding; and
 - (iii) whether he has ever been declared bankrupt, or sequestered or signed a Trust Deed for creditors, and the circumstances thereof.
 - (b) provide to the Clerk of Faculty the names of two persons of standing in the community (one or both of whom shall, if the Clerk so requires be members or officers of any professional body to which the Intrans formerly belonged) with knowledge of any matters disclosed in terms of subparagraph (a) hereof from whom references may be obtained regarding the fitness of the applicant to hold the public office of Advocate;

- (c) pay to the Faculty a Matriculation Fee of £150; and
- (d) subject to the transitional provisions of Appendix J
 - (i) produce to the Clerk of Faculty a Certificate from a Scottish University showing that he holds a Degree with Honours, Second Class (Division 2) or above, in Scottish Law at that University; or
 - (ii) produce to the Clerk of Faculty a Certificate from a Scottish University showing that he holds a Degree in Scottish Law at that University, together with a Certificate from a University in the United Kingdom showing that he holds a Degree with Honours, Second Class (Division 2) or above, in another subject at that University; or
 - (iii) produce to the Clerk of Faculty a Certificate from a Scottish University showing that he holds an Ordinary Degree with Distinction in Scottish Law at that University; or
 - (iv) produce to the Clerk of Faculty a Certificate from the Attorney-General, or Solicitor-General, of England and Wales that he is a member of the English Bar and that he has completed a full period of pupillage there; or
 - (v) produce to the Clerk of Faculty a Certificate from the Attorney-General for Northern Ireland that he is a member of the Bar of Northern Ireland and that he has completed a full period of pupillage there; or
 - (vi) in the case of a legal practitioner from another Member State of the European Community produce to the Clerk of Faculty evidence entitling him to authority to practise pursuant to Regulations of the European Communities (Recognition of Professional Qualifications) Regulations 1991.

3. Examination in Legal Scholarship

- (1) Except in the case of a legal practitioner from another Member State of the European Community, or in the cases of a member of the Bar of England and Wales, or a member of the Bar of Northern Ireland (who has completed a full period of pupillage in England or Northern Ireland), before an Intransit may be admitted to the Faculty, he must: -
 - (a) subject to the provisions of Regulation 9, pass the Faculty examinations covering the subjects listed in Appendix A(1);
 - (b) subject to the provisions of Regulation 10 and the transitional provisions of Appendix E, obtain the Diploma in Legal Practice from a Scottish University; and

- (c) prior to the beginning of the period of pupillage, and in accordance with Regulation 3A, pass the Faculty examination listed in Appendix A(3); or, if no pupillage is required, during the twelve months before he is admitted to the Faculty, pass the Faculty examination listed in Appendix A(2).
- (2) The general standard of legal scholarship required by the Faculty in the subjects listed in Appendix A(1) is that required for the Degree of Bachelor of Laws at a Scottish University.
- (3) The Faculty Examinations will be conducted by the Board of Examiners in accordance with the Rules set out in Appendix B.
- (4) Prior to giving notice of intention to commence pupillage, an Intransit shall require to pass or be exempted from all the subjects listed in Appendix A(1) other than Evidence.
- (5) In exceptional circumstances the Dean of Faculty may permit an Intransit to commence pupillage notwithstanding the fact that the requirements of Regulation 3(4) have not been satisfied.

3A . The Examination in Appendix A(3) (Evidence, Practice and Procedure)

- (1) In this Regulation:
 - “diet” means a diet of examination specified in paragraph 4(a) of Appendix B;
 - “Evidence, Practice and Procedure Examination” means the examination listed in Appendix A(3).
- (2) The Evidence, Practice and Procedure Examination shall take place once in each calendar year during the February diet.
- (3) An Intransit who is not successful in the Evidence, Practice and Procedure Examination at the February diet shall be permitted to resit the examination once only.
- (4) The resit shall take place during the May diet of the same calendar year.
- (5) An Intransit who is successful in the Evidence, Practice and Procedure Examination at the February or May diet of any calendar year shall commence pupillage in the October of that year.
- (6) If an Intransit does not:
 - (a) pass the Evidence, Practice and Procedure Examination in accordance with paragraph (2), (3) or (4) of this Regulation or any exemption granted under Regulation 10A; or
 - (b) commence pupillage in accordance with the provisions of paragraph (5) of this Regulation or any such exemption;

his name shall, subject to Regulation 18, be removed from the Roll of Intransits.

