

RULES OF THE DANISH BAR AND LAW SOCIETY

Amendments as at 1 January 2008

Annex to Advokaten 1 2008

Contents

| | |
|--|----|
| The provisions on lawyers set out in the Administration of Justice Act, sections 119 to 147 h | 3 |
| Order on calling lawyers, etc., for an interview with the district committee | 16 |
| Order on professional corporations of lawyers | 18 |
| Order on compulsory participation for owners of professional corporations of lawyers who are not lawyers in a test on the rules of special importance to the profession of lawyer (the partner test) | 25 |
| Order on ongoing mandatory continuing education for lawyers and assistant attorneys | 28 |
| Order on mandatory basic education as a condition for admission to practise law | 34 |
| Order on the activities of the Disciplinary Board and of the district committees in the consideration of complaints about lawyers, etc. | 41 |
| Order on EU lawyers' establishment in Denmark | 47 |
| Order on EU lawyers' services in Denmark | 53 |

Title VI. Lawyers

Part 12

Admission to practise law

Practising law

119.–(1) Admission to practise law shall be granted by the Minister for Justice.

(2) Any person who

(i) is legally competent and not under guardianship pursuant to section 5 or section 7 of the Danish Legal Incapacity and Guardianship Act;

(ii) has not filed for suspension of payments and is not in bankruptcy;

(iii) holds a Danish Bachelor's and Master's degree in Law; but see section 135 a;

(iv) has carried out practical legal work for at least three years; cf. subsections (3) and (4); and

(v) has completed theoretical basic education and passed an examination in matters of special importance to the profession of lawyer as well as passed a practical test in litigation

shall be entitled to hold a practising certificate.

(3) The work mentioned in subsection (2)(iv) shall consist in participation in general legal practice, including acquiring experience in hearing cases, as an authorised assistant attorney with a lawyer practising law, or in work in a legal capacity in the courts, the prosecution service or the police, in which the hearing of cases forms a substantial part.

(4) The Minister for Justice may decide or lay down rules to the effect that work in legal positions other than those mentioned in subsection (3) can be included in whole or in part in the period mentioned in subsection (2)(iv).

(5) The Minister for Justice shall lay down rules about the theoretical basic education, examination and practical test in litigation, including content, organisation and payment thereof. The Minister for Justice may, in special circumstances, exempt a person from the requirement to complete the theoretical basic education, the requirement to pass the examination and the requirement to take the practical test in litigation. The Danish Bar and Law Society shall be responsible for the theoretical basic education programme, the examination and the practical test in litigation. The court shall assess whether a case is suitable for forming the basis of the practical test in litigation.

120.–(1) Persons who have not been admitted to practise law and persons who are excluded from practising law or whose right to do so has ceased in pursuance of this Act may not use the title “advokat” or any other title capable of being confused therewith. A lawyer who has deposited his practising certificate with the Ministry of Justice may not use the title “advokat” in connection with business matters.

(2) Violation of the provisions of subsection (1) shall be punishable by a fine, provided that the offence is not subject to a more severe penalty under other legislation.

121.–(1) Admission to practise law may be denied anyone who is convicted of a criminal offence if the offence gives grounds to believe that abuse of the right to practise law is an obvious risk or makes the person concerned unworthy of the respect and trust that must be required to practise law. Section 78(3) of the Danish Penal Code shall apply similarly.

(2) Admission to practise law may also be denied anyone who in his position or profession has behaved in a manner that gives grounds to assume that such person will be unable to practise law in a proper manner.

(3) Furthermore, admission to practise law may be denied anyone who has considerable outstanding debt to the State, meaning amounts of DKK 50,000 or more.

(4) Where, pursuant to subsections (2) and (3), the Minister for Justice refuses to grant a person admission to practise law, such person may claim that the matter be brought before the court. The Minister for Justice shall bring the action within the forms of civil procedure. If the court approves the decision made by the Minister for Justice, the matter may not be brought before the court again until two years after the decision.

122.–(1) Practising law shall be incompatible with a legal position in the courts, the prosecution service or the police; but see the provision in section 106.

(2) Practising law shall also be incompatible with any position in public service, unless the Minister for Justice makes an exception in special circumstances. When decisions on exemptions are made, main focus shall be on the lawyer’s independence of the State, thus preventing any conflict of interest from arising between a public office and the practise of law by the person concerned.

(3) The Minister for Justice may allow a lawyer who under subsection (1) or (2) cannot practise law to conduct a case.

123.–(1) A lawyer shall for at least one year either have practised as an authorised assistant attorney with a lawyer who practises law, or been employed as a lawyer with another lawyer who practises law to be able to practise law jointly with another lawyer, practise law as a sole practitioner or own shares in a professional corporation of lawyers.

(2) The Minister for Justice may in special circumstances make exceptions from the provision in subsection (1).

124.–(1) Apart from lawyers acting as sole practitioners or in a grouping of lawyers, only professional corporations of lawyers in the form of public limited, private limited or limited partnership companies may practise law. The only permitted object of a professional corporation of lawyers shall be to practise law. A professional corporation owned solely by lawyers and whose sole object and activity is to own shares in another professional corporation of lawyers may, however, own shares in a professional corporation of lawyers. Professional corporations of lawyers shall be obliged and have exclusive right to use the words “advokataktieselskab”, “advokatanpartsselskab” or “advokatkommanditaktieselskab” or abbreviations of such words in their names. Irrespective of the first and second sentences hereof, associations, industry organisations, etc., may, acting as agents for their members, conduct cases for their members within the association’s field of interest.

(2) Lawyers practising law in a professional corporation of lawyers or other employees in the corporation who pursuant to subsection (3)(ii) below own shares therein shall be personally liable jointly with the corporation for any claim arising as a result of their assistance to a client.

(3) Shares in a professional corporation of lawyers may, but see subsection (8), only be owned by

(i) lawyers who actively practise law in the corporation, its parent company or its subsidiary;

(ii) other employees in the corporation; or

(iii) another professional corporation of lawyers.

(4) Jointly, the persons mentioned in subsection (3)(ii) shall not own more than one tenth of the shares in the professional corporation and shall not have more than one tenth of the votes in the corporation. Laying down provisions limiting the provisions of the Danish Public Companies Act on share redemption in the corporation’s articles of association or in a shareholders’ agreement shall not be permitted.

(5) The persons mentioned in subsection (3)(ii) who own shares in a professional corporation of lawyers shall pass a test in the rules that are of special importance to the profession of lawyer. The Minister for Justice shall lay down more specific rules thereon. The Bar and Law Society shall be responsible for holding the test.

(6) Complaints about the persons mentioned in subsection (3)(ii) who own shares in a professional corporation of lawyers may be filed with the Disciplinary Board of the Bar and Law Society in accordance with the rules in Parts 15 a and 15 b.

(7) Directors, except employee-elected directors, of a professional corporation of lawyers shall actively practise law in the corporation or its parent company or its subsidiary. Members of the executive board of a professional corporation of lawyers shall actively practise law in the corporation.

(8) The Minister for Justice shall lay down more specific rules for practising law in corporate form, including rules on converting a professional corporation of lawyers into a company with other objects and rules on the sale of shares.

(9) Violation of subsections (1), (3), (4) and (7) shall be punishable by a fine, provided that the offence is not subject to a more severe penalty under other legislation.

(10) Regulations issued under subsections (5) and (8) may prescribe penalties in the form of fines for violating the regulations.

125. Only in cases where the law contains specific provisions to this effect shall lawyers be obliged to undertake the conduct of a case.

126.–(1) A lawyer shall conduct himself in a way that complies with the rules of professional conduct. A lawyer shall thus practise his profession competently and zealously and as reasonably justified by legitimate considerations for the clients' interests. A lawyer shall proceed with cases with the necessary promptness.

(2) A lawyer may not charge higher fees for his work than what is considered reasonable.

