



An tÚdarás Rialála
Seirbhísi Dlí
Legal Services
Regulatory Authority

MINUTES FINAL

21st Meeting of Legal Services Regulatory Authority – Minutes (FINAL)

Date: 2 April 2020
Time: 16:30 to 18:00

Attendees by video conference:

Authority Members	Executive & Secretariat	Others
Eileen Barrington	Brian Doherty (CEO)	
Angela Black	Ultan Ryan (Secretary)	
Geraldine Clarke		
Joan Crawford		
Stephen Fitzpatrick		
Dermott Jewell		
James MacGuill		
Deirdre McHugh		
Sara Moorhead		
Don Thornhill (Chairperson)		
Gerry Whyte		

Apologies:

N/A

Section 1 – Administration

1.0 General

- 1.1 Chairperson proposed an adapted consent agenda in light of the meeting taking place by video conference due to COVID-19 restrictions. Members agreed to the approach.
Agenda adopted.
Chairperson read through each agenda item asking if each item was agreed in turn. Where any member raised a query on the item, it was scheduled for detailed discussion by all members.

- 1.2 Declaration of Interests on agenda items. None arising.

Secretary previously circulated the *LSRA Policy and Procedures for Disclosure of Interests by Authority Members* and associated *Annual Disclosure of Interests* form for 2020. Secretary will follow up with members on this matter separately.

- 1.3 Minutes of Authority meeting of 23 January 2020 approved.

Section 2 – Governance

2.0 CEO Report

- 2.0.1 CEO provided updates on activity since the last Authority meeting:

Update on COVID-19 Response:

CEO noted that circumstances are changing in real time and the verbal report to the Authority reflects circumstances up to 2 April.

LSRA staff were initially put on shift pattern to ensure social distancing on site at LSRA premises. When not scheduled for on-site attendance, staff were assigned tasks to complete at home either via remote access to LSRA IT System or via hardcopy/research on policy and procedural matters.

The physical move to new premises on Manor Street was completed over weekend of 27 March 2020 and LSRA have completely vacated previous premises at Regus House with agreement ended on 31 March 2020.

Outstanding work which could not be done before restrictions put in place includes installation of PCs, printers and sundry tasks. This will take a further 1 to 2 days to complete once restrictions are lifted.

At 2 April 2020, LSRA had remote access to IT systems for 33% of staff. Executive engaging with ICT Division for the roll out of IT access to all staff over the coming days. Logistical and equipment issues to be resolved.

LSRA not deemed an essential service under DEPR Guidance so staff are not to attend office except with express permission of CEO. Solutions in place to ensure that key functions remain operational (excluding telephone service element of such services), including:

- Complaints and Resolutions Service;
- Roll of Practising Barristers;
- Registration of Limited Liability Partnerships (LLPs);
- Payroll;
- Invoice management and supplier payments;
- Legal Work on Regulations, Codes and other requirements;
- Operation of the Office of the CEO and Corporate Affairs.

Draft Regulations being prepared by Dept of Health/DPER which will provide clarification on definition of essential services and other aspects of the restrictions in place. Current restrictions to remain in place until 12 April 2020.

Executive monitoring developments. Executive engaging with Department of Justice & Equality through Civil & Justice Agency Group. Weekly updates on agency status and issues provided through Business Continuity Update template every Wednesday with joint Agency teleconference every Thursday.

Arrangements in place for key meetings to be held via teleconference/video conference solutions:

- Authority Meeting 02/04/2020
- FAR Committee Meeting 03/04/2020
- SMT Meetings – weekly

All SMT members have remote access to systems and are working to business as usual targets for themselves and their respective teams. Executive taking a pragmatic and flexible approach to optimise staff engagement and outputs. Some staff required to self-quarantine after recent travel.

Executive to work towards additional remote access to LSRA systems and to plan for possible redeployment calls in line with DPER circulars.

LPDT/SDT:

Solicitors Disciplinary Tribunal hearings suspended until end April. LPDT registrar working with LSRA Legal Unit and Head of Complaints, Investigation and Resolutions Unit on rules and regulations required for establishment of LPDT. Tribunal start of business now expected to be delayed due to impact of COVID-19 restrictions on SDT and build-up of backlogs.

Part 2:

Update on other activities undertaken:

2.1 Recruitment and Staffing:

- i. Update provided on current staffing profile.
- ii. Recruitment of key staff – phase II outlined.

2.2 Legal Partnerships (LPs) and Limited Liability Partnerships (LLPs):

Legislative amendment to allow introduction of Legal Partnerships is now likely to be delayed due to impact of COVID-19 restrictions. Executive continuing to monitor and engage with DJE on this.