4. Professional Training

Except in the case of a legal practitioner from another Member State of the European Community, or in the cases of a member of the Bar of England and Wales, or a member of the Bar of Northern Ireland (who has completed a full period of pupillage in England or Northern Ireland), before an Intrans may be admitted to the Faculty: -

- (a) he must satisfy the Clerk of Faculty that he has completed, subject to any exemption under Regulation 11, a period of 21 consecutive calendar months' training as, or on the same basis as, a trainee in a Solicitor's office approved by the Law Society of Scotland: provided that up to one-third of the period of training may be served in the office of a lawyer carrying on practice in any one of the Member States of the European Community, the office in question to be approved by the Dean; and
- (b) he must satisfy the Dean of Faculty that he has duly completed, subject to any exemption under Regulation 11, a period of such training and education as the Faculty may from time to time provide for Intrans following commencement of pupillage, and full-time pupillage to a junior member of Faculty practising before the Court of Session, in accordance with the provisions of Regulation 5.

5. Pupillage

- (1) Except as provided for in the transitional provisions in Appendix I paragraphs (1) and (2) : the period of pupillage shall commence on the first Monday in October each year. An Intrans intending to commence pupillage in any year must give notice in writing to the Clerk of Faculty before 30 June of that year.
- (2) Except as provided for in the transitional provisions in Appendix I paragraph (3): an Intrans may be admitted no earlier than the last Friday in June in the year following commencement of pupillage, subject to Regulation 11.
- (3) An Intrans not admitted on the Admission Day specified in paragraph (2) of this Regulation, may apply to be admitted on one of the other Admission Days specified in Appendix C.
- (4) No member of Faculty may accept an Intrans as a pupil for the purposes of Regulation 4(b) without the prior consent of the Dean of Faculty.
- (5) No member of Faculty or Intrans may make or receive any payment in respect of pupillage.
- (6) An Intrans who is an enrolled Solicitor in the United Kingdom must have his name removed from the appropriate Roll of Solicitors before the beginning of his pupillage.
- (7) No Intrans shall have duly completed his pupillage unless his Devilmaster completes a report in the prescribed form which confirms that the Intrans has displayed sufficient

diligence, competence, and trustworthiness during his pupillage to make him suitable to be admitted as a Member of Faculty.

- (8) In the event of the Devilmaster refusing to provide such a Report the suitability of an Intransit for admission to the Faculty shall be referred to a Review Committee who shall report to the Dean, in which event the Intransit shall not be deemed to have duly completed a full period of pupillage unless the said Report is in favourable terms.
- (9) In the event of an Intransit having more than one Devilmaster, the word 'Devilmaster' in Regulation 5(7) and 5(8) should be read as meaning his principal Devilmaster.

6. Admission to Membership of the Faculty

- (1) When an Intransit has satisfied, or has been exempted from, the requirements of Regulations 1 to 4, or alternatively Regulation 12 or 13, he may be admitted to the Faculty.
- (2) Application for admission must be made in writing to the Clerk of Faculty not earlier than ten weeks or not later than six weeks before the Admission Day (see Appendix C) and must be either:-
 - (a) a written confirmation that since the date of the certificate provided in terms of Regulation 2(1)(a), there has been no change in circumstances affecting the matters thereby certified; or
 - (b) a further certificate in the like form replacing the original certificate and covering any such change of circumstances.
- (3) Not later than seven days before the Admission Day, the Clerk of Faculty will publish the application by posting a notice at the outer door of Parliament House, stating:-
 - (a) the name and address of the Intransit; and
 - (b) the day on which, in the absence of objection, the Intransit will be admitted.
- (4) Any objection to the admission of a candidate or the admission of an Intransit may be made at any time after he has intimated an intention to present a Petition to the Court in terms of Regulation 1(1) by intimating the objection in writing to the candidate for admission or the Intransit personally and to the Clerk of Faculty. No objection to his admission may be made any later than 4 p.m. on the day prior to that appointed for his admission as specified in the notice mentioned in paragraph (3) of this Regulation.
 - (a) No objection to admission shall be competent except on the ground that the candidate for admission or the Intransit is unfitted to hold the public office of Advocate.
 - (b) An objection to the admission of a candidate or the admission of an Intransit shall

be dealt with in accordance with the Rules set out in Appendix G.

