

SCRIVENERS (QUALIFICATIONS) RULES 1998

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PREAMBLE
(Not part of the Rules)

SCRIVENERS (QUALIFICATIONS) RULES 1998

The purposes of the Rules are inter alia:-

- a) to enhance the quality of notarial services by providing properly structured training for prospective scrivener notaries;*
- b) to emphasise the special skills of scrivener notaries, both linguistic and legal (particularly in the field of foreign law);*
- c) to introduce new skills into the profession;*
- d) to encourage new applicants and expand the profession;*
- e) to place emphasis on skills acquired through academic learning;*
- f) to encourage general notaries to become scrivener notaries by granting appropriate exemptions;*
- g) to introduce a greater level of uniformity among the profession in England and Wales by recognising the need for a common diploma for all notaries;*
- h) to align the profession more closely with its counterparts in Continental Europe;*
- i) to make provision for the recognition of qualifications of EU notaries seeking to practise in London (to the extent that notaries properly fall within the relevant EU directives);*
- j) to ensure the continued availability to the public of skilled full-time notaries and compliance with international standards.*

SCRIVENERS (QUALIFICATIONS) RULES 1998

(as amended 13 April 2000 and further amended 19 July 2001
and 22 January 2007 and as finally amended and approved 29 October 2007)

(RULES RELATING TO QUALIFICATIONS FOR PRACTICE AS A SCRIVENER NOTARY)

The Master Wardens and Assistants of the Society of Scriveners of the City of London in pursuance of the powers conferred upon them by their charter make the following Rules:-

1. These Rules come into force on the date which is appointed by the Master of the Faculties for the coming into force of the Notaries (Qualification) Rules 1998.
2. In these Rules:

“Approved master’s degree” means the degree referred to in rule 4;

“Aptitude test” means a test limited to the professional knowledge of a person applying to the Company under rule 38 which the Committee may in accordance with rule 38(ii) and the Directive require such person to pass with the aim of assessing the ability of such person to practise as a Scrivener Notary;

“Candidate” means any person who has given notice to the Clerk in the manner prescribed in rule 3(i) of his intention to qualify as a Scrivener Notary;

“the Clerk” means the Clerk of the Company;

“the Committee” means the Notarial Committee of the Company;

“the Company” means the Master Wardens and Assistants of the Society of Scriveners of the City of London otherwise known as the Incorporated Company of Scriveners of London;

“the Directive” means the European Council Directive of 21st December 1988 (89/48/EEC);

“Faculty” means a Faculty issued by the Court of Faculties of the Archbishop of Canterbury;

“general notary” means a public notary holding a Faculty to practise in all parts of England and Wales;

“the Master of the Faculties” means the Commissary or Deputy of the Archbishop of Canterbury who exercises the jurisdiction of the Court of Faculties and to whom all applications for admission as a notary are made;

“the Master’s Rules” means the Notaries (Qualification) Rules 1998 made or to be made by the Master of the Faculties as amended from time to time;

“person” means any individual whether male or female and any words referring to person in the masculine gender include the feminine gender;

“Qualifications Board” means the board established by rule 7 of the Master’s Rules;

“Scrivener Notary” means a public notary who is a member of the Company holding the qualifications to practise as a scrivener notary from time to time prescribed by the Company.

General

3. Subject to rule 38, no person shall be entitled to be admitted as a Scrivener Notary until he has:
 - (i) given notice to the Clerk of his intention to qualify as a Scrivener Notary accompanied by such fee as may from time to time be specified by the Company;
 - (ii) qualified as a general notary in accordance with the Master’s Rules
 - (iii) (a) passed the examination in foreign law relevant to notarial practice referred to in rule 4 or obtained an Approved master’s degree and (b) passed the foreign language examinations and the examination in advanced notarial practice set by the Company as specified in Schedules 4 and 5 to these Rules;
 - (iv) completed the period of practical training or supervised practice prescribed by rules 7 to 26;
 - (v) received a certificate of Freedom of the Company.

Master’s Degree

4. In order that he may acquire the knowledge necessary to engage in the specialised areas of international legal practice undertaken by Scrivener Notaries any person wishing to qualify as a Scrivener Notary is required either to pass the examination in foreign law relevant to notarial practice as specified in Schedule 3, **OR** be in possession of a post-graduate degree in a relevant field of law from a university or other institute of higher education, the subject matter of the course leading to the degree having been approved by the Committee after consultation with the Qualifications Board prior to the Candidate’s commencing

the course concerned.

5. The Committee may, if it thinks fit, grant exemption to any Candidate who produces to the Committee satisfactory evidence that at the time the notice referred to in rule 3(i) was given the Candidate already held a post-graduate degree in a relevant field of law which the Committee after consultation with the Qualifications Board considers to be of a standard equivalent to an Approved master's degree taking into consideration the contents of the course of study leading to the award of the degree concerned and the standing of the university or other institution concerned, and in such event the degree already held by the Candidate shall be considered an Approved master's degree for the purpose of these Rules.
6. For the purposes of rules 4 and 5 above "relevant field of law" means a field of law which in the opinion of the Committee is relevant to a particular area or particular areas of the specialised international work undertaken by Scrivener Notaries, and the Committee may from time to time, for the guidance of Candidates, publish notes as to fields of legal practice which it considers peculiar to Scrivener Notaries or appropriate for Scrivener Notaries to engage in, lists of approved courses and other relevant information.