(3) A lawyer shall help an assistant attorney authorised to practise with the lawyer to participate in the theoretical basic education, examination and practical test in litigation; cf. section 119(2)(v). The lawyer shall pay the expenses for the theoretical basic education, examination and practical test in litigation.

(4) Outside his legal practice or in other matters of a financial nature, a lawyer shall not act in a manner unworthy of a lawyer.

(5) Any lawyer and assistant attorney shall participate in ongoing continuing education relevant to the profession of lawyer. A lawyer shall pay the relevant expenses for an assistant attorney authorised to practise with the lawyer. The Minister for Justice may lay down more detailed rules thereon.

127. The Bar and Law Society shall issue rules on lawyers' duties relating to the handling of fiduciary funds, security against financial liability which may be incurred when practising law and notification of all necessary accounting and financial information to the Bar and Law Society as well as rules on the implementation of the requisite control measures. The Minister for Justice shall approve the rules.

127 a.–(1) Sections 125 to 127 shall also apply to professional corporations of lawyers.

(2) Section 126(1), (2) and (4) and section 127 shall also apply to the employees in a professional corporation of lawyers who own shares in the corporation; cf. section 124(3)(ii).

128. (Repealed)

129. Sections 144, 150 to 152 and 155 to 157 of the Penal Code shall apply similarly to lawyers and their authorised assistant attorneys, partners, staff and others who are also employed with the law offices.

130.–(1) With a view to implementing or applying European Community decisions, the Minister for Justice may lay down rules on admission to practise law and practising the profession of lawyer, including on establishment and practise in groupings of lawyers for lawyers who have obtained their professional qualification in one of the Member States of the European Union or in a country with which the Communities have concluded an agreement.

(2) Furthermore, the Minister for Justice may lay down rules on the use of professional titles covered by European Community decisions and on penalties in the form of fines for violation of such rules.

Part 13

Lawyers' right of audience before the courts

Authorised assistant attorneys

131. Lawyers shall have an exclusive right to conduct cases for others; but see sections 136, 260 and 730. An authorisation to advance a claim or assert other rights in one's own name shall not give the person to whom the authorisation is given the right to appear in the case himself unless he is entitled to do so pursuant to the rules set out in sections 132 to 136.

132. Any lawyer shall be entitled to appear before the district court, before the Maritime and Commercial Court in cases covered by section 15(2)(iv), and before the Special Court of Indictment and Revision.

133.–(1) A lawyer shall be entitled to appear before the High Court and in all cases before the Maritime and Commercial Court when the lawyer has passed a test in litigation.

(2) Besides lawyers, authorised assistant attorneys entitled to appear before the High Court pursuant to section 136(4) may take the test.

(3) The test shall consist in the candidate's conducting two cases, concluded with oral proceedings.

(4) One of the cases may be a district court case, including the practical test referred to in section 119(2)(v). If so, the case shall be a case heard by the court sitting in panels or a case in which expert lay assessors participate. The other case shall be conducted before one of the High Courts or before the Maritime and Commercial Court. A case can only form the basis of the test if the relevant court finds the case suitable for the purpose.

(5) The candidate has passed the test when the courts where the cases were conducted find the conduct of the cases satisfactory. If the case has been conducted before the High Court or the Maritime and Commercial Court, the relevant High Court or the Maritime and Commercial Court may, however, declare that in view of the nature and conduct of the first case, the candidate has passed the test on the basis of this case alone. The second case shall be conducted within five years of the conduct of the first case, unless the court in which the second case is conducted grants an exemption from this rule.

(6) Candidates may enter for the test only twice.

134.–(1) A lawyer shall be entitled to appear before the Supreme Court when such lawyer has filed an application for registration with the court registry of the Supreme Court accompanied by a statement from the General Council of the Bar and Law Society that the lawyer has practised law for a minimum of five years as a lawyer entitled to appear before the High Court and a statement from the High Court that the lawyer is experienced in litigation.

(2) Where a lawyer's conduct of a case before the Supreme Court is unwarrantable, the Supreme Court may give the lawyer a notification to this effect. If the lawyer's argument before the Supreme Court continues to be unwarrantable, the Court may decide to deprive the lawyer of his right of audience. The right of audience may be regained by the Court's decision.

135.–(1) Any lawyer may have one or two authorised assistant attorneys who shall hold a Danish Bachelor's and Master's degree in Law; but see section 135 a(1).

(2) The authorisation shall be granted by the president of the district court judicial district where the lawyer concerned has his office. In Bornholm, the authorisation shall be granted by the judge. The provision in section 121 shall apply similarly.

135 a.–(1) For persons who hold a Master's degree in Law from one of the EU Member States or from a country with which the Community has concluded an agreement that corresponds to the level of the Danish Bachelor's and Master's degree in Law, the Minister for Justice may fix a trial period as a condition for the candidate's authorisation as an assistant attorney, to ensure that the candidate has the necessary knowledge of Danish procedural law and masters the Danish language at a level that enables the candidate to conduct oral proceedings in a proper manner. The same shall apply to persons who hold a Bachelor's degree in Law from one of the EU Member States or from a country with which the Community has concluded an agreement and who hold a Danish Master's degree in Law.

(2) The Minister for Justice may otherwise, to the extent needed for fulfilling Denmark's EU obligations, exempt candidates from the requirement that they must hold a Danish Bachelor's or Master's degree in Law, including fixing a trial period as a condition therefor.

136.–(1) During proceedings, a lawyer may only appear by another counsel, provided that such counsel is a lawyer and entitled to appear before the relevant court or it follows from subsection (2) to (8) below.

(2) Outside oral proceedings in cases, a lawyer may appear before any court by his authorised assistant attorney or another lawyer.

(3) In the event of oral proceedings before a district court and before the Maritime and Commercial Court in cases covered by section 15(2)(iv), a lawyer may appear by his authorised assistant attorney.

(4) In the event of oral proceedings before the High Court and in all cases before the Maritime and Commercial Court, a lawyer entitled to appear before the High Court may appear by his

authorised assistant attorney if documentation is presented showing that such person is a lawyer or has for a minimum of two years been employed in a position as mentioned in section 119(3). The assistant attorney's right to argue cases before the High Court shall apply only for a period of two years from the first legal argument. When found reasonable, the High Court in whose district the assistant attorney is authorised may extend this period.

(5) The president of the High Court shall endorse the assistant attorney's authorisation with information on the right to argue under subsection (4) and on extension of the two-year period. A new authorisation shall contain information on the right of audience and any extension thereof.

(6) During oral proceedings in all courts, a lawyer may by any person of good character apply for and show cause for a stay of proceedings due to matters preventing the lawyer himself from appearing in court.

(7) Outside oral proceedings in cases, a lawyer may also, stating lawful excuse, appear by any person of good character who has attained the age of 18. The court and the opposing counsel may require proof of the lawful excuse.

(8) During enforcement proceedings, lawyers may appear by any person of good character who has attained the age of 18, except where the proceedings include negotiations on a dispute or the enforcement court otherwise finds such appearance inexpedient.

Part 14

Cessation of the right to practise law

137. The right to practise law shall cease if the lawyer no longer satisfies the conditions set out in section 119(2)(i) and (ii).

138. Under the rules of section 79 of the Penal Code, a lawyer may be disbarred during a criminal case if the offence gives grounds to believe that abuse of the position is an obvious risk or makes the person concerned unworthy of the respect and trust that must be required for practising law.

139.—(1) A lawyer may be disbarred by judgment if, due to the lawyer's mental disease, it is deemed to be unwarrantable that such lawyer continues to practise law. Moreover, a lawyer may be disbarred by judgment for a period from one to five years or until further notice if the lawyer has considerable outstanding debt to the State, meaning amounts of DKK 100,000 or more. The Minister for Justice shall bring the action within the forms of civil procedure.