- (c) In the event of an objection being made to the admission of the Intrans, the admission of the Intrans shall be postponed until the objection has been dealt with in accordance with the Rules set out in Appendix G.
 - (d) In the event of an objection to the admission of an Intrans being upheld, the name of the Intrans shall thereupon be removed from the Roll of Intrans by the Clerk of Faculty.
 - (e) In the event of an objection to the admission of a candidate for admission being upheld prior to the candidate matriculating, that candidate shall not be permitted to matriculate as an Intrans.
- (5) In the absence of a competent and valid objection, and subject to paragraph (6) of this Regulation, the Intrans shall be admitted a member of Faculty
 - (6) Before an Intrans is admitted to the Faculty, subject to the transitional provisions of Appendix F, he must either pay to the Faculty £850 as Entry Money, or he may elect to pay his Entry Money by instalments. An Intrans who elects to pay his Entry Money by instalments must, before applying for admission, deliver to the Treasurer of Faculty, a deed (duly executed) binding the Intrans to pay to the Faculty within 3 years from the date of his admission £1,000 at the rate of not less than £250 per annum, the first instalment being due on the date of admission to the Faculty.

Exemptions

7. General Provisions in relation to Exemptions

- (1) No exemptions from the requirements of the Regulations shall be granted except as provided for in Regulations 8, 9, 10, 10A and 11, and the transitional provisions in Appendix E and I.
- (2) No application for exemption shall be considered unless it is made in writing to the Clerk of Faculty.
- (3) Any application for exemption by a person who is not a matriculated Intrans, and who seeks exemption on any ground which is not mentioned in Regulation 8, 9 or 10 or Appendix E as a ground of automatic exemption, must be accompanied by a fee of £25.
- (4) All applications for exemption should be accompanied by detailed certificates from the appropriate University or other examining body, or other documentary evidence in support of the application.
- (5) In an application for discretionary exemption, the age and experience of the applicant and the standard attained by him in his examinations, degree or other qualifications shall be taken into account.

8. Exemption from Regulations 2(1)(d)(i),(ii) and (iii)

- (1) The Dean of Faculty may, after consultation with his Council, in exceptional circumstances, exempt an applicant from the requirements of Regulations 2(1)(d)(i), (ii) and (iii).
- (2) In considering any application under this Regulation, regard may be had, in particular, to such objective evidence of the applicant's intellectual ability as the applicant may produce.

9. Exemptions from Regulation 3(1)(a)

Automatic Exemptions

- (1) Subject to the requirement of paragraph (2) of this Regulation, a graduate in Law of a Scottish University, who has passed Degree examinations at LL.B. standard covering subjects listed in Appendix A(1), shall be granted subject-for-subject exemption from examination in the Faculty examinations on production of a Certificate from the Dean or Departmental Head of the appropriate Faculty or Department of Law to the effect that the Intransit has passed the relevant degree examinations and specifying the subjects covered and the dates of the relevant examinations.
- (2) Automatic exemption shall be granted only where the pass relied upon was obtained within the period of seven years' immediately preceding the date of the application for exemption.
- (3) An Intransit who has passed the Faculty examinations in Criminal Law, Private Law and Mercantile Law shall be exempt from the examination in Scottish Legal System.
- (4) An Intransit who has passed the Faculty examination in Appendix A(2) (Evidence, Pleading, Practice and Professional Conduct) or in Appendix A(3) (Evidence, Practice and Procedure) shall be exempt from examination in Evidence (Appendix A(1)(7)).