2.3 Stakeholder Engagement update provided.

Governance Update meeting with DJE Governance Unit held on 11 March 2020.

2.4 Roll of Practising Barristers update provided. As at 25 March 2020, there were 2,761 practising barristers enrolled. Roll being maintained remotely.

2.5 In the order of 118 Limited Liability Partnerships have been registered to date. Registration continues to be managed remotely.

2.6 Update on Levy provided. 99.95% of 2019 Levy paid.

Original plan to set 2020 Levy and to issue levy notices April 2020 will now be delayed due to restrictions.

Part 3: Upcoming and continuing work:

3.1 Premises physical move completed. IT installation and other tasks to be completed when restrictions lifted.

3.2 Anti-Money Laundering and role of LSRA as *competent authority* in respect of all barristers. Legislative amendment required to establish LSRA as competent authority for Barristers who are members of the Bar of Ireland. Timeline likely to be impacted by COVID-19 restrictions.

3.3 Section 218 Advertising regulations

Public Consultation completed. Draft Regulations prepared which are being reviewed in light of submissions received under public consultation. Executive met with EU Commission in January 2020 to update on programme for introduction.

Part 4: Risk Management:

4.1 Risk Management update provided in report. New COVID-19 Risk to be approved by FAR Committee at its meeting of 3 April 2020.

3.0 Duly Authorised Register under 2015 Act

Authority approved the revised staffing list appended to the Duly Authorised Register and duly authorised the listed staff to perform functions under the 2015 Act. Revised due to staff changes.

Section 3 – Finance

4.0 Financial Reports

4.1 Authority Approved Draft Financial Statements 2019 submitted to Department of Justice & Equality (DJE) and to Office of Comptroller & Auditor General (OCAG) on 31 March. This draft included FRS102 Pensions Liability Report. In addition, error in draft in respect of terms of office for Authority Members was remedied prior to issuing.

4.2 Management Accounts for Period ended 31 January 2020 noted by the Authority. Delay in completion of February Management Accounts due to COVID-19 restrictions. Executive working with Accountants to progress February and March Management Accounts remotely.

4.3 Draft 2020 Budget. Draft 2020 Budget discussed.

- Authority previously sought more detailed breakdown on staffing costs for the year, including the splitting out of temporary staff costs with detail included of breakdown under that category. Progress on this delayed due to premises move. Will be progressed with Accountant and update to Authority and FAR Committee will be provided.

4.4 Correspondence from Bar of Ireland:
Correspondence received from Bar of Ireland in relation to impact of COVID-19 restrictions on members, including financial impact.

The LSRA CEO has liaised with the Bar of Ireland CEO and been briefed on the impact that COVID 19 is having on the Bar.

The LSRA CEO has also engaged with representatives from the Dept. of Justice and Equality and made them aware of the situation.

The LSRA Executive intends to complete the levy calculations and to ascertain the Bar of Ireland's liability for the 2019 financial year. The LSRA Executive will also attempt to develop an estimate of the levy for 2020.

The LSRA Executive will continue to engage with the Bar of Ireland and the Department of Justice and Equality as the full impact of both COVID 19 and the financial measures the Government has put in place in response becomes clearer.

The LSRA will explore what options may be available in relation to the levy and will communicate those to Authority members.

Authority noted the challenge being faced by the legal profession and LSRA's legislative objectives under section 13(4) of the Legal Services Regulation Act 2015, including encouraging an independent, strong and effective legal profession. Executive to proceed as proposed.

Section 4 – LSRA Policy and Implementation

5.0 FAR Committee Chairperson's Update:

The Report of the Chairperson of FAR Committee was noted by the Authority, the Secretary updated the Authority on the FAR Committee meeting of 4 December 2019, including:

- 2019 Draft Financial Statements submitted to DJE and OCA
- Audit of LSRA 2019 Internal Controls by Internal Audit Unit at Department of Justice & Equality being finalised.
- OCA were considering possibility of early audit of LSRA 2019 Financial Statements but this is now impacted by COVID-19 restrictions.
- Risk Register: risk register to be reviewed at the next FAR Committee meeting. Update on COVID-19 risk provided in CEO Report.

6.0 Update on Section 34 (Education and Training)

Executive proceeding with plans for dedicated day to discuss the reports and associated outputs prior to finalising further report to the Minister for Justice & Equality. Chair to host one to one meetings with Authority Members. Timing will be impacted by duration and extent of COVID-19 restrictions.

7.0 Update on Part 6 – Complaints:

7.1 General Update

General update noted.

Update on Complaints Committee:

Complaints Committee established by the Authority at its January 2019 meeting. COVID-19 restrictions have prevented LSRA Executive from establishment meetings and training to date.