(2) Where, due to the lawyer's mental disease, it is deemed necessary in order to prevent capital loss to clients, the court may during the case by order based on a claim from the Minister for Justice exclude the lawyer from practising law until the case has been finally decided.

(3) Where the ground for disbarment under subsection (1) no longer exists, the Minister for Justice shall restore to the lawyer the right to practise law, provided that the lawyer otherwise

satisfies the conditions for practising law. In the event that the Minister for Justice denies a request for restoration, the lawyer concerned may request that the matter be brought before the court. Such request may only be made at one-year intervals. The provision in subsection (1), third sentence, shall apply similarly.

140.—(1) A person who during a case has been excluded by order from practising law until the case has been finally decided as well as a person whose right to practise law has ceased or who has been disbarred in pursuance of this Act shall surrender his practising certificate to the Ministry of Justice.

(2) When the person concerned is again entitled to practise law, the practising certificate shall be returned on request.

(3) Where the right to practise law has ceased as a result of bankruptcy pursuant to the provision in section 137, the Minister for Justice may, after the insolvent estate has been wound up, decline to return the practising certificate if proofs of claims remain that can be asserted against the person concerned.

141. A lawyer may deposit his practising certificate with the Ministry of Justice. The practising certificate shall be returned only if the lawyer satisfies the conditions set out in sections 119 and 121.

142.—(1) For persons who are excluded from practising law or whose right to do so has ceased in pursuance of sections 137 to 139, the rules laid down in pursuance of section 127 on the handling of fiduciary funds shall apply, and the General Council of the Bar and Law Society shall supervise the observance of the rules. The rules shall apply until the General Council decides that this should no longer be the case, but not more than six months from the exclusion or cessation. The General Council may notify the clients of the lawyer concerned of the exclusion or cessation and of the implications thereof.

(2) Violation of the rules mentioned in subsection (1) shall be punishable by a fine, provided that the offence is not subject to a more severe penalty under other legislation.

Part 15

The Bar and Law Society and the Disciplinary Board

143.—(1) The Danish Bar and Law Society shall be made up of all Danish lawyers.

(2) The supervisory board of the Bar and Law Society, called the General Council, shall supervise lawyers and their authorised assistant attorneys. In the event that the Council finds that a lawyer has not acted in accordance with the duties involved in his position, it may file a complaint about such lawyer with the Disciplinary Board of the Bar and Law Society. The first and second sentences shall apply similarly in respect of professional corporations of lawyers; cf. section 124.

(3) The General Council may decide that a lawyer or any person mentioned in section 124(3)(ii) who owns shares in a professional corporation of lawyers shall be called for an interview with the district committee in one of the local districts that border the district in which the lawyer or the above person has his business if it must be assumed that the lawyer or the above person has grossly or repeatedly neglected the duties involved in his position. Furthermore, the General Council may, in cases where a lawyer or any person mentioned in section 124(3)(ii) who owns shares in a professional corporation of lawyers is suspected of having committed offences that may lead to disbarment or disqualification from owning shares in a professional corporation of lawyers, decide that supervision of the lawyer or above person by colleagues be initiated.

(4) The Bar and Law Society shall be divided into a number of local districts. The district committees of the local districts shall assist the General Council.

(5) The Bar and Law Society shall lay down rules about its organisation and activities in byelaws to be approved by the Minister for Justice.

144.—(1) The Bar and Law Society shall set up a Disciplinary Board. The Disciplinary Board shall consist of a chairman and two vice-chairmen, all of whom shall be judges, as well as of 18 other members. The chairman and the vice-chairmen shall be appointed by the president of the Supreme Court. Of the other members, nine shall be elected by the Bar and Law Society among lawyers who are not members of the General Council, and nine members, who must not be lawyers, shall be appointed by the Minister for Justice. The Minister for Justice shall appoint members and their alternates on the recommendation of such authorities, organisations, etc. that will ensure that the members and their alternates appointed to the Disciplinary Board are familiar with the interests of private clients, business clients and public clients. Members and their alternates shall be appointed for a period of six years. Re-appointment shall not be possible.

(2) One or more members of the chairmanship, one or more members appointed by the Minister for Justice and a number of lawyers corresponding to the number of members appointed by the Minister for Justice shall participate in the consideration of cases by the Board.

(3) The district committees of the local districts may assist the Disciplinary Board in preparing cases.

(4) The Minister for Justice shall lay down rules specifying the activities of the Disciplinary Board, including on the Board's activities in divisions. Furthermore, the Minister for Justice may lay down rules on payment of expenses for fees, etc., to lawyers appointed to be counsel for the prosecution, to be counsel for the defendant or to safeguard the complainant's interests in disciplinary cases.

145.—(1) When the Disciplinary Board considers cases in which the district committees are to assist the Board, each committee shall be joined by a member who is not a lawyer. Where a district committee works in several divisions, the district committee shall be joined by one member for each division. Such members and their alternates shall be appointed by the Minister for Justice for a term of four years on the recommendation of KL (Local Government Denmark). The Minister for Justice may lay down rules on recommendation from local authorities that are not members of KL (Local Government Denmark).

(2) The Minister for Justice shall lay down rules governing the district committees' consideration of cases in which they are to assist the Disciplinary Board as well as rules governing the district committees' holding of the interviews mentioned in section 143(3).

145 a. The Disciplinary Board shall submit an annual report on its activities to the Minister for Justice. The report shall be printed and published.

Part 15 a

Fee complaints

146.–(1) Complaints about fees charged for work performed by a lawyer, a professional corporation of lawyers or any person mentioned in section 124(3)(ii) who owns shares in a professional corporation of lawyers may be filed with the Disciplinary Board by the person having a legal interest therein. The Board may approve the amount of the fee or decide that the fee be reduced or waived.

(2) Complaints shall be filed within one year after the complainant became aware of the claim for payment. The deadline shall be counted from the final settlement of the case in question. The Disciplinary Board may consider a complaint filed later if the grounds for the delay are reasonable.

(3) The Disciplinary Board's decision cannot be brought before other administrative authorities.

147. (Repealed)

147 a. As long as the Disciplinary Board considers a case, the parties to the complaint case may not bring an action in the courts about any matter covered by the complaint. When the Disciplinary Board has made its decision, either party may bring the case before the courts.

Part 15 b

Disciplinary cases

147 b.–(1) Complaints that a lawyer, a professional corporation of lawyers or any person mentioned in section 124(3)(ii) who owns shares in a professional corporation of lawyers has neglected duties that follow from this Act or from regulations laid down in pursuance of this Act may be filed with the Disciplinary Board.

(2) Complaints shall be filed within one year after the complainant became aware of the matter to which the complaint relates. The Disciplinary Board may, however, consider a complaint filed later if the grounds for the delay are found to be reasonable.

(3) The Disciplinary Board may refuse to consider complaints from persons who have no legal interest in the matter to which the complaint relates as well as complaints deemed in advance to be manifestly unfounded.

(4) The Disciplinary Board may have parties and witnesses examined in the district court in the area in which they live.

147 c.—(1) Where the Disciplinary Board finds that a lawyer, a professional corporation of lawyers or any person mentioned in section 124(3)(ii) who owns shares in a professional corporation of lawyers has neglected duties that follow from this Act or regulations laid down in pursuance of the Act, the Board may reprimand the lawyer, the professional corporation or the person who pursuant to section 124(3)(ii) owns shares in a professional corporation of lawyers or impose a fine on such person or corporation of up to DKK 300,000.

(2) The Disciplinary Board may, by imposing default fines, order a lawyer, a professional corporation of lawyers or any person mentioned in section 124(3)(ii) who owns shares in a professional corporation of lawyers to fulfil an obligation as set out in subsection (1) above. The Board may furthermore, if deemed necessary, take away a case from the lawyer or the person who pursuant to section 124(3)(ii) owns shares in a professional corporation of lawyers and have another lawyer or person who pursuant to section 124(3)(ii) owns shares in a professional corporation of lawyers and is approved by the client finish the case.