Discretionary Exemptions

- (5) If the Board of Examiners are satisfied that the applicant: -
 - (a) has passed an examination in any of the subjects listed in Appendix A(1) at a standard at least as high as that required by Regulation 3(2); or
 - (b) has passed any of the professional examinations of the Law Society of Scotland, provided that he has passed at a standard at least as high as that required by Regulation 3(2); or
 - (c) is a graduate in law of a non-Scottish University and has passed degree

examinations in subjects which are covered by the Faculty examinations, but for which the Faculty does not require any special knowledge of Scots Law; or

- (d) has qualified by examination for entry to a profession and has passed examinations in subjects which are covered by the Faculty examinations, but for which the Faculty does not require any special knowledge of Scots law.

they may exempt that applicant from examination in that subject or group of subjects.

- (6) Where an applicant would have qualified for exemption under paragraph (1), but for the requirement of paragraph (2) of this Regulation, the Dean of Faculty may, after consultation with his Council, exempt that applicant from examination in that subject or subjects.
- (7) If the Dean of Faculty is satisfied, after consultation with his Council and with the Board of Examiners, that it would be unreasonable to require an applicant to sit an examination in any subject or subjects, including any part of the Aptitude Test referred to in Regulations 12 and 13, he may exempt that Intransigent from examination in that subject or subjects.

10. Exemption from Regulation 3(1)(b)

Automatic Exemptions

- (1) A Solicitor who produces a certificate from the Law Society of Scotland to the effect that he has been actively engaged in practice as a Solicitor in Scotland for at least three years prior to the presentation of his Petition and that he is a fit and proper person to be admitted to the Faculty, shall be exempt from the requirement of Regulation 3(1)(b).

Discretionary Exemption

- (2) The Dean of Faculty may, after consultation with his Council, in exceptional circumstances, exempt an applicant from the requirement of Regulation 3(1)(b).
- (3) The exemption under paragraph (2) of this Regulation shall be granted only where the exceptional circumstances include other relevant professional experience.

Transitional Provisions

- (4) The transitional provisions of Appendix E shall apply to a person presenting a Petition prior to 1st January 1984.

10A. Exemption from Regulation 3A

Discretionary Exemption

- (1) The Board of Examiners may in exceptional circumstances exempt an applicant from the requirements of Regulation 3A (2), (3), (4) or (5).
- (2) An exemption granted under this Regulation may contain conditions in respect of the resitting of the Evidence, Practice and Procedure Examination and the commencement of pupillage.

11. Exemption from Regulation 4

Discretionary exemption from Regulation 4

- (1) Subject to the provision of paragraph (5) of this Regulation, the Dean of Faculty may, after consultation with his Council, exempt an applicant from the requirement of Regulation 4 in whole or in part, conditionally or unconditionally.

Automatic exemptions from Regulation 4(a) only

- (2) An applicant who is an enrolled Solicitor in Scotland shall be granted exemption from the requirements of Regulation 4(a).
- (3) An applicant who holds a degree in law of a Scottish University with First or Second Class Honours shall be granted exemption from nine months of the period of training required by Regulation 4(a).

Discretionary exemption from Regulation 4(a) only

- (4) The Dean of Faculty may, after consultation with his Council, exempt an applicant from nine months of the period of training required by Regulation 4(a) where the applicant holds a University Degree (other than an Ordinary Scottish law degree) or other professional qualification.

Exemption from Regulation 4(b)

- (5) Except as provided in paragraph (1) of this Regulation, no exemption from the requirements of Regulation 4(b) shall be granted to any applicant unless that applicant undertakes: -
 - (a) that he will not practise as an Advocate in Scotland immediately after

admission; and

- (b) that he will not subsequently begin to practise as an Advocate in Scotland until he has undergone such period of pupillage, training and education as the Dean of Faculty for the time being may require him to undergo.

12. Legal Practitioners from other Member States of the European Community

- (1) Subject to the provisions of Regulation 9(7), a legal practitioner from another Member State of the European Community shall be required to pass the Aptitude Test described in Appendix H.
- (2) The Aptitude Test shall be conducted by the Board of Examiners in accordance with the Rules set out in Appendix B.

13. English and Northern Ireland Barristers

- (1) Subject to the provisions of Regulation 9(7), a member of the Bar of England and Wales, or a member of the Bar of Northern Ireland, who has completed a full period of pupillage in England or Northern Ireland, shall be required to pass the Aptitude Test described in Appendix H.
- (2) The Aptitude Test shall be conducted by the Board of Examiners in accordance with the Rules set out in Appendix B.

