

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

34. As soon as he has complied with the educational requirements prescribed by these Rules and completed the period of his training agreement or supervised practice the Candidate shall produce to the Clerk a certificate as required by rule 13, such certificates or statutory declaration as are required by rule 15 or such certificate as is referred to in rule 26, and the Candidate shall be admitted to the freedom of the Company according to the rules, ordinances and procedures of the Company and on payment of such fee or fees payable upon admission to the freedom of the Company as are from time to time fixed by the Company, and upon admission to the freedom of the Company the Clerk shall give him a signed certificate to that effect.

Post-admission Supervision and Continuing Education

35. The Committee may from time to time by regulations approved by the Company make provision for the supervision of Scrivener Notaries newly admitted to practice and for the continuing professional education of Scrivener Notaries.

Appeals

36. If the Candidate is dissatisfied with any decision or determination made by the Committee in the exercise of any of the discretions reserved to it under these Rules, he shall be entitled to appeal to the Master of the Faculties in accordance with such procedure as the Master of the Faculties may from time to time by Order prescribe and upon such terms as to costs as the Master of the Faculties may specify and, in the event of the Candidate's appeal being successful, the decision or determination of the Master of the Faculties shall be substituted for that of the Committee.

Transitional Provision

37. a) These Rules shall not apply to any person already serving an apprenticeship to a Scrivener Notary on the date when they come into force and any such person shall continue to be bound by the terms of the apprenticeship agreement to a Scrivener Notary which he entered into prior to the commencement of these Rules and shall complete the period of five years apprenticeship in accordance with such apprenticeship agreement, notwithstanding that part of the said period is completed after the coming into operation of these Rules and such person shall in all respects comply with the procedures and rules and ordinances of the Company in operation prior to the coming into force of these Rules provided that such person may, on giving notice to the Clerk not later than three months after the date of such entry into force and with the agreement of the Scrivener Notary to whom he is apprenticed, elect to qualify as a Scrivener Notary in accordance with these Rules with such exemptions being granted by the Committee as it thinks fit in view of the apprenticeship period already completed and examinations passed by such person.

b)Candidates who gave notice of their intention to qualify as scrivener notaries to the Clerk prior to 22nd January 2007 shall have the choice of continuing to qualify under the rules as amended on 19th July 2001 or of qualifying under these revised rules. Any questions regarding the interpretation of the transitional provisions shall be dealt with by the Committee as they arise in individual cases.

Special provision for European Economic Area Notaries

- 38 (i) Any person qualified as a notary or notary public in a member state of the European Economic Area other than the United Kingdom may apply to the Company for recognition that he is qualified to receive a certificate of freedom of the Company in order to permit him to obtain a Faculty enabling him to practise as a Scrivener Notary. Such application shall be made to the Clerk in such form and accompanied by such fee and by such information as the Committee may from time to time prescribe;
- (ii) The Committee shall after consultation with the Qualifications Board examine any application made under rule 38(i) in accordance with the procedures set out in articles 3 and 4 of the Directive. If compensatory measures are required, the applicant may be required to pass an Aptitude test in accordance with the derogation in the final subparagraph of article 4;
- (iii) Where an application is made to the Company under rule 38(i) the Committee shall determine the application as soon as possible and communicate the outcome to the applicant in a reasoned decision within four months of the production of all the certificates and documents relating to the applicant referred to in article 8.1 of the Directive;
- (iv) If the Company refuses an application under rule 38(i) or has not determined the application within the time prescribed by rule 38(iii) the Company shall be deemed to have refused an application for a certificate of freedom and the applicant shall be entitled to appeal against such refusal to the Master of the Faculties.

Repeal

39. Save as provided in rule 37, the Scriveners (Qualifications) Rules 1991 are hereby repealed.

Citation

40. These Rules may be cited as the Scriveners (Qualifications) Rules 1998.

Dated this 7th day of December 1998.

Approved by the Master Wardens and Assistants of the Society of Scriveners of the City of London on the 7th day of December 1998.

Schedule 1

Training Agreement

THIS TRAINING AGREEMENT is made on the [*day*] day of [*month*] 20[...]

BETWEEN [*full names*], a Scrivener Notary in full-time independent practice as a principal at [*address*] (hereinafter referred to as “the Scrivener Notary”) and [*full names*] of [*address*] (hereinafter referred to as “the Candidate”).

WHEREAS

- i. The Candidate is a general notary (as defined in the Scriveners (Qualifications) Rules 1998) and wishes to receive practical training and to gain experience in the work of Scrivener Notaries with a view to qualifying as a Scrivener Notary.
- ii. The Scrivener Notary has agreed to instruct the Candidate in the practice of a Scrivener Notary for a period of two years¹ in consideration of [the payment by the Candidate to the Scrivener Notary of the sum of £ and] the covenants by the Candidate hereinafter set out.