(3) Where a lawyer is guilty of gross or repeated violation of his duties as a lawyer, and the violation gives grounds to assume that the lawyer will not in future be able to practise law in a proper manner, the Disciplinary Board may disqualify the lawyer from conducting cases or business of a specified nature or the Board may disbar the lawyer. The disqualification or disbarment may be for a period from six months to five years or until further notice. The provision in section 142 shall apply similarly.

(4) Where any person mentioned in section 124(3)(ii) who owns shares in a professional corporation of lawyers is guilty of gross or repeated violation of the rules that regulate the profession of lawyer, and the violation gives grounds to assume that such person will not observe the rules in future, the Disciplinary Board may disqualify such person from conducting cases or business of a specified nature or from owning shares in a professional corporation of lawyers. Disqualification may be for a period from six months to five years or until further notice.

(5) The Board's decisions, which cannot be brought before other administrative authorities, shall include advice about the right to seek judicial review and the deadline for doing so.

(6) The Disciplinary Board shall send notice of the decision to the complainant, the lawyer, the professional corporation of lawyers, the person who pursuant to section 124(3)(ii) owns shares in a professional corporation of lawyers, the General Council and the Ministry of Justice. The Board may publish the decision.

147 d.—(1) The decision of the Disciplinary Board pursuant to section 147 c(1) and (2) may be brought before the court by the lawyer, the professional corporation of lawyers or the person

who pursuant to section 124(3)(ii) owns shares in a professional corporation of lawyers. The court may uphold, revoke or change the decision.

(2) The decision shall be brought before the court within four weeks after the lawyer or person concerned received notice of the decision. Commencement of legal proceedings shall act as a stay of execution in respect of decisions made pursuant to section 147 c(1).

(3) The decision shall be brought before the court by the lawyer, the professional corporation of lawyers or the person who pursuant to section 124(3)(ii) owns shares in a professional corporation of lawyers commencing proceedings against the Disciplinary Board within the forms of civil procedure. The case shall be brought before the court in whose local district the lawyer or the professional corporation has its office.

147 e.—(1) The lawyer or the person who pursuant to section 124(3)(ii) owns shares in a professional corporation of lawyers may demand that a decision pursuant to section 147 c(3) or (4) be brought before the court. The court may uphold, revoke or change the decision.

(2) The request for commencement of legal proceedings shall be made to the Minister for Justice within four weeks after the lawyer or person concerned received notice of the decision. The Minister for Justice shall subsequently commence proceedings within the forms of civil procedure against the lawyer or the person who pursuant to section 124(3)(ii) owns shares in a professional corporation of lawyers.

(3) The request for commencement of legal proceedings shall act as a stay of execution, but the court may, if the Disciplinary Board has disbarred the lawyer or disqualified the person who pursuant to section 124(3)(ii) owns shares in a professional corporation of lawyers from owning shares in a professional corporation of lawyers, by order exclude such lawyer or person from exercising such activity until the case has been finally decided. The judgment may direct that appeal cannot act as a stay of execution.

147 f.—(1) The Disciplinary Board may at any time revoke a disbarment or disqualification pursuant to section 147 c(3) and (4).

(2) Where the disbarment or disqualification is imposed until further notice, and the Disciplinary Board rejects an application for revoking the disbarment or disqualification, the lawyer or person concerned may bring the matter before the court, provided that five years have passed since the disbarment or disqualification. The Minister for Justice shall bring the action within the forms of civil procedure. If the court approves the decision made by the Disciplinary Board, the matter may not be brought before the court until two years after the decision.

147 g.—(1) Fines imposed by the Disciplinary Board pursuant to section 147 c(1) may be collected by statutory debt collection and by withholding the income of the lawyer or person concerned pursuant to the rules on collection of personal taxes set out in the Tax at Source Act and the rules set out in the Act on the Joint Register of Withholding of Pay.

(2) In consultation with the Minister for Taxation, the Minister for Justice shall lay down rules on the withholding of pay pursuant to subsection (1), including on reporting to the Joint Register of Withholding of Pay, on the debtor's duty to give the collecting authority

information for the purpose of the withholding, on duties and liability to pay damages for the person subject to withholding and on the right to statutory debt collection of amounts for which the person subject to withholding is liable.

(3) Penalties in the form of fines may be determined for wilful or negligent violation of rules laid down pursuant to subsection (2).

147 h. The arrears collection authority may waive amounts due that are covered by section 147 c(1), pursuant to the rules of the Collection Act.

Order on calling lawyers, etc., for an interview with the district committee

Pursuant to section 145(2) of the Danish Administration of Justice Act, cf. Consolidated Act No. 1261 of 23 October 2007, the following is laid down:

1.–(1) The General Council of the Danish Bar and Law Society may decide that a lawyer or any person who pursuant to section 124(3)(ii) of the Administration of Justice Act owns shares in a professional corporation of lawyers (partners) shall be called for an interview with the district committee if such lawyer or person is assumed to have grossly or repeatedly neglected the duties involved in his position.

(2) The interview shall be held by the district committee in one of the local districts that border the district in which the lawyer or partner concerned has his business.

(3) At least two members of the district committee shall participate in the interview. The General Council may decide that in addition to the members of the district committee, one or more representatives of the General Council secretariat shall participate in the interview.

(4) The persons from the district committee or the General Council secretariat who participate in an interview under subsection (1) shall have a duty of confidentiality in respect of any information obtained during the interview.

2. The General Council may call a lawyer or a partner for an interview with the district committee irrespective of whether a case is already pending before the Disciplinary Board of the Bar and Law Society against the person concerned.

3.–(1) A lawyer or a partner shall receive at least seven days' notice of an interview under section 1. The notice of the interview shall contain grounds for the General Council's decision to hold the interview.

(2) The interview shall be held in the law firm's offices unless, in consultation with the General Council, the district committee decides otherwise.

(3) The interviewee may be accompanied by an adviser at the interview.

4. The person called for an interview under section 1 shall participate in the interview at the place and time set by the General Council and the district committee, except where such person must be considered to have a lawful excuse because of illness or other special circumstances. The General Council may require proof, e.g. in the form of a medical certificate, that the person's absence from the interview is lawfully excused.

5. In connection with an interview under section 1, representatives of the district committee and of the General Council secretariat may agree with the lawyer or partner concerned on changes in his routines if such changes are found expedient in preventing such lawyer or partner from neglecting his duties as a lawyer, etc.

6.–(1) After the interview, the General Council shall make a draft report that is forwarded to the lawyer or partner having participated in the interview, with a deadline within which to comment on the report. When the district committee has received any comments from the lawyer or partner concerned, the final report shall be made and forwarded to the General Council.

(2) The report shall contain the district committee's recommendation on the further process, including whether an auditor's examination is required and whether there is a basis for bringing the matter before the Disciplinary Board.

7. The General Council shall pay reasonable travel and lodging expenses for participants from the district committee and the General Council secretariat.

8. This Order comes into force on 1 January 2008.

Ministry of Justice, 11 December 2007

LENE ESPERSEN

/ Birgit Thostrup Christensen

Order on professional corporations of lawyers

Pursuant to section 124(8) and (10) of the Danish Administration of Justice Act, cf. Consolidated Act No. 1261 of 23 October 2007 and section 8(6) of the Danish Act on the European Company (the SE Act), cf. Consolidated Act No. 654 of 15 June 2006, and in consultation with the Minister for Economic and Business Affairs, the following is laid down:

Definitions and application of rules

1. With the amendments and additions that follow from this Order, the provisions of the Danish Public Companies Act and of the Danish Private Companies Act shall apply to professional corporations of lawyers and professional corporations of lawyers in the form of holding companies.