7.2 Establishment of Review Committee by the Authority
Resolution of the Authority Establishing the Review Committee pursuant to section 62(1) of the Legal Services Regulation Act 2015

Proposed by Angela Black

Seconded by Joan Crawford

Resolution included in full at Appendix I

8.0 Part 12 Establishment of Advisory Committee – Patents of Precedence
Resolution of the Authority Establishing the Advisory Committee on the grant of Patents of Precedence pursuant to Section 172 of the Legal Services Regulation Act 2015

Proposed by Dermott Jewell

Seconded by Eileen Barrington

Resolution included in full at Appendix II

Letter of nomination in respect of Dr Don Thornhill as lay member of the Advisory Committee included at Appendix III.

9.0 Update on Section 34(1)(b) Report – Unification of the Professions

CEO outlined the approach to be taken to the completion of this report. The report to be submitted to the Authority for their consideration in August will include a summary of the public consultation exercise, an analysis of the arrangements in operation in other jurisdictions and a draft recommendation for the consideration of the Authority. Should the Authority be of the view, following consideration of the report, that they are in favour of unification of the professions the detail of administrative and legislative reforms required to implement unification can be dealt with in a further report to the Minister.

10.0 Section 73 Report – Bi-annual complaints statistics Report

Report approved subject to addition of breakdown of barrister complaints and solicitors complaints. Deadline for publication is 7 April 2020.

11.0 Section 33 Report (Annual Report on Admission Policies of Legal Professions)

Report approved subject to fact checking of items raised by Authority.

12.0 Closed Session

Dispensed with due to restrictions of video conferencing.

13.0 AOB

Dealt with at beginning of Meeting.

Action Points – Meeting of 2 April 2020	
Agenda Item	Action
1.3	<p><u>Minutes:</u></p> <ul style="list-style-type: none"> Minutes of 23 January 2020 approved.
2.1	<p><u>CEO Report:</u></p> <ul style="list-style-type: none"> Update on COVID-19 Response: Executive to proceed as outlined with implementation of business continuity plan. 2.2: Further update on Legal Partnership legislative amendment to be provided at next Authority Meeting. 3.2: Update on Anti-Money Laundering competent authority position to be provided at next meeting. 3.3: Update on section 218 Advertising Regulations to be provided at next Authority Meeting.
3.0	<ul style="list-style-type: none"> Duly Authorised Register under 2015 Act approved by Authority. Update will be required for next Authority Meeting to reflect and staff changes arising in the interim.
4.0	<ul style="list-style-type: none"> Executive to revise Draft Budget 2020 to provide more detail on staff costs and split out and detail Temporary Staff costs. For next FAR Committee Meeting and next Authority Meeting.
6.0	<ul style="list-style-type: none"> Executive to proceed with plans for dedicated day to consider Section 34 (Education & Training Report) and associated reports, submissions and draft recommendations. Arrangements for one-to-one meetings to be put in place for CEO and Chairperson with Secretary assisting on scheduling.
7.2	<ul style="list-style-type: none"> Executive to communicate to members of the Review Committee, confirming appointments and take next steps for practical establishment of this Committee.

	<ul style="list-style-type: none"> • Update on Complaints Committee and Review Committee to be provided at next Authority Meeting.
8.0	<ul style="list-style-type: none"> • Executive to communicate with the Chief Justice and members of the Advisory Committee, confirming establishment. • Executive to put administrative procedures and supports in place to allow the Advisory Committee commence its work.
9.0	<ul style="list-style-type: none"> • Executive to proceed with proposed plan for completion of Section 34(1)(b) Report on the Unification of the Professions.
10.0	<ul style="list-style-type: none"> • Executive to include breakdown of solicitor/barrister complaints and finalise and publish Section 73 – Bi-annual Complaints Statistics Report by 7 April 2020. • Include split of statistics between solicitor and barrister complaints.
11.0	<ul style="list-style-type: none"> • Executive to finalise Section 33 Report on Admission Policies of the Legal Professions, reflecting Authority feedback, and submit to the Minister for Justice & equality by 30 April 2020.

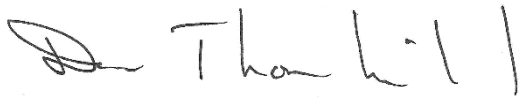
FINAL Minutes Signed



25 June 2020

Ultan Ryan, Secretary

Date



25 June 2020

Don Thornhill, Chairperson

Date

Appendix I Review Committee



An tÚdarás Rialála
Seirbhísi Dlí
Legal Services
Regulatory Authority

Resolution of the Authority Establishing the Review Committee under Section 62 of the Legal Services Regulation Act 2015

Proposed by: __Angela Black__

Seconded by: __Joan Crawford__

Establishment of Review Committee

Pursuant to section 62(1) of the Legal Services Regulation Act 2015, the Authority has formally passed this resolution duly establishing a committee, to be known as the Review Committee for the purpose of considering reviews requested by complainants or legal practitioners in relation to determinations of the Authority under section 60 or 61.