Rights and Restrictions

14. Conduct

- (1) Every Intrans shall be subject, in matters affecting his conduct as an Intrans, to the discipline of the Dean of Faculty.
- (2) If an Intrans conducts himself in such a manner as to render him unfitted to exercise the public office of Advocate, the Dean of Faculty may, subject to the provisions of Regulation 18(1), after consultation with his Council, the Lord President of the Court of Session and the Lord Justice-Clerk, order that the name of the Intrans be removed from the Roll of Intrans.

15. Use of the Library

Every Intrans shall be entitled, subject to such Regulations as may be made by the Keeper of the Library, to study in the Advocates' Library.

16. Exclusion from Faculty Examinations or Pupillage

A person who is not an Intrans may not: -

- (a) sit any of the Faculty Examinations; or
- (b) act as a pupil to a practising member of Faculty for the purposes of Regulation 4(b).

17. Examinations

- (1) If the Examiners are satisfied, having regard to the previous performance of an Intrans in the Faculty examinations, that an Intrans should not be permitted to sit any further examinations or that he should only be permitted to do so subject to conditions, the Dean of Faculty may exclude that Intrans absolutely or conditionally from further examination.
- (2) Subject to the provisions of Regulation 18, in the event of an Intrans being excluded absolutely from further examination, his name shall be removed from the Roll of Intrans.

18. Removal from the Roll of Intrans

- (1) The name of an Intrans may not be removed from the Roll of Intrans in terms of Regulation 3A(6), 14(2) or Regulation 17(2) until the Intrans has been given written notice of the grounds on which it is proposed to remove his name, and has been given the opportunity of appearing in person, or being represented by a member of Faculty, and making representations thereon, at a meeting of the Dean and his Council, or of the Dean and the Board of Examiners, as the case may be.
- (2) If the name of an Intrans is removed from the Roll of Intrans, either at his own request or under Regulation 3A(6) or 17, the Dean of Faculty may order that up to £50 of the Matriculation Fee be refunded to that Intrans. In determining how much, if any, of the Matriculation Fee should be refunded, the Dean may have regard, inter alia, to the conduct of the Intrans, the use which the Intrans has made of the Library and the cost incurred by the Faculty in examining the Intrans.

Interpretation

19. Interpretation of the Regulations

- (1) These Regulations shall apply to any person presenting a Petition, to all persons who are Intrans on 31 July 1996 and to any persons matriculating as an Intrans after that date.
- (2) Regulation 3 shall apply to all Intrans irrespective of the date of the presentation of their Petition, but subject to the transitional provisions of Appendix E.

- (3) In the Regulations references to the masculine gender include the feminine.
- (4) In the Regulations the words 'Scottish University' mean any of the following Universities:
The University of Aberdeen, The University of Dundee, The University of Edinburgh, The University of Glasgow, The University of Strathclyde and such other University in Scotland that is from time to time accredited by the Board of Examiners.*
- (5) In any question affecting the application or interpretation of the Regulations, the decision of the Dean shall be final.

* The following Universities have been accredited by the Faculty of Advocates: Abertay, Robert Gordon, Stirling, Glasgow Caledonian and Napier

APPENDICES

APPENDIX A

List of Subjects Covered by the Faculty Examinations

Appendix A(1)

1. Roman Law of Property and Obligations
2. Jurisprudence
3. Constitutional and Administrative Law
4. Scottish Criminal Law
5. Scottish Private Law, including:-
 - (a) Obligations including Contract and Delict
 - (b) Property, Trusts and Succession including Conveyancing, and Landlord and Tenant, and
 - (c) Family Law
6. Commercial Law and Business Institutions
7. Evidence
8. International Private Law
9. European Law and Institutions

Appendix A(2)

Evidence, Pleading, Practice and Professional Conduct

Appendix A(3)

Evidence, Practice and Procedure

APPENDIX B

Rules for the Conduct of Faculty Examinations

1. The Board of Examiners

- (a) The Board shall consist of the Vice-Dean of Faculty and nine other members of Faculty nominated by the Dean of Faculty. Three Examiners (other than the Vice-Dean) shall go out of office annually, but shall be eligible for re-nomination. Four Examiners shall be a quorum.
- (b) The Board of Examiners shall have overall responsibility for all matters affecting the education and examination in legal scholarship of Intrants.
- (c) The Vice-Dean of Faculty shall be the Chairman of the Board of Examiners, but may appoint one member of the Board to act as Deputy Chairman, and shall appoint one member of the Board to act as Clerk to the Examiners.
- (d) The Vice-Dean of Faculty may make such further arrangements as he thinks fit to secure the efficient discharge of the duties of the Board of Examiners.