Practical Training

- 7.1 In order to receive practical training and gain experience in the work of a Scrivener Notary, a Candidate (unless he is in actual practice as a general notary and has elected with the agreement of the Committee to undergo a period of supervised practice in accordance with rules 16 to 26 below) must enter into a training agreement for a period of two years with a Scrivener Notary in full-time independent practice as a principal provided that such period may on the application of the Candidate made to the Clerk prior to the entering into of the training agreement be reduced at the discretion of the Committee to such lesser period (being not less than six months) as to the Committee shall appear fit taking into consideration any period during which the Candidate has been in practice as a general notary or has been employed (with a view to qualification as a Scrivener Notary) in the office of a Scrivener Notary in full-time independent practice as a principal and the experience actually gained in the course of such practice or employment provided further that within six months of commencing such employment (such period to be extended to nine months in the case of a Candidate whose employment commenced before 1 July 2001) the Candidate shall have given notice thereof to the Clerk accompanied by a copy of his contract of employment and the fee referred to in rule 3(i)
- 7.2 In Rule 7.1, "employment" includes any period or periods (not exceeding a total period of six months) during which the Candidate has at the request of the Scrivener Notary by whom he was then employed spent prior to the entering into of his Training Agreement working in the office or offices of notaries or lawyers in a foreign country or countries for any of the purposes mentioned in Rule 8 below.

8. The Candidate with the permission of the Scrivener Notary with whom he has entered into a training agreement may spend a period or periods not exceeding a total period of six months (which shall be counted as part of the period of two years referred to in rule 7) working in the office or offices of notaries or lawyers in a foreign country or foreign countries so that he may improve his knowledge of the language or languages of the said country or countries and also gain practical experience of legal procedures in the jurisdiction or jurisdictions of the said country or countries and acquire skills in the drafting of notarial acts and other legal documents used in the said jurisdiction or jurisdictions provided that where the period of training has been reduced with the agreement of the Committee in accordance with the proviso to rule 7.1 to less than two years, the period or periods spent by the Candidate overseas pursuant to this rule 8 shall not exceed in total one quarter of the period of training provided for in the training agreement.
9. The training agreement to be entered into by the Candidate and the Scrivener Notary shall be substantially in the form prescribed in Schedule 1 to these Rules.
10. Within one month after execution of the training agreement the Candidate shall produce the same to the Clerk who shall record in a register maintained for the purpose details of the names and addresses of the Scrivener Notary and of the Candidate, the date of execution of the agreement and the date of commencement of the period of training.
11. Upon registration of the particulars of the training agreement as provided for in rule 10 the Candidate shall pay to the Clerk such fee for registration as may from time to time be fixed by the Company.
12. The said register shall be a public document and any person shall be entitled to inspect the register at such place and during such office hours as may be determined by the Company subject to payment of such reasonable fee for inspection as may from time to time be fixed by the Company.
13. Save for such period when he is working in a foreign country as provided for in rule 8, the Candidate shall be instructed by the Scrivener Notary with whom he has entered into a training agreement in the proper business and practice of a Scrivener Notary throughout the period of two years (or such lesser period as the Committee may have agreed in accordance with the proviso to rule 7) and at the conclusion of the said period the Scrivener Notary shall certify in the form prescribed in Schedule 2 that the Candidate has so completed the full period of the training agreement inclusive of such period (if any) as he has spent in a foreign country or foreign countries pursuant to rule 8.
14. If the Scrivener Notary shall die before the expiry of the period of the training agreement, or shall discontinue his practice as a Scrivener Notary, or if the training agreement shall be cancelled by mutual agreement between the Candidate and the Scrivener Notary, then the Candidate may enter into a training agreement with another Scrivener Notary for the purpose of completing the remainder of the period thereof, and the period of instruction under the new training agreement shall be as effectual as if the Candidate had continued to be

instructed by the Scrivener Notary with whom he previously had a training agreement provided that within one month after execution of the new training agreement, the Candidate shall produce the same to the Clerk who shall record details of the same as provided for in rule 10.

15. In the event of the Candidate's entering into two or more training agreements as provided for in rule 14 each Scrivener Notary with whom he has had a training agreement shall individually and separately certify in the form prescribed in Schedule 2, modified as appropriate, that the Candidate has whilst being instructed by him completed the period stated in the certificate inclusive of such period (if any) as he has spent in a foreign country or foreign countries pursuant to rule 8, provided that in the event of the death of any such Scrivener Notary the Candidate shall make a statutory declaration to the effect that he was instructed by the deceased Scrivener Notary from the commencement of the period of the training agreement until the date of death of the Scrivener Notary.

