

Guidance for Practising Barristers in Employment in Respect of the Roll of Practising Barristers

1. The purpose of this Guidance Note is to inform qualified barristers in employment of the implications for them of the establishment of the Roll of Practising Barristers.
2. Further Guidance documents, including a “*Guidance Note in respect of the Roll of Practising Barristers*”, which sets out and explains the various legislative provisions underpinning the operation of the Roll of Practising Barristers, are available on the LSRA website [Barristers](#) section.
3. The Legal Services Regulatory Authority (hereinafter “the LSRA”), is required under Part 9 of the Legal Services Regulation Act, 2015 (hereinafter “the Act”) to establish and maintain the Roll of Practising Barristers. The provisions in Part 9 of the Act relating to the establishment and maintenance of the Roll were commenced on 29 June 2018.
4. The Roll of Practising Barristers is a dynamic public-facing register of all barristers entitled to provide legal services in the State.
5. Under section 133(1) of the Act, the Authority is required to set up and maintain the Roll of Practising Barristers and, within six months of the commencement date, to enter on the Roll the name of every person who is, on the commencement date, a practising barrister.
6. Under section 136 of the Act, when commenced, it shall be an offence for a qualified barrister to provide legal services as a barrister when his or her name is not on the Roll of Practising Barristers.

Do you need to apply to be on the Roll of Practising Barristers?

7. If you are a barrister in employment, you may be asking whether or not you need to apply to be on the Roll of Practising Barristers.
8. Under the Act, there are two key elements in determining whether a person is a practising barrister: **qualification** and **activity**.
9. A practising barrister is any **qualified** barrister who **provides**, or **holds himself or herself out as providing, legal services** as a barrister in Ireland.

Qualification

10. **The definition of a qualified barrister is contained in section 2(1) of the 2015 Act.**

11. A barrister is a qualified barrister if he or she:

- (a) Has been admitted to the Barrister-at-Law degree by the Honorable Society of King's Inns;
- (b) Has been called to the Bar of Ireland; or
- (c) Is a 'registered lawyer' under the EC (Lawyers' Establishment) Regulations

unless he or she has subsequently become a solicitor or been disbarred or struck from the Roll of Practising Barristers or Roll of Solicitors, which disbarment or strike off orders remain in effect.

Activity

12. The attention of qualified barristers in employment is drawn to the definitions of 'providing legal services as a barrister' and the related definition of 'legal advice'.

13. The provision of legal advice to another person is an activity that, when undertaken by a qualified barrister, constitutes the provision of legal services as a barrister.

14. The definition of 'legal advice' in the Act is very broad. There is no minimum threshold of activity constituting the provision of legal services as a barrister provided for in the Act.

15. The question of whether a person is acting under a contract of service or a contract for services is not determinative of whether an activity constitutes the provision of legal services as a barrister.

16. It should also be noted by qualified barristers in employment that:

- (a) the title of one's job is not determinative of whether you are or are not a practising barrister;
- (b) the manner in which you hold yourself out is not determinative of whether you are or are not a practising barrister;
- (c) the fact that you provide legal services exclusively to your employer is not determinative of whether you are or are not a practising barrister.

17. Qualified barristers who provide legal services as part of their employment fall within the definition of 'practising barrister' under the Act and are required to have their names entered on the Roll of Practising Barristers.

Code of Practice

18. The LSRA will issue a 'Code of Practice for Practising Barristers' in due course. In the interim, all qualified barristers should have regard to the 'Professional Code of the Honorable Society of King's Inns' (effective 9 April 2018).

Appearing in Court on Behalf of Your Employer

19. Section 212 of the Act, when commenced, will provide that an employed barrister may provide legal services for his or her employer, including by appearing on behalf of that employer in a court, tribunal or forum for arbitration.

20. Further information will be provided in relation to the implications of this provision when it is commenced.

The Levy

21. The provisions of Part 7 of the Act, entitled "*Imposition of Levy on Professional Bodies and Certain Barristers to Cover Expenses of Authority and Disciplinary Tribunal*", have not yet been commenced. When the relevant provisions relating to the levy have been commenced, all practising barristers, unless exempt, will be liable for payment of a levy contribution.

22. If a practising barrister is a member of the Law Library, his or her levy contribution will be collected by the Bar of Ireland, which body will pay a cumulative levy contribution to the Authority on behalf of such barristers.

23. If a practising barrister is not a member of the Law Library, and is not exempt from payment of the levy, he or she shall receive an individual levy assessment notification from the Authority.

24. Under section 96(3) of the Act, the implications of non-payment of the levy contribution may include removal from the Roll of Practising Barristers.

25. Under section 97 of the Act, practising barristers who are 'in the full time service of the State' are obliged to be on the Roll of Practising Barristers, but will be exempt from any levy payments.

Applying for Entry on the Roll of Practising Barristers

26. An application form for entry on the Roll of Practising Barristers is available on the LSRA website. All practising barristers are requested to complete and submit this form as soon as possible to facilitate the entry of their name on the Roll.

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