2. Assessors

- (a) The Examiners may invite persons of learning, who are accustomed to conducting examinations, to assist them in the examination of Intrants.
- (b) Each Assessor shall be paid a fee, the amount of which shall be fixed by the Vice-Dean of Faculty after consultation with the Treasurer of Faculty.
- (c) Each assessor shall deliver to the Examiners a written report on the written paper of the Intrans and shall assist in his oral examination, if necessary.
- (d) In the event of it being necessary for an Assessor to assist in the oral examination of an Intrans, he shall be treated for all purposes connected with that examination as if he were a member of the Board of Examiners

3. Conduct of Examinations

- (a) The examinations shall be written in the first instance.
- (b) Except in the case of the examination in Appendix A(2) the Examiners may require an Intrans to attend for Oral Examination.
- (c) The result of any examination shall be decided by an open vote of the Examiners present, and shall be intimated as soon as practicable to the Intrans concerned and to the Clerk of Faculty.

- (d) All examinations will be held in the Advocates' Library, unless otherwise authorised by the Vice-Dean of Faculty.

4. Times of Examinations

- (a) Examinations shall be held during the first fortnight of February, the first fortnight of May and the first fortnight of October.
- (b) The time for any particular examination, written or oral, shall be fixed by the Clerk to the Examiners.
- (c) Where an Intransit gives notice that, if successful in an examination, he intends to apply for admission to the Faculty at the next Admission Day, the dates of his examination shall be fixed so as to ensure that the Intransit, if successful, will be able to comply with the provisions of Regulation 6.

- 5.** (a) An Intransit who wishes to sit any of the Faculty Examinations must give notice in writing to the Clerk to the Examiners: -

for the February diet - on or before 31 December

for the May diet - on or before 31 March

for the October diet - on or before 31 August

- (b) An Intransit who wishes to take advantage of the provisions of Rule 4(c) above must give written notice of his desire to do so when giving notice under Rule 5(a).

- 6.** A fee of such an amount as is from time to time fixed by the Board of Examiners will be charged for each examination paper.

APPENDIX C

Admission Days

1. The last Friday of the Court's Spring Term
2. The last Friday in June
3. The first Friday in November
4. The last Friday before the Court rises in December

APPENDIX D

Certificate referred to in Regulation 2(1)(a) re Criminal Convictions and Proceedings, etc.

To: The Clerk of the Faculty of Advocates.

I,

being desirous of being matriculated as an Intransit and in due course being admitted a member of Faculty, do hereby solemnly, and truly affirm and declare: -

- (1) That I have not been convicted of any criminal offence and that there are no criminal proceedings outstanding against me except:-*

- (2) That no complaint of professional misconduct or negligence has been upheld against me and that no such complaint is outstanding against me except:-*

- (3) That I have at no time been declared bankrupt or sequestrated or entered into any Trust Deed for creditors except:-*

Dated this day of 19

.....
(signature)

*Delete "except" where not applicable.

APPENDIX E

Transitional Provisions in Relation to the Requirement of a Diploma in Legal Practice in Regulation 3(1)(b)

A person who presents his Petition to become an Ingrant prior to 1 January 1984 and who: -

- (a) obtained a degree in law of a Scottish University prior to 1 January 1980, or who was entitled to graduate in such a degree prior to that date notwithstanding that he has not so graduated; or
- (b) obtained a degree of any University other than a law degree of a Scottish University prior to 1 January 1980, and a degree in law of a Scottish University prior to 1 January 1981, or was entitled to graduate in such a degree in law prior to the latter date notwithstanding that he has not graduated; or
- (c) obtained a degree in law, with Honours, of a Scottish University prior to 1 January 1981, or was entitled to graduate in such a degree notwithstanding that he has not so graduated;

shall be exempt from the requirement of Regulation 3(1)(b)