Appointment of Lay Members

Pursuant to section 62(2), 62(3) and 62(4) of the Legal Services Regulation Act 2015, the Authority has formally passed this resolution duly appointing the following lay persons to be members of the Review Committee:

Lay Member nominees:

Penelope Kenny
Anne Maher
David Swinburne
John Horan
Rosemary Smyth
Joan O'Connor
Dr. Meave Hosier
Audry Deane
Brice Dickson
James Doorley
Mary Faulkner
Paddy Keating
Dr. Chris McDermott
Stephen Kealy

Appointment of Members nominated by the Bar of Ireland and the Law Society of Ireland

Pursuant to section 62(2), 62(3) and 62(4) of the Legal Services Regulation Act 2015, the Authority has formally passed this resolution duly appointing the following persons nominated by the Bar of Ireland and the Law Society of Ireland to be members of the Review Committee:

Bar of Ireland nominees:

Nicola Cox BL

Fionnuala O'Sullivan BL

Joe Jeffers BL

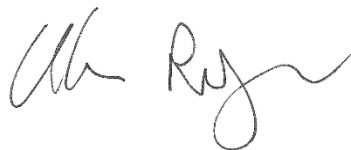
David Leonard BL

Law Society Nominees:

Helene Coffey

Dermot Scanlon

Signed by Secretary

A handwritten signature in black ink, appearing to read 'Ally Ryan', is written over a light blue horizontal line.

Resolution passed on 02 April 2020

Annex I

Review Committee

62. (1) The Authority shall establish a Review Committee to consider reviews requested by complainants or legal practitioners in relation to determinations of the Authority under [section 60](#) or [61](#) .
- (2) The Review Committee shall be composed of 3 persons, 2 of whom shall be lay persons and one of whom shall be a legal practitioner.
- (3) The member of the Review Committee who is a legal practitioner shall—
- (a) in a case where the complaint relates to a solicitor, be a solicitor, and
 - (b) in a case where the complaint relates to a barrister, be a barrister.
- (4) A person shall be eligible to serve as a member of a Review Committee established under this section if he or she is eligible to serve as a member of the Complaints Committee established under this Part.
- (5) The Review Committee shall consider reviews requested and, having given both the client and the legal practitioner an opportunity to make a statement in writing to it as to why the determination of the Authority under [section 60](#) or [61](#) , as the case may be, was incorrect or unjust, determine the review by—
- (a) confirming the determination of the Authority,
 - (b) remitting the complaint to the Authority, with such directions as the Review Committee considers appropriate or necessary, to be dealt with again under [section 60](#) or [61](#) , as the case may be, or
 - (c) issuing one or more than one of the directions to the legal practitioner that the Authority is authorised to issue under [section 60](#) (6) or [section 61](#) (6), as the case may be.
- (6) Any payment made by a legal practitioner pursuant to a direction referred to in *subsection (5)* shall be without prejudice to any legal right of the client.

Annex II

Authority to facilitate resolution of complaints made under this Part relating to inadequate services

60. (1) Where the Authority determines under *section 57* that a complaint to which *section 51 (1)(a)* applies is admissible, or where a complaint is remitted to it under *section 62*, it shall invite the client and the legal practitioner concerned to make efforts to resolve the matter the subject of the complaint in an informal manner.
- (2) Where the client and the legal practitioner agree to the Authority's invitation under *subsection (1)*, and request the Authority to do so, the Authority shall facilitate the resolution of the matter—
- (a) by offering its assistance in resolving the matter in an informal manner, or
 - (b) by identifying to the legal practitioner and the client other persons who are willing to assist in resolving the matter in an informal manner.
- (3) Where the Authority, having allowed the client and the legal practitioner a reasonable period to resolve the matter the subject of the complaint in an informal manner, considers that an agreement or resolution between the parties in relation to the complaint is unlikely to be reached in that manner, it may give notice in writing to the client and the legal practitioner (and, where appropriate, any other person involved in attempting to resolve the dispute) that it proposes to determine the complaint in accordance with this section.
- (4) Where *subsection (3)* applies, the Authority shall not determine the complaint concerned earlier than 30 days after the giving of notice under that subsection.
- (5) Where—
- (a) the client or the legal practitioner does not accept the Authority's invitation under *subsection (1)*,
 - (b) the client or the legal practitioner, having attempted to resolve the matter in an informal manner, confirms to the Authority that he or she does not wish to continue to make such an attempt, or
 - (c) the Authority decides under *subsection (3)* to exercise its power to determine the complaint under this section,
- the Authority shall thereafter invite the client and the legal practitioner to furnish to it, within such reasonable period as is specified by the

Authority, a statement setting out their respective positions in relation to the matter the subject of the complaint.