2.–(1) When the Order refers to shares, the provisions shall apply similarly to shares in private limited professional corporations of lawyers.

(2) In SEs with a two-tier management system, the provision in section 124(7), first sentence, of the Administration of Justice Act shall apply to members of the company's supervisory organ, while section 124(7), second sentence, of the Administration of Justice Act shall apply to members of the company's management organ.

Shareholders

3.–(1) Shares in a professional corporation of lawyers, including in limited partnership professional corporations of lawyers, may solely be owned by

(i) lawyers who actively practise law in the corporation, its parent company or its subsidiary;

(ii) other employees in the corporation; or

(iii) another professional corporation of lawyers.

(2) Jointly, the persons mentioned in subsection (1)(ii) shall not own more than one tenth of the shares in the professional corporation of lawyers and shall not have more than one tenth of the votes in the corporation. Laying down provisions limiting the provisions on share redemption in the corporation's articles of association or in a shareholders' agreement shall not be permitted.

Professional corporations of lawyers in the form of holding companies

4.–(1) A professional corporation of lawyers in the form of a holding company means a professional corporation of lawyers owned solely by lawyers or by professional corporations of

lawyers owned solely by lawyers and whose sole object and activity is to own shares in another professional corporation of lawyers or professional corporation of lawyers in the form of a holding company.

(2) Like professional corporations of lawyers, a professional corporation of lawyers in the form of a holding company shall be entitled to make usual capital investments, provided that such capital investment is not contrary to the provision laid down in section 124(1), third sentence, of the Administration of Justice Act, according to which the sole object and activity of professional corporations of lawyers in the form of holding companies shall be to own shares in a professional corporation of lawyers. A professional corporation of lawyers in the form of a holding company may thus not place a controlling or otherwise significant interest in business enterprises other than professional corporations of lawyers.

Company name

5.–(1) Professional corporations of lawyers and professional corporations of lawyers in the form of holding companies shall be obliged and have an exclusive right to use the words “advokataktieselskab”, “advokatanpartsselskab”, “advokatkommanditaktieselskab (partnerselskab)” or abbreviations of such words in their names. Limited partnership professional corporations of lawyers may also use the word “advokatpartnerselskab”. Professional corporations of lawyers established as European companies (SEs) may also use the words “europæisk advokataktieselskab”, “SE-advokataktieselskab” or “SE-advokatselskab”.

(2) When applying for registration with the Danish Commerce and Companies Agency, a professional corporation of lawyers or a professional corporation of lawyers in the form of a holding company shall use the words “advokataktieselskab”, “advokatanpartsselskab” or “advokatkommanditaktieselskab (partnerselskab)” in its name.

(3) Changes in the name of a professional corporation of lawyers or in the name of a professional corporation of lawyers in the form of a holding company shall be reported to the General Council of the Danish Bar and Law Society forthwith after the change.

Company formation and changes

6.–(1) Immediately upon the corporation’s registration, the top management of the professional corporation of lawyers shall submit the register of shareholders to the General Council. Moreover, immediately upon the corporation’s registration, the top management of the professional corporation of lawyers shall on a form approved by the Bar and Law Society state the members’ names, the members’ civil registration or Central Business Register numbers, the members’ nominal ownership interest, the members’ voting share and the corporation’s total nominal capital, the total number of votes, and, if the shares are divided into classes, the basis of such division and the distribution of the capital among classes. Furthermore, the objects of the professional corporation’s articles of association shall be included in the form.

(2) Where the professional corporation of lawyers is not exclusively owned by physical persons, the information mentioned in subsection (1) shall also be submitted in respect of the member companies.

(3) Where, pursuant to section 3(1)(ii), the professional corporation of lawyers has members other than lawyers or professional corporations of lawyers, the statement mentioned in subsection (1) shall include this information as well as the names of the members concerned. If the shareholders' agreement contains provisions that restrict the provisions of the Public Companies Act on share redemption, or provisions that involve vote transfer agreements or binding vote agreements, the statement shall include such information. Where relevant, a copy of the agreements, etc. applying between the members shall be submitted.

(4) Where a professional corporation has owners other than physical persons, a graphical overview of owner and voting structures shall be submitted, stating the relative owner and vote distribution and the name and civil registration or Central Business Register number of individual shareholders, in addition to the information mentioned in subsections (1) to (3).

(5) The statement mentioned in subsection (1) may be submitted digitally. A statement submitted digitally shall be provided with a digital signature.

7.–(1) The top management body of a professional corporation of lawyers shall state in the register of shareholders the members' names, and lawyers shall also state the professional corporation of lawyers in which they practise law. Where the member is not a lawyer or a professional corporation of lawyers, this fact shall also be stated. Where a share has changed owners, the change shall be registered not later than one month after the transfer of ownership took place.

(2) In the event of any change in the information registered in pursuance of subsection (1), the top management body shall otherwise be obliged to record such change in the register of shareholders and immediately inform the General Council of the change; cf. section 6. The obligation shall rest on the top management body of the professional corporation of lawyers that is not a member of another professional corporation of lawyers.

Management

8.–(1) Directors, except employee-elected directors, of a professional corporation of lawyers shall be lawyers who actively practise law in the corporation or its parent company or its subsidiary. Members of the executive board of a professional corporation of lawyers shall be lawyers who actively practise law in the corporation.

(2) A lawyer who has deposited his practising certificate or has otherwise lost the right to practise law shall immediately resign from the supervisory board and executive board of the professional corporation of lawyers.

(3) Employee-elected directors who are no longer employed in the professional corporation of lawyers shall immediately resign from the supervisory board.

9. A professional corporation of lawyers may be established only by the formation of a public limited company, including a limited partnership company, a private limited company or an SE or by merger or demerger of existing professional corporations of lawyers. A professional corporation of lawyers may, however, be established by adaptation of a public limited

company, including a limited partnership company, a private limited company or an SE already registered, provided that such company has not previously carried on commercial business.

Content requirements to shares, etc.

10. Shares in a public limited professional corporation of lawyers shall be issued in registered form and shall be non-negotiable instruments. In the event that share certificates have been issued, they shall clearly and conspicuously state that they are non-negotiable instruments.

11.–(1) The voting right attaching to a share may only be exercised by the holder.

(2) A shareholder shall be entitled to attend the general meeting by proxy, who must himself be an independently working lawyer or a shareholder in the corporation.

12.–(1) Loans against bonds or other debt instruments entitling the lender to convert his claim into shares in the corporation may be raised only if the lender satisfies the conditions for owning shares in the corporation. The same shall apply to warrants, loans against bonds or other debt instruments entitling the holder to interest, the size of which depends, in whole or in part, on the dividend yielded by the company's shares or on the profit for the year.

(2) The provisions of section 10 and section 14 shall apply similarly in respect of the debt instruments mentioned in subsection (1).

(3) At the time when the lender no longer satisfies the conditions for owning shares in the company, debt instruments covered by subsection (1) shall fall due for payment no more than six months later. Warrants not exercised shall lapse immediately.

Share transfers

13.–(1) Shares in a professional corporation of lawyers may only be transferred for ownership to a lawyer, to other employees or to a professional corporation of lawyers that satisfies the conditions for owning shares in a professional corporation of lawyers; cf. section 124(3) of the Administration of Justice Act.

(2) Any rights attaching to shares shall always be transferred in their entirety.

14. Any transfer or other assignment of ownership of shares in a professional corporation of lawyers shall be subject to the corporation's prior consent; but see section 17(1).

Redemption, etc., of shareholders

15.–(1) A member that no longer satisfies the conditions of section 124(3) of the Administration of Justice Act shall notify the corporation thereof within one month.