APPENDIX F

Transitional Provisions in Relation to the Requirement in Regulation 6(6) in respect of Entry Money

Entry Money due by Intrans who matriculated prior to 15 May 1991 is as follows:-

Before an Intrans is admitted to the Faculty, he must either pay to the Faculty £275 as Entry Money, or he may elect to pay his Entry Money by instalments. An Intrans who elects to pay his Entry Money by instalments must, before applying for Admission, deliver to the Treasurer of Faculty, a deed (duly executed) binding the Intrans to pay to the Faculty within 4 years from the date of his admission £300 at the rate of not less than £75 per annum.

APPENDIX G

Rules for dealing with objections made to the admission to Membership of the Faculty of Candidates for Admission or Intrants in terms of Regulation 6(4)

Application of Rules

1. (1) These Rules shall apply where any objection is made in writing to the Clerk of Faculty in accordance with Regulation 6(4) to the admission of a candidate for admission or to the admission of an Intrans (hereafter referred to as "the applicant") to membership of the Faculty.
- (2) The Clerk of Faculty shall place all objections received by him in terms of Paragraph 1(1) hereof before the Dean, who shall thereafter deal with such objections in accordance with these Rules.
- (3) Where, at any time prior to remitting the objection to the Disciplinary Tribunal in terms of Rule 3(b), the Dean is of the opinion that the objection is incompetent, vexatious, frivolous, unfounded in fact, or that, having regard to the public interest, no further proceedings are appropriate, he may dismiss the objection.

Intimation of Objection

2. The Dean shall as soon as may be inform the applicant in writing as to the nature of the objection and shall ascertain from him whether or not the facts to which the objection relates are substantially disputed by him.

Action by the Dean

3. The Dean may:
 - (a) dismiss the objection in terms of Rule 1(3) above; or
 - (b) remit the objection to the Disciplinary Tribunal for determination.

Remit to the Disciplinary Tribunal

4. (1) Where the Dean remits the objection to the Disciplinary Tribunal he shall:
 - (a) inform the applicant as to the membership of the Tribunal; and
 - (b) instruct a member of Faculty to pursue the objection.

- (2) The member of Faculty referred to in Paragraph (1)(b) above shall be selected by the Dean from a panel of three members of Faculty of at least ten years' standing nominated by the Dean and approved by the Faculty for the purpose.
- (3) The member of Faculty referred to in Paragraph (1)(b) above and the applicant may each engage such assistance in relation to the objection as they think appropriate.
- (4) The Dean shall provide the member of Faculty referred to in Paragraph (1)(b) above with such information as is in his possession in relation to the objection.
- (5) A formal objection shall be intimated to the applicant setting out the grounds on which it entitled to lodge answers thereto. The formal objection and any answers thereto may on cause shown be amended at any time prior to the determination of the objection.
- (6) The parties to the case shall be given due notice of the date, time and place of a hearing before the Tribunal.
- (7) In good time before the date of the hearing, the parties to the case, if it is proposed to call witnesses:
 - (a) shall exchange lists of witnesses and lodge productions with the clerk to the Tribunal; and
 - (b) may exchange precognitions of witnesses.
- (8) At a hearing, the case against the applicant shall be conducted by the member of Faculty referred to in Paragraph (1)(b) above, and the applicant may conduct his own case or have it conducted on his behalf by Counsel or a Solicitor.
- (9) The hearing shall be held in public unless:
 - (a) the applicant requests that it be held in private, or
 - (b) the Tribunal considers that it would be prejudicial to the interests of justice if the hearing were not in held whole or in part in private.
- (10) The procedure at, and conduct of, the hearing shall be at the discretion of the chairman of the Tribunal, but the Tribunal shall act in accordance with the principles of natural justice.
- (11) Any question of law arising in the course of the hearing shall be decided by the chairman of the Tribunal.
- (12) In the determination of the objection by the Tribunal, any question of fact which may arise shall be determined on a balance of probabilities.
- (13) Each member of the Tribunal shall have an equal vote in the determination of the objection and any decision of the Tribunal may be unanimous or by a majority.