- (6) The Authority shall consider any statement furnished to it pursuant to *subsection (5)* and, where it considers that the legal services provided by the legal practitioner were of an inadequate standard, and that it is, having regard to all the circumstances concerned, appropriate to do so, the Authority may direct the legal practitioner to do one or more of the following:
- (a) secure the rectification, at his or her own expense or at the expense of his or her firm, of any error, omission or other deficiency arising in connection with the legal services concerned;
 - (b) take, at his or her own expense or at the expense of his or her firm (which shall not exceed €3,000), such other action as the Authority may specify;
 - (c) transfer any documents relating to the subject matter of the complaint to another legal practitioner nominated by the client, subject to such terms and conditions as the Authority may consider appropriate having regard to the existence of any right to possession or retention of any of the documents concerned vested in the legal practitioner to whom the direction is issued;
 - (d) pay to the client a sum not exceeding €3,000 as compensation for any financial or other loss suffered by the client in consequence of the legal services provided by the legal practitioner to the client being of an inadequate standard.
- (7) Where the client or the legal practitioner is aggrieved by a direction made by the Authority under *subsection (6)* or its failure to make such a direction, he or she may by notice in writing given not more than 30 days after the Authority has notified the parties to the complaint of its decision under *subsection (6)*, seek a review by a Review Committee established under [section 62](#) of the direction or the failure.
- (8) Any payment made by a legal practitioner pursuant to a direction referred to in *subsection (6)(d)* shall be without prejudice to any legal right of the client.

Annex III

Authority to facilitate resolution of complaints made under this Part relating to excessive costs

61. (1) Where the Authority determines under *section 57* that a complaint to which *section 51 (1)(b)* applies is admissible, or where a complaint is remitted to it under *section 62*, it shall invite the client and the legal practitioner concerned to make efforts to resolve the matter the subject of the complaint in an informal manner.
- (2) Where the client and the legal practitioner agree to the Authority's invitation under *subsection (1)*, and request the Authority to do so, the Authority shall facilitate the resolution of the matter—
- (a) by offering its assistance in resolving the matter in an informal manner, or
 - (b) by identifying to the legal practitioner and the client other persons who are willing to assist in resolving the matter in an informal manner.
- (3) Where the Authority, having allowed the client and the legal practitioner a reasonable period to resolve the matter the subject of the complaint in an informal manner, considers that an agreement or resolution between the parties in relation to the complaint is unlikely to be reached in that manner, it may give notice in writing to the client and the legal practitioner (and, where appropriate, any other person involved in attempting to resolve the dispute) that it proposes to determine the complaint in accordance with this section.
- (4) Where *subsection (3)* applies, the Authority shall not determine the complaint concerned earlier than 30 days after the giving of notice under that subsection.
- (5) Where—
- (a) the client or the legal practitioner does not accept the Authority's invitation under *subsection (1)*,
 - (b) the client or the legal practitioner, having attempted to resolve the matter in an informal manner, confirms to the Authority that he or she does not wish to continue to make such an attempt, or
 - (c) the Authority decides under *subsection (3)* to exercise its power to determine the complaint under this section,
- the Authority shall thereafter invite the client and the legal practitioner to furnish to it, within such reasonable period as is specified by the

Authority, a statement setting out their respective positions in relation to the matter the subject of the complaint.

- (6) The Authority shall consider any statement furnished to it pursuant to *subsection (5)* and, where it considers that the amount of costs sought by the legal practitioner in respect of legal services provided to the client by the legal practitioner was or is excessive, and that it is, having regard to all the circumstances concerned, appropriate to do so, may direct the legal practitioner to do one or more of the following:
- (a) refund without delay, either wholly or in part as directed, any amount already paid by or on behalf of the client in respect of the practitioner's costs in connection with the bill of costs;
 - (b) waive, whether wholly or in part as directed, the right to recover those costs.
- (7) Where the client or legal practitioner is aggrieved by a direction made by the Authority under *subsection (6)* or its failure to make a direction, he or she may by notice in writing given not more than 30 days after the Authority has notified the parties to the complaint of its decision under *subsection (6)* seek a review by a Review Committee established under [section 62](#) of the direction or the failure.
- (8) Where a bill of costs which has been the subject of complaint under [section 51 \(1\)\(b\)](#) has subsequently been adjudicated, then—
- (a) where the Authority has given a direction under *subsection (6)*, the direction shall cease to have effect, or
 - (b) where the Authority has not given a direction under *subsection (6)*, it shall not proceed to investigate such a complaint or otherwise apply the provisions of this section.
- (9) Where the Authority has notified a legal practitioner under [section 57 \(6\)](#) that a complaint under [section 51 \(1\)\(b\)](#) in respect of a bill of costs issued by the legal practitioner is admissible, the legal practitioner shall not—
- (a) issue or cause to be issued civil proceedings (whether on his own behalf or on behalf of any other person or persons), or
 - (b) if already issued, proceed further with civil proceedings,
- in respect of the amount (or any part thereof) of a bill of costs without the written consent of the Authority before the Authority has determined the matter under *subsection (6)* unless, on application by