(2) Unless the shares are sold with consent pursuant to section 14, the corporation's supervisory board shall be responsible for calling an extraordinary general meeting, at which the corporation's shareholders shall adopt a resolution to dissolve the corporation. The general meeting may instead adopt a resolution to reduce the share capital by redeeming the shares,

provided that such redemption can be effected in accordance with the rules of the law. The general meeting shall be held within four months of the date of the notice mentioned in subsection (1).

(3) In the event that the corporation's supervisory board otherwise becomes aware that a member no longer satisfies the conditions of section 124(3) of the Administration of Justice Act, subsection (2) above shall apply similarly, the deadline being counted from the time when the supervisory board became aware of the fact, but the general meeting shall be held no earlier than one month after the change occurred.

Age, illness and other temporary absence

16.—(1) Lawyers who because of age, illness or other temporary absence not exceeding 12 months deposit their practising certificate may, irrespective of the provisions of section 15, keep their shares subject to the other members' consent. In the event that a lawyer resumes commercial business in a self-employed capacity or in a salaried capacity, his shareholding shall be disposed of pursuant to the rules of section 15, unless the lawyer again actively practises law in the professional corporation of lawyers, in its parent or subsidiary company or in another professional corporation of lawyers that owns shares in the professional corporation of lawyers; cf. section 124(3) of the Administration of Justice Act.

(2) Members who have deposited their practising certificate under subsection (1) may not exercise their right to vote for the shares concerned. Otherwise, such members shall maintain the rights attaching to shares in the professional corporation of lawyers concerned.

(3) The provision of section 67(3) of the Public Companies Act shall apply similarly to shares for which the right to vote cannot be exercised under subsection (2) above.

Death

17.—(1) In the event of the death of a shareholder, the estate, surviving spouse or beneficiaries of such shareholder may hold the deceased's shares until the end of the full financial year following the death. If the shares have not been sold before the end of this period, section 15(2) shall apply similarly, the deadline for holding a general meeting being counted from the end of the period.

(2) An estate, a surviving spouse or beneficiaries who hold the deceased's shares pursuant to subsection (1) may not exercise voting rights for the shares concerned. Otherwise, such members shall maintain the rights attaching to shares in the professional corporation of lawyers concerned.

(3) The provision of section 67(3) of the Public Companies Act shall apply similarly to shares for which the right to vote may not be exercised under subsection (2) above.

Forced sale

18.–(1) Where pledgees or prosecuting creditors initiate a forced sale of a member’s shares in a professional corporation of lawyers, section 15(2) shall apply similarly, except that any sale pursuant to section 14 shall also require the consent of the pledgor.

(2) In SEs with a two-tier management system, the provisions of subsection (1) above, section 7(1), section 15(2) and (3), and section 17(1), second sentence, applying to the supervisory board of professional corporations of lawyers, shall apply to the supervisory organ of the SE.

Loss of shareholder rights

19. After the end of the deadline set out in section 15(2), a shareholder who no longer satisfies the conditions of section 124(3) of the Administration of Justice Act and who is not covered by section 16(1) or section 17(1) above, shall no longer have the rights attaching to the shareholding, including voting rights and right to dividend or distribution.

Change of objects

20. When a professional corporation of lawyers no longer satisfies the conditions for being a professional corporation of lawyers, it shall immediately change its name and objects or commence liquidation. The General Council shall be notified immediately.

Supervision

21. The General Council shall supervise the provisions of this Order.

22. Under the rules of the Public Companies Act and the Private Companies Act, the Danish Commerce and Companies Agency may decide, on the General Council’s request, that a professional corporation of lawyers shall be dissolved if the corporation does not fulfil its obligations under the Administration of Justice Act or this Order despite a request to this effect. The General Council shall inform the Ministry of Justice at the time it submits its request.

Penalty

23.–(1) Violation of sections 3 to 10, sections 12 to 18 and section 20 shall be punishable by a fine.

(2) Criminal liability may be imposed on companies, etc. (legal persons), under the rules of Part 5 of the Penal Code.

Commencement

24. This Order comes into force on 1 January 2008. At the same time, Order No. 824 of 10 December 1990 is repealed.

Ministry of Justice, 11 December 2007

LENE ESPERSEN

/ Birgit Thostrup Christensen

Order on compulsory participation for owners of professional corporations of lawyers who are not lawyers in a test on the rules of special importance to the profession of lawyer (the partner test)

Pursuant to section 124(5) and (8) of the Danish Administration of Justice Act, cf. Consolidated Act No. 1261 of 23 October 2007, the following is laid down:

1. Employees in a professional corporation of lawyers who, without being lawyers, own shares in the corporation pursuant to section 124(3)(ii) of the Administration of Justice Act (partners) shall pass a test on the rules of special importance to the profession of lawyer (the partner test); cf. section 124(5) of the Administration of Justice Act.

2.–(1) The Ministry of Justice's course committee shall lay down guidelines specifying the content and organisation of the partner test. The General Council of the Danish Bar and Law Society shall nominate censors for the partner test, and the censors shall be employed and dismissed by the course committee.

(2) The Bar and Law Society shall be responsible for holding the partner test, which shall be held at least once a year.

(3) The Bar and Law Society shall charge payment for participation in the partner test. The payment shall include expenses necessary for holding the test, including expenses for material to be used in the test, fees and administration. The Bar and Law Society shall receive any realised profit and respectively bear any realised loss.

3.–(1) After having acquired shares in a professional corporation of lawyers, a partner shall register for the next partner test. The duty to register for the partner test shall arise on the date of takeover.

(2) Irrespective of the provision in subsection (1), a partner may register for and take the partner test from the time that a binding agreement was made regarding takeover or new emission of shares. The above provision shall apply even where the agreement on takeover or new emission of shares is conditional, including if this involves warrants or the raising of loans against bonds or other debt instruments entitling the lender to convert his claim into shares in the corporation.

4.–(1) A partner shall be allowed two test attempts. Failure to appear for the partner test shall be considered a failed test, except where the failure to appear is lawfully excused, for example because of illness that can be documented to the course committee by a medical certificate.

(2) If a partner fails the partner test in the first test attempt, or if the partner is lawfully excused, cf. subsection (1), the partner shall register for the next re-examination. The Bar and Law

Society shall hold re-examinations as required, but not later than two months of the holding of the ordinary test.

(3) If a partner who due to illness participates in re-examination under subsection (2) fails the re-examination, he shall register for the next ordinary test.

5.–(1) If the partner does not register for the partner test pursuant to section 3(1) or section 4(2) and (3), or if the partner has not passed the test after two attempts, the partner shall not be entitled to co-own a professional corporation of lawyers.

(2) A partner who is not entitled to co-own a professional corporation of lawyers under subsection (1) shall immediately sell his shares in the corporation.

(3) If a partner is not entitled to co-own a professional corporation of lawyers under subsection (1), the Bar and Law Society shall immediately inform the professional corporation's other co-owners, who shall implement forced redemption of the partner's shares in the corporation as soon as possible.

6. A partner who has not passed the partner test within two years and six months after acquiring shares in a professional corporation of lawyers, cf. section 3(1), shall in all cases sell the shares pursuant to section 5(2). Section 5(3) shall apply similarly.

7.–(1) The partner may file a complaint regarding a partner test, including about the assessment, with the course committee. Complaints shall be filed within two weeks after the partner received the result of the partner test. Complaints may be filed digitally. A complaint filed digitally shall be provided with a digital signature.

(2) The secretariat shall submit the complaint to the censor as soon as possible. After renewed review, the censor may decide to change the “not passed” assessment to a “passed” assessment or to recommend to the course committee either to maintain the initial assessment or cancel the test with the effect that it is not included in the two attempts mentioned in section 4(1).

(3) The course committee may decide to maintain the assessment, cancel the test or change the “not passed” assessment to a “passed” assessment. If the test is cancelled, the partner shall register for the next partner test.

(4) Insofar as possible, the complaint shall be finally considered and the complainant shall have received the result within two months of filing the complaint.