- (14) The Tribunal may determine the objection by dismissing it or by upholding it.
- (15) The Tribunal shall give in writing, with reasons, their decision as to the determination of the objection, and their decision shall be notified to the Dean and to the Clerk of Faculty.
- (16) The Clerk of Faculty shall, as soon as may be, intimate to the applicant and to the person who made the complaint the decision of the Tribunal as to the determination of the objection.

Faculty to pay expenses

5. All expenses reasonably incurred by the parties in connection with the handling of an objection under these rules shall be paid by the Faculty. Any dispute as to expenses shall be remitted to the Auditor of the Court of Session whose decision shall be final.

Interpretation

6. In these rules, the following expressions shall, unless the context otherwise requires, have the following meanings respectively assigned to them:-

"applicant" means (a) a candidate for admission in accordance with Regulation 1 or (b) an Intrans;

"counsel" means a member of the Faculty of Advocates;

"Dean" means Dean of Faculty;

"Disciplinary Tribunal" shall be the Disciplinary Tribunal constituted in accordance with the Faculty's Disciplinary Rules and shall have the meaning assigned to it in Rule 16 thereof;

"Faculty" means the Faculty of Advocates;

"objection" means an objection intimated in accordance with Regulation 6(4).

Commencement

7. These Rules shall come into operation on 1 October 1989

APPENDIX H

APTITUDE TEST

The test shall be conducted in English and shall consist of the following:

1. A written examination paper in Scots Legal System, Constitutional and Administrative law.
2. A written examination paper covering two topics, to be selected by the candidate, from
 - (a) Trust and Succession
 - (b) Property and Conveyancing
 - (c) Bankruptcy and Diligence
3. An oral examination on -
 - (a) Criminal Law, and
 - (b) one of either (i) Contract and Quasi Contract or (ii) Delict and Quasi Delict, to be selected by the candidate.
4. The Faculty examination listed in Appendix A(2)

APPENDIX I

- (1) An Ingrant who wishes to commence pupillage before 31 December 1997 may apply to the Dean of Faculty for exemption from the provisions of Regulation 5(1) if the Ingrant has a training contract with a firm of solicitors the terms of which prevent the Ingrant from fulfilling those provisions in a particular year and the Dean may on such terms and conditions as he decides grant such an exemption in exceptional circumstances, provided that the Ingrant commences pupillage before 30 October in the same year.
- (2) Such an Ingrant may be exempted in whole or part from the requirement in Regulation 4(b) to complete such training and education as the Faculty may from time to time provide for Ingrants following commencement of pupillage.
- (3) Where an Ingrant has commenced pupillage by 31 October 2016:
 - (i) subject to Regulation 11, and sub-paragraph (ii) below, such an Ingrant may be admitted no earlier than the last Friday before the Court rises in July in the year following commencement of pupillage.
 - (ii) subject to Regulation 11, an Ingrant who has held a full practising certificate as a solicitor in Scotland for a continuous period of not less than 5 years prior to commencing pupillage may be admitted no earlier than the first Friday in June in the year following commencement of pupillage.
 - (iii) an Ingrant not admitted on the Admission Day specified in either sub-paragraph (i) or (ii), may apply to be admitted on one of the other Admission Days specified in Appendix C.

APPENDIX J

Transitional Provisions in relation to the Requirements of Regulations 2(1)(d)(i), (ii) and (iii).

- (1) For the period of 5 years from 31 July 1996, any person who: -
- (i) was in the course of completing a period of training in a Solicitors Office as at 31 July 1996; or
 - (ii) is a Solicitor who has held a full practising certificate since before 31 July 1996;
- shall be subject to the requirements of Regulation 2(1)(d)(i), (ii) and (iii) as they existed immediately prior to their amendment on 31 July 1996.
- (2) Any person who: -
- (i) was in the course of studying for a Degree in Scottish Law at a Scottish University during the academic year immediately preceding 31 July 1996; or
 - (ii) was in the course of studying for a Diploma in Legal Practice at a Scottish University during the academic year immediately preceding 31 July 1996;
- shall, for the period of five years from the date on which he obtained a Diploma in Legal Practice, be subject to the requirements of Regulation 2(1)(d)(i), (ii) and (iii) as they existed immediately prior to their amendment on 31 July 1996.