that legal practitioner, on notice to the Authority, a court orders otherwise.

- (10) Where pursuant to this section a dispute regarding a bill of costs between the client and the legal practitioner is resolved, the client shall not thereafter be entitled to seek adjudication of the bill of costs under *Part 10* unless such adjudication forms part of the resolution.
- (11) The determination under this section of a complaint shall be without prejudice to any legal right of the client.

Appendix II – Advisory Committee



An tÚdarás Rialála
Seirbhísi Dlí
Legal Services
Regulatory Authority

Resolution of the Legal Services Regulatory Authority ('the Authority') establishing the Advisory Committee on the grant of Patents of Precedence pursuant to Section 172 of the Legal Services Regulation Act 2015

Proposed by: __Dermott Jewell__

Seconded by: __Eileen Barrington__

Establishment of the Advisory Committee on the grant of Patents of Precedence

Pursuant to section 172(1) of the Legal Services Regulation Act 2015 ('the Act'), the Authority has formally passed this resolution duly establishing a committee to be known as the Advisory Committee on the grant of Patents of Precedence ('the Committee') to perform the functions assigned to it under Part 12 of the Act. In accordance with Part 12 of the Act these functions include - establishing the criteria to be met by a legal practitioner in order for a recommendation to be made by the Committee to the Government that a Patent, within the meaning of Part 12 of the Act, be granted; considering applications from legal practitioners who wish to be granted a Patent; making recommendations to the Government that an applicant be granted a Patent; considering applications from the Authority that the grant of a Patent be revoked and making recommendations to Government to revoke the grant of a Patent.. A copy of Part 12 is provided at Annex 1 to this resolution with an excerpt from the Courts Act 2019.

Membership of the Advisory Committee on the grant of Patents of Precedence

Pursuant to section 172(2) and 172(3) of the Legal Services Regulation Act 2015, the Authority has formally passed this resolution duly appointing the following persons to be members of the Advisory Committee on the grant of Patents of Precedence:

- The Chief Justice, who shall be the chairperson of the Committee;
- The President of the Court of Appeal;
- The President of the High Court;
- The Attorney General;
- The Chairperson of the Bar Council;
- The President of the Law Society;
- Dr. Don Thornhill, a lay member of the Authority nominated by the Minister for Justice & Equality.

A handwritten signature in black ink, appearing to read "Ultan Ryan". The signature is written in a cursive style with a large initial 'U' and a long, sweeping tail.

Signed by Ultan Ryan, Secretary

Resolution passed on 02 April 2020

Annex I

PART 12

Patents of Precedence

Definitions (*Part 12*)

170. In this Part—

“Committee” means the Advisory Committee on the grant of Patents of Precedence established under [section 172](#) ;

“Patent”, subject to [section 171 \(2\)](#), means—

(a) in relation to a barrister, a Patent of Precedence, the grant of which to the barrister entitles him or her to be called to the Inner Bar and to use the title of “Senior Counsel”, and

(b) in relation to a solicitor, a Patent of Precedence, the grant of which to a solicitor entitles him or her to use the title of “Senior Counsel”;

“tax clearance certificate” means a certificate issued under [section 1095](#) of the [Taxes Consolidation Act 1997](#) .

Power to grant, and to revoke grant of, Patent

171. (1) The Government may—

(a) on the recommendation of the Committee under [section 174](#) , grant a Patent to a legal practitioner, and

(b) on the recommendation of the Committee under [section 175](#) , revoke the grant of a Patent to a legal practitioner.

(2) For the purposes of *subsection (1)(b)*, [section 175](#) and [section 176](#) , “Patent” includes a Patent granted in the State before the commencement of this section.

Advisory Committee on the grant of Patents of Precedence

172. (1) The Authority shall establish an Advisory Committee on the grant of Patents of Precedence to perform the functions assigned to it under this Part.