Supervised Practice

16. A Candidate who has satisfied the requirements of rule 3(iii) and is in actual practice as a general notary may on application to the Clerk and with the agreement of the Committee elect to undergo a period of supervised practice in lieu of practical training in which event the following rules 17 to 26 shall apply to him to the exclusion of rules 7 to 15 above.
17. Upon receipt of the application referred to in rule 16 above the Clerk will refer the matter to the Committee and if after deliberation the Committee accepts the Candidate's application it will appoint a supervisor for the Candidate and the Clerk will notify the Candidate accordingly.
18. A supervisor must be a Scrivener Notary of at least five years' standing.
19. Upon notification to the Candidate of the appointment of a supervisor the Candidate shall pay to the Clerk such fee in respect of the appointment as may from time to time be determined by the Company.
20. The Candidate shall during the two years immediately following the appointment of the supervisor practise as a notary under the supervision of the supervisor and the following shall apply:
 - (i) during the said period the supervisor shall visit the office of the Candidate at least once in every period of four months to inspect the work, records and accounts of the Candidate provided that the supervisor shall not inspect:
 - (a) in the case of a Candidate who is a solicitor or licensed conveyancer any work, records or accounts relating to work which the Candidate is qualified to undertake and does undertake as a solicitor or licensed conveyancer; or

- (b) any work, records or accounts which the Candidate for good reason is unwilling to show the Supervisor provided that the Candidate must arrange for the inspection of such work, records or accounts by another Scrivener Notary of at least five years' standing and who shall advise the results of such inspection to the supervisor;
 - (ii) during the said period the supervisor shall make himself available at all reasonable times at the supervisor's usual place of business to answer queries raised by the Candidate on matters pertaining to the practice of a Scrivener Notary.
- 21. A supervisor shall ensure, insofar as he is able, that the Candidate is aware of and complies with all rules and orders made by the Master of the Faculties and conducts himself in a manner calculated to maintain the reputation of the office of a Scrivener Notary.
- 22. A supervisor shall be entitled to charge the Candidate a fee or fees not exceeding the level prescribed from time to time in regulations made by the Committee and approved by the Company together with reasonable expenses of travel, subsistence and (where necessary) accommodation.
- 23. If a supervisor shall die or discontinue his practice as a Scrivener Notary before the completion of the period of supervision then the Committee will, on the application of the Candidate made within one month of such death or discontinuance becoming known to the Candidate, appoint another supervisor willing to undertake the supervision of the Candidate for the remainder of the said period.
- 24. Every Candidate shall maintain a supervision register (in a format approved by the Committee) in which shall be recorded:
 - (i) by the supervisor a record of every visit and inspection made by the supervisor pursuant to rule 20(i) including any inspection by another Scrivener Notary made pursuant to proviso (b) to such rule;
 - (ii) by the supervisor and the Candidate a record of the fees charged by the supervisor;and
 - (iii) by the supervisor at the conclusion of the period of supervision a statement of whether or not in the supervisor's view the Candidate is a fit and proper person to be admitted as a Scrivener Notary.
- 25. At the conclusion of the supervision period the Candidate shall produce the supervision register to the Clerk for scrutiny by the Committee and if required by the Committee the Candidate shall attend in person before the Committee to answer any queries arising from such scrutiny and in order that he may if the Committee thinks fit be examined *viva voce* on any matter concerning the practice of a Scrivener Notary and the deontology of the profession.

26. Following such scrutiny and (where applicable) examination aforesaid the Committee may either direct the chairman of the Committee to issue to the Candidate a certificate of completion of the supervision period or it may extend the supervision for such further period as it considers reasonable in the circumstances of the case.

Examinations

27. Any person wishing to qualify for practice as a Scrivener Notary is (except as otherwise provided by these Rules) required to pass (a) the examination set by the Company in foreign law relevant to notarial practice referred to in rule 4 and as specified in Schedule 3 to these Rules, and (b) the foreign language examinations and the examination in advanced notarial practice set by the Company referred to in rule 3 and as specified in Schedules 4 and 5 to these Rules.
28. The Committee, if it thinks fit, may grant exemption from sitting one or more language examinations to any person who produces to the Committee satisfactory evidence that he has passed a public examination in the language or languages concerned, which includes subject-matter similar to that of the examinations set by the Company, at a standard equivalent to or higher than that required to pass those examinations.
29. A Candidate intending to take the Company's examinations shall give two months' notice in writing to the Clerk of his desire to do so.
30. Examinations will be held in January and July in each year at such times and places as the Committee may direct.
31. All matters not regulated in these Rules relating to the syllabus for the examinations, their conduct and duration, the standard to be achieved in the marking of papers as well as notification of results and anything incidental thereto shall be governed by regulations made by the Committee after consultation with the Qualifications Board and approved by the Company from time to time and any person desiring to take an examination shall be bound by such regulations as are in force at the time when his notice of desire to be examined is accepted by the Clerk.
32. The Committee shall not permit any person who has failed to attain a sufficient standard in any examination to resit the examination or examinations which he has failed on more than three occasions.
33. Any person giving notice to the Clerk of his desire to take the examinations or to resit any examination shall pay such fee or fees as may be fixed by the Committee from time to time.

Certificate of Freedom of the Company