NOW THIS DEED WITNESSES AS FOLLOWS:

1. The Candidate hereby agrees during the period of two years commencing on the day of the date of this agreement to accept instruction from or on behalf of the Scrivener Notary on matters relating to the practice and profession of a Scrivener Notary.
2. The Candidate covenants and agrees with the Scrivener Notary that throughout the said period of two years he will:
 - (i) faithfully and diligently perform such duties as Candidate as may be required of him by the Scrivener Notary,

and
 - (ii) at all times observe confidentiality in respect of all matters disclosed to him/her by the Scrivener Notary or by any of his clients or by any notary or lawyer or any of his clients in a foreign country or foreign countries during any period when with the permission of the Scrivener Notary he is working in the office of any such notary or lawyer.
3. The Scrivener Notary covenants and agrees with the Candidate that during the said period of two years he will instruct or cause the Candidate to be taught and instructed in the profession and practice of a Scrivener Notary.
4. The Scrivener Notary covenants and agrees with the Candidate that:

¹ or such lesser period as the Committee may have approved pursuant to rule 7

- (i) subject to the requirements of rule 8 of the Scriveners (Qualifications) Rules 1998 he is willing to permit the Candidate to spend a total period not exceeding *[state maximum period]* working in the office or offices of notaries or lawyers in a foreign country or foreign countries for the purposes specified in the said rule,

and

- (ii) provided the Candidate has faithfully and diligently performed his obligations under this agreement he will provide the Candidate with any certificate or other document or do anything which may be required to assist the Candidate to become a Scrivener Notary.

IN WITNESS whereof the parties have put their signatures on the day and in the year written above.

Signed and delivered as a deed in *[place of execution of deed]* by

the said *[full names of the Scrivener]* and by the said *[full names of Candidate]*
Notary]

in the presence of:

in the presence of:

Name of Witness
Address
Occupation

Name of Witness
Address
Occupation

Schedule 2

Certificate of completion of period of training agreement

I [full name] a Scrivener Notary in full-time independent practice as a principal at [address] state that on the [day] day of [month] 20[...], [full names of Candidate] entered into a training agreement with me under which I was required to instruct the Candidate in matters relating to the practice and profession of a Scrivener Notary for a period of [two years²] to be counted from the day of the date of the said agreement and I confirm that since the [day] day of [month] 20[...] [full names of Candidate] has received instruction from me for a period of [two years³] [inclusive of a total period of [state period spent abroad] which with my permission he spent in a foreign country or foreign countries pursuant to rule 8 of the Scriveners (Qualifications) Rules 1998⁴] and I hereby certify that he has now duly completed the period of [two years⁵] provided for in the said agreement.

Signed

Dated

² or such lesser period as the Committee may have approved pursuant to Rule 7

³ period actually served to be substituted for two years in any certificate provided under Rule 15; and see note 1 *supra*

⁴ to be omitted if inapplicable

⁵ see notes 1 and 2 *supra*

Schedule 3

Syllabus for the examination in foreign law relevant to notarial practice

A three-hour closed-book written paper examining the following aspects of the laws of a foreign country or jurisdiction selected by the candidate and approved by the Committee:

- The law of movable and immovable property including the transfer and alienation thereof;
- The use of such property for securing loans;
- Matrimonial regimes;
- Succession;
- Companies and other legal entities;
- Conflict of law rules insofar as they relate to the above aspects.

Schedule 4

Syllabus for the language examinations

- (i) Main language, examined in two papers both of three hours' duration, the first (for which the use of dictionaries is not permitted) consisting of the translation into English of legal documents, commercial documents, legislation, legal opinions or similar material in the language selected. The second paper (for which the use of dictionaries⁶ is permitted) consists of the translation into the foreign language of similar material in English and the drafting in the foreign language of standard notarial documents and other legal documents;
- (ii) Subsidiary language, examined in one paper (for which the use of dictionaries⁷ is permitted) of three hours' duration consisting of typical tasks involving foreign-language documents, including correcting, completing and commenting on texts in the subsidiary foreign language and the translation from the selected foreign language into English of standard documents commonly encountered in notarial practice.

Note – choice of languages:

The candidate's choice of language both for the main language and for the subsidiary language papers shall be subject to the approval of the Notarial Committee. In reaching its decision the Notarial Committee shall have regard to the anticipated utility of the foreign languages in the context of the candidate's notarial practice.

⁶ up to 3 volumes may be taken into the examination room

⁷ up to 3 volumes may be taken into the examination room

Schedule 5

Syllabus for the examination in advanced notarial practice

A three-hour closed-book written paper consisting of questions on the following matters:

- forms of notarial act – attestation, public and private form, exemplification certificates, including drafting skills and an appreciation of the reason for and significance of form in relation to different jurisdictions;
- the rules and regulations applying to notaries
- the evidential status of notarial acts;
- the law and practice relating to powers of attorney and other forms of agency;
- oaths and affirmations, affidavits and statutory declarations;
- bills of exchange, promissory notes and cheques;
- ship protests;
- miscellaneous operations, including bond and debenture stock operations and share issue ballots.

Schedule 6

Examination marking and notification of results

The pass mark in all papers shall be 50%

All papers shall be double marked and moderated in accordance with regulations made from time to time by the Notarial Committee.

The Clerk shall notify candidates in writing as soon as practicable after the Notarial Committee has reached a decision on the results of examinations and shall report such results to the Court of Assistants of the Company at the Court meeting next held after the examinations.