(2) The Committee shall consist of:

(a) the Chief Justice, who shall be the chairperson of the Committee;

- (b) the President of the High Court;
 - (c) the Attorney General;
 - (d) the Chairperson of the Bar Council;
 - (e) the President of the Law Society; and
 - (f) a lay member of the Authority nominated by the Minister.
- (3) A person appointed under *paragraph (f) of subsection (2)* —
- (a) shall be a member of the Committee for a period not exceeding 3 years from the date of his or her appointment as such a member, and
 - (b) shall be eligible for re-appointment to the Committee provided, and for so long as, he or she remains a member of the Authority.
- (4) A member of the Committee, who is unable to attend a meeting of the Committee, may nominate a deputy to attend in his or her place.
- (5) The Committee may act notwithstanding a vacancy in its membership.
- (6) On the death or retirement of the Chief Justice, the senior ordinary judge of the Supreme Court who is for the time being available shall be a member of the Committee until the appointment of a Chief Justice.
- (7) On the death or retirement of the President of the High Court, the senior ordinary judge of the High Court who is for the time being available shall be a member of the Committee until the appointment of a President of the High Court.
- (8) Where a member of the Committee—
- (a) makes an application under [section 174 \(1\)](#), or
 - (b) is the subject of an application under [section 175 \(2\)](#),
- he or she shall take no part in any consideration by the Committee of that application.
- (9) All proceedings of the Committee and all communications by and to the Committee, including consultations by the Committee under [section 174 \(3\)](#), shall be confidential and shall not be disclosed except for the purposes of this Act.

Criteria for grant of Patent

- 173.** (1) The Committee shall establish the criteria, based on the objectives specified in *subsection (2)*, to be met by a legal practitioner in order for a recommendation to be made by it to the Government that a Patent be granted to him or her.
- (2) The objectives referred to in *subsection (1)* are those of ensuring, in relation to a legal practitioner seeking to have a Patent granted to him or her, that he or she:
- (a) has, in his or her practice as a legal practitioner, displayed—
 - (i) a degree of competence and a degree of probity appropriate to and consistent with the grant to him or her of a Patent,
 - (ii) professional independence, and
 - (iii) one or more of the following:
 - (I) a proven capacity for excellence in the practice of advocacy;
 - (II) a proven capacity for excellence in the practice of specialist litigation; or
 - (III) specialist knowledge of an area of law;
 - (b) is suitable on grounds of character and temperament;
 - (c) is in possession of a tax clearance certificate that is in force;
 - (d) is otherwise suitable to be granted a Patent.

Application for recommendation

- 174.** (1) A legal practitioner who wishes to be granted a Patent under [section 171](#) may apply to the Committee for—
- (a) its consideration, in accordance with this section, of whether he or she meets the criteria established under [section 173](#), and
 - (b) subject to *paragraph (a)*, its recommendation to the Government that he or she be granted a Patent.
- (2) An application under *subsection (1)* shall be accompanied by such information and such fee as may be prescribed.
- (3) Where the Committee receives an application under *subsection (1)*, it shall consider whether the applicant meets the criteria established under [section 173](#) and, for that purpose, may consult in confidence with such persons as it considers appropriate.

- (4) Following its consideration under *subsection (3)*, the Committee shall—
- (a) where it decides that an applicant meets the criteria established under *section 173*, recommend to the Government that the applicant be granted a Patent, and
 - (b) where it decides that the applicant does not meet those criteria, notify the applicant in writing of its decision and of the reasons for it.
- (5) The Minister may prescribe—
- (a) the form of application under this section,
 - (b) the information and fee (if any) that is to accompany an application for the grant of a Patent, and
 - (c) any other matters that the Minister considers necessary for purposes of this section.

Revocation of grant of Patent

- 175.** (1) The Government may, on a recommendation from the Committee made in accordance with this section, revoke the grant of a Patent.
- (2) Where the High Court makes an order referred to in *section 85 (7)(g)* in relation to a legal practitioner, the Authority shall apply to the Committee for—
- (a) its consideration, in accordance with this section, of whether the grant of a Patent to that legal practitioner should be revoked, and
 - (b) subject to *paragraph (a)*, its recommendation to the Government that that grant be revoked.
- (3) An application under *subsection (2)* shall be accompanied by—
- (a) a statement of the reasons for the application,
 - (b) copies of all documents that were before the Disciplinary Tribunal in the making of its determination under *section 81 (8)*, and
 - (c) such other information, and such fee, as may be prescribed.
- (4) The Committee, on receipt of an application under *subsection (2)*, shall notify the person concerned in writing of the application.
- (5) A notification under *subsection (4)* shall include—