8. Professional corporations of lawyers and their members, including partners, shall be obliged to give the Bar and Law Society all relevant information on the partner's acquisition and sale of shares in the professional corporation of lawyers as well as forced redemption of a partner's shares pursuant to section 5 and section 6.

9.–(1) The General Council of the Bar and Law Society shall supervise the observance of the rules of this Order by professional corporations of lawyers and their members that have partners among their owners.

(2) In the event of failure to comply with the duties in pursuance of this Order, the General Council of the Bar and Law Society may file a complaint about the professional corporation of lawyers concerned as well as about its members, including the partner, with the Disciplinary Board of the Bar and Law Society; cf. section 147 c of the Administration of Justice Act.

10. This Order comes into force on 1 January 2008.

11. The Bar and Law Society shall hold the first partner test in January 2009 at the latest.

Ministry of Justice, 11 December 2007

LENE ESPERSEN

/ Birgit Thostrup Christensen

Order on ongoing mandatory continuing education for lawyers and assistant attorneys

Pursuant to section 126(5) and section 130(1) of the Danish Administration of Justice Act, cf. Consolidated Act No. 1261 of 23 October 2007, the following is laid down:

Part 1

Requirement for participation in ongoing continuing education

1. All lawyers – including lawyers from an EU or EEA Member State or from Switzerland (EU lawyer), who permanently practise law in Denmark under their home-country professional title – and all assistant attorneys shall participate in ongoing continuing education relevant to the profession of lawyer.
2. Continuing education relevant to the profession of lawyer means education that is either of general importance to practising law or of specific importance to the assistant attorney's or lawyer's performance of his job. Participation in the basic education programme for lawyers shall not be considered continuing education.
- 3.–(1) A course shall otherwise satisfy the following conditions to be considered continuing education under section 1:
 - (i) each course shall consist of a total of at least three 45-minute lessons;
 - (ii) a course programme, a goal description, a subject description or similar description of the course content shall be available;
 - (iii) the course provider shall be able to document the teacher's professional competency within the relevant field; and
 - (iv) the lawyer's or the assistant attorney's participation in the course shall be documented, e.g. in the form of a course certificate signed by the teacher.
- (2) Courses may be held both externally on the course provider's premises, etc., internally by a law firm, etc. or in cooperation between several law firms, etc.
- 4.–(1) To satisfy the requirement of ongoing continuing education set out in section 1, the lawyer or assistant attorney concerned shall within a period of three years have participated in at least 54 lessons of continuing education relevant to the profession of lawyer; but see sections 7 to 11. Each lesson shall have lasted 45 minutes.

(2) For lawyers, the three-year period mentioned in subsection (1) shall be counted from the first day of the first month after the lawyer was admitted to practise law, but no earlier than from 1 January 2008. For assistant attorneys, the three-year period shall be counted from the first day of the first month after the assistant attorney obtained authorisation as an assistant attorney, but no earlier than from 1 January 2008. For EU lawyers, the three-year period shall be counted from the first day of the first month after the time of registration with the Danish Bar and Law Society, but no earlier than from 1 January 2008.

Part 2

Teaching

5.–(1) Teaching shall be considered continuing education covered by section 2, provided that the person's own participation in the course taught would satisfy the requirements set out in section 2. Teaching basic education courses for lawyers shall be considered continuing education under section 2. If, within the three-year period mentioned in section 4, the teacher concerned holds several, essentially identical courses, his teaching shall only be credited with one of such repeated courses within each three-year period.

(2) The conditions set out in section 3 and section 4 shall apply similarly to the teaching mentioned in subsection (1). Teaching shall be credited with a maximum of 27 lessons for each three-year period pursuant to section 4.

Part 3

Writing

6.–(1) Writing shall be considered continuing education covered by section 2, provided that the person concerned

(i) has written or has helped write a professional law book published by a publishing house;

(ii) has written or has helped write a professional article on law published in a journal after prior control of the professional level made by the journal's editors; or

(iii) has written or has helped write a legal research thesis, including, for example, a Ph.D. thesis.

(2) Writing shall be credited with a maximum of 18 lessons for each three-year period pursuant to section 4.

(3) In the assessment pursuant to section 4 of whether the requirement for the scope of the continuing education has been satisfied, the relevant professional law book, the professional article on law or the legal research thesis shall be translated into lessons, so that 2340 characters, excluding spaces, make up one lesson. Where several authors have written the

relevant publication, etc., the number of lessons shall be calculated on the basis of the share in the publication, etc., of the author concerned.

Part 4

Carry forward of surplus lessons

7. A lawyer or an assistant attorney who during the three-year period mentioned in section 4 exceeds the requirement set out in section 4 for 54 lessons of continuing education relevant to the profession of lawyer may upon application to the General Council of the Danish Bar and Law Society have the surplus lessons carried forward to the subsequent three-year period

Part 5

Suspension of the requirement for continuing education

8.–(1) In the event that an assistant attorney retires from his position, a lawyer deposits his practising certificate or the practising certificate ceases to be valid or the lawyer is disbarred, or an EU lawyer cancels his registration with the Bar and Law Society, the requirement for continuing education pursuant to section 1 shall be suspended.

(2) If the assistant attorney is reemployed as assistant attorney, the practising certificate is returned to the lawyer or the EU lawyer reregisters with the Bar and Law Society, the requirement for continuing education shall again apply to the person concerned. The lawyer or assistant attorney concerned shall thus re-enter the three-year period pursuant to section 4 that was interrupted because of the circumstances mentioned in subsection (1). Continuing education, in which the person concerned participated in the period prior to the interruption of the three-year period, shall not be considered to have lapsed.

(3) In the event that, without thus terminating the employment or registration and without depositing the practising certificate, persons mentioned in section 1 are absent from their positions as assistant attorneys or lawyers for a period of two months or more, except where such absence is due to participation in continuing education covered by section 2, the requirement for the scope of the continuing education shall be reduced pursuant to section 9, always provided that such absence is lawfully excused, for example because of illness or leave of absence granted from the position in question.

9. In the cases mentioned in section 8(3), the requirement for 54 lessons of continuing education set out in section 4(1) shall be reduced by three lessons per two months of absence from the position.

Part 6

Exemption from the requirement for continuing education

10. In cases other than those mentioned in section 8, the General Council may upon application from a person covered by section 1 in exceptional cases grant exemption in whole or in part from the requirement for 54 lessons of continuing education; cf. section 4. In order for an exemption to be granted, the application for exemption must be motivated by serious personal, including health-related, circumstances, and such circumstances must be documented at the General Council's request. The participation by the person concerned in continuing education shall form part of the General Council's basis for decision, for which reason the General Council may require documentation thereof.

Part 7

EU lawyers

11.–(1) The obligation for continuing education for an EU lawyer who practises law in Denmark and is registered in Denmark under his home-country professional title shall be considered to have been satisfied to the extent that such EU lawyer documents to the Bar and Law Society that he is subject to a continuing education obligation in his home country that essentially corresponds to the requirements laid down in sections 1 to 6.

(2) In the event that the requirement for continuing education to which an EU lawyer is subject pursuant to the rules of his home country corresponds only partly to the requirements laid down in sections 1 to 6, the Bar and Law Society may require that such EU lawyer participates in supplementary continuing education.

Part 8

Statement on satisfaction of the requirement for ongoing continuing education, documentation requirements, etc.

12.–(1) Giving an appropriate notice, the General Council shall fix a time-limit within which a statement on satisfaction of the requirements for ongoing continuing education set out in sections 1 to 6 must be submitted. The individual lawyer shall submit the statement, and the statement shall also cover any assistant attorneys authorised under the lawyer. The General Council may decide that law firms can make the statement on behalf of the lawyers and assistant attorneys employed in the law firm.

(2) A form to be prepared by the General Council shall be used for making the statement.