- (a) a copy of all documents furnished to the Committee in the application under *subsection (2)*,
 - (b) a statement that the person concerned may, within 30 working days of the sending of the notification or such other period as the Committee, having regard to the requirements of justice, may specify, make representations in the prescribed manner to the Committee as to why the grant should not be revoked, and
 - (c) a statement that, where no representations are received within the period specified under *paragraph (b)*, the Committee will, without further notice, proceed to consider the application.
- (6) In considering an application under *subsection (2)*, the Committee shall take into account—
- (a) the information furnished in the application,
 - (b) any representations made pursuant to *subsection (5)(b)*, and
 - (c) any other matter the Committee considers relevant for the purpose of its decision.
- (7) The Committee shall decide to recommend to the Government that the grant of a Patent be revoked only where satisfied, on the basis of the representations and matters referred to in *subsection (6)*, that the person concerned no longer meets the criteria established under [section 173](#) .
- (8) Where the Committee makes a decision referred to in *subsection (7)*, it shall notify the person concerned in writing of its decision and of the reasons for it.
- (9) A person referred to in *subsection (8)* may, within 30 working days of the sending of the notification under that subsection, appeal to the High Court against the decision of the Committee.
- (10) On hearing an appeal under *subsection (9)*, the High Court may, as it thinks proper, either affirm or overturn the decision concerned.
- (11) The Committee shall recommend to the Government that the grant of a Patent to a person referred to in *subsection (8)* be revoked only—
- (a) where no appeal is made under *subsection (9)*, after the expiry of the period referred to in that subsection,
 - (b) where an appeal is made under *subsection (9)*, if the High Court affirms the decision concerned.

(12) The Minister may prescribe—

- (a) the form of application under *subsection (2)*,
- (b) the information and fee (if any) that is to accompany such an application, and
- (c) any other matters that the Minister considers necessary for the purposes of this section.

Solicitor granted Patent while barrister

176. A solicitor to whom, before the commencement of this section and while he or she was a barrister, a Patent was granted, shall be entitled to use the title of "Senior Counsel".

Courts Act 2019 – Section 3

Amendment of Legal Services Regulation Act 2015

3. The [Legal Services Regulation Act 2015](#) is amended—

(a) in section 141, by the insertion of the following subsection after subsection (5):

“(6) For the purposes of subsection (3)(f), a County Registrar need not publish the reasons for a determination where he or she is of the opinion that the taxation concerned does not involve a matter of legal importance.”,

(b) in section 154(10)—

(i) in paragraph (c), by the substitution of “adjudication,” for “adjudication, and”,

(ii) in paragraph (d), by the substitution of “attempt,” for “attempt.”, and

(iii) by the insertion of the following paragraphs after paragraph (d):

“(e) a procedure whereby a party to an adjudication may, upon notice to another party—

(i) pay into court a sum of money, or

(ii) make an offer by way of tender to the other party,

in satisfaction of the costs of the other party that are the subject of the adjudication, and

(f) the respective liability of the parties referred to in paragraph (e) for the costs of the adjudication where the amount of a payment or offer referred to in that paragraph is equal to or greater than the amount of the costs

concerned that, in the adjudication, are determined to be paid.”,

(c) in section 160(2)(a), by the substitution of “section 163” for “section 166”, and

(d) in section 172—

(i) in subsection (2), by the insertion of the following paragraph after paragraph (a):

“(aa) the President of the Court of Appeal;”,

and

(ii) by the insertion of the following subsection after subsection (6):

“(6A) On the death or retirement of the President of the Court of Appeal, the senior ordinary judge of the Court of Appeal who is for the time being available shall be a member of the Committee until the appointment of a President of the Court of Appeal.”.

**Appendix II B – Letter Nominating lay member to
Advisory Committee**



**An Roinn Dlí agus Cirt
agus Comhionannais**
Department of Justice
and Equality

Mr. Brian Doherty,
Chief Executive Officer,
Legal Services Regulatory Authority
PO Box 12906,
Dublin 2

25th March 2020

Re. LSRA Lay Nominee to Advisory Committee on the grant of Patents of Precedence

Dear Brian,

On behalf of the Minister for Justice and Equality, Charlie Flanagan TD, I wish to convey his decision to nominate the Chair of the Legal Services Regulatory Authority,

Dr. Don Thornhill, as the Authority's first lay nominee to be a member of the Advisory Committee on the grant of Patents of Precedence. This nomination is made by the Minister under the relevant terms of section 172(2)(f) of the Legal Services Regulation Act 2015.

The Minister wishes the Authority, the Chief Justice as Chairperson, and other members of the Advisory Committee, every success in its establishment and operation and has asked me to assure you of the Department's ongoing support for this endeavour.

Yours sincerely,



Richard Fallon,
Principal Officer,
Civil Justice and Equality Governance.

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