(3) The statement may be submitted digitally. A statement submitted digitally shall be provided with a digital signature.

13.–(1) When a lawyer deposits his practising certificate or the practising certificate ceases to be valid or the lawyer is disbarred, the lawyer shall make the statement mentioned in section 12. The statement shall reach the General Council within one month of the time of the deposit, cessation or disbarment.

(2) For EU lawyers who are registered in Denmark under their home-country professional title and wish to deregister, the statement mentioned in section 12 shall be made as at the date of the deregistration with the Bar and Law Society. The statement shall reach the Bar and Law Society within one month of the date of deregistration.

14.–(1) At the General Council’s request, any lawyer shall be under an obligation to submit documentation for satisfaction of the requirements for ongoing continuing education set out in sections 1 to 6, documentation that there is a basis for carrying forward surplus continuing education pursuant to section 7 and documentation that the requirements for ongoing continuing education have been suspended or may be reduced in pursuance of the provisions of sections 8 to 10.

(2) Moreover, at the General Council’s request, a lawyer shall submit the documentation mentioned in subsection (1) in respect of the assistant attorneys authorised under such lawyer.

(3) The General Council may also at any time order a lawyer to submit a statement as mentioned in section 12 within a time-limit fixed by the Council.

Part 9

Non-observance of the rules of this Order, etc.

15.–(1) A lawyer’s non-observance of the rules of this Order or of orders issued by the General Council in pursuance of the Order shall be considered a violation of the rules of professional conduct, for which the General Council may file a complaint about the lawyer concerned with the Disciplinary Board of the Bar and Law Society; cf. section 143(2) of the Administration of Justice Act.

(2) The same shall apply if a lawyer has not to a reasonable extent tried to ensure that an assistant attorney authorised under the lawyer has participated in ongoing continuing education to the extent required under sections 1 to 6.

Part 10

Commencement

16. This Order comes into force on 1 January 2008.

Part 11

Transitional provisions

17. The requirement set out in section 1 on ongoing continuing education for assistant attorneys shall not apply to authorised assistant attorneys who have registered for the previous scheme for theoretical continuing education in areas of special importance to lawyers as a condition for

admission to practise law; cf. Order No. 1129 of 13 December 1996 as amended. The above shall apply only until the assistant attorneys have completed the theoretical courses of the previous continuing education scheme, or until such courses are no longer offered by the Bar and Law Society; cf. the rules in the Order on mandatory basic education as a condition for admission to practise law.

Ministry of Justice, 11 December 2007

LENE ESPERSEN

/ Birgit Thostrup Christensen

Order on mandatory basic education as a condition for admission to practise law

Pursuant to section 119(5) of the Danish Administration of Justice Act, cf. Consolidated Act No. 1261 of 23 October 2007, the following is laid down:

Part 1

Requirement for completion of theoretical basic education, examination and a practical test in litigation

1. It shall be a condition for admission to practise law that the person concerned has completed theoretical basic education for lawyers, has passed an examination in matters of special importance to the profession of lawyer (the theoretical examination) and passed a practical test in litigation (the litigation test); cf. section 119(2)(v) of the Administration of Justice Act.

Part 2

Basic education and the theoretical examination

2. Persons with a Danish Bachelor's and Master's degree in Law may be admitted to the basic education programme. Moreover, persons can be admitted who hold a Master's degree in Law from another EU Member State or from a country covered by an agreement with the Community and that involves acknowledgement in Denmark of a foreign Master's degree in Law, provided that such person satisfies the conditions for authorisation as assistant attorney; cf. section 135 a of the Administration of Justice Act. The same shall apply to persons who hold a Bachelor's degree in Law from one of the countries mentioned and hold a Danish Master's degree in Law.

3.–(1) The theoretical basic education programme shall consist of 20 course days spread over one year and shall conclude with a written examination. Examinations shall be held at least twice a year.

(2) The Danish Bar and Law Society shall lay down detailed guidelines for registration and deregistration for the courses of the basic education programme as well as for the examination.

(3) Participants shall receive the assessment "passed" for a diploma to be issued. Participants can only enter for the examination three times, unless special reasons exist; cf. section 18.

Part 3

Practical test in litigation

4.–(1) The litigation test pursuant to section 119(5) of the Administration of Justice Act shall consist in the conduct of one case before a district court, the High Court or the Maritime and Commercial Court. The court shall assess whether the case is suitable for forming the basis of the litigation test. The assessment shall focus on whether the case is of such nature as to enable the assessment of the candidate's ability to participate in litigation.

(2) The Court may at any time decide to withdraw a decision to approve a case as suitable for forming the basis of the litigation test if the conditions for the suitability of the case cease to exist.

(3) Persons who satisfy the conditions for registering for the basic education programme under section 2 may enter for the litigation test. Candidates can only enter for the litigation test three times, unless special reasons exist; cf. section 18. Candidates shall receive the assessment "passed" for a diploma to be issued.

5.–(1) Where only one judge participates in a legal action that is to serve as a litigation test, a censor shall assist such judge in assessing whether the candidate has passed the litigation test. Where a professional judge and two assessors participate, a censor shall also assist the professional judge. Where three professional judges participate in the case, no censor shall participate.

(2) The candidate has passed the litigation test if the professional judge and censor, respectively the three professional judges, agree that this is the case. If the candidate fails the test, he shall be given reasons for the decision, but no information about the distribution of votes among judges and censor shall be given.

(3) Censors who participate in the litigation test under subsection (1) shall be appointed by the Bar and Law Society. For a person to be appointed as censor, the person concerned must be or have been a lawyer or employed in a legal position in the courts, the police or the prosecution service and have considerable experience in the hearing of cases.

6.–(1) If it proves impossible for the candidate to find a suitable case for the litigation test, the candidate may, when a maximum of one year of the candidate's time as assistant attorney remains, apply to the course committee to have the litigation test carried out as a mock trial.

(2) The Bar and Law Society shall offer participation in a mock trial at least twice a year.

(3) The mock trial shall be carried out with the participation of one judge and one censor appointed by the Bar and Law Society, in respect of the judge after joint recommendation from the presidents of the High Courts, the Maritime and Commercial Court and the district courts.

7.–(1) Candidates shall register with the Bar and Law Society for participation in the litigation test not later than four weeks before the oral proceedings are to take place in court.

(2) The application for participation in a mock trial under section 6(1) shall be filed with the course committee not later than eight weeks before the litigation test is conducted.

Part 4

Payment of expenses related to participation in the basic education programme, etc.

8.–(1) The lawyer with whom an assistant attorney is authorised at the time of invoicing shall pay the expenses of the assistant attorney's participation in the theoretical basic education, examination and litigation test; cf. section 126(3) of the Administration of Justice Act.

(2) The Bar and Law Society shall collect payment of expenses pursuant to subsection (1) for participation in the theoretical basic education, the examination and the litigation test. The payment shall include expenses necessary for holding the basic education courses, the examination and the litigation test, including expenses for course material, teaching, fees and administration.

(3) The Bar and Law Society shall receive any realised profit and respectively bear any realised loss.

Part 5

Tasks of the course committee

9.–(1) The Ministry of Justice shall set up a course committee tasked with laying down guidelines for the content and organisation of the basic education programme, for appointment and dismissal of teachers and for the theoretical examination. The course committee shall also lay down detailed guidelines for the litigation test, including the mock trial, following negotiation with the presidents of the High Courts, the Maritime and Commercial Court and the district courts.

(2) The Bar and Law Society shall give the course committee the secretariat assistance needed.

10.–(1) The course committee may decide that appointment and dismissal of teachers and examiners in the theoretical basic education programme shall be presented to the committee for approval. Censors shall be recommended by the Bar and Law Society and appointed and dismissed by the course committee.

(2) The committee shall fix the payment for participation in the basic education courses, the examination and the litigation test; cf. section 8. The course committee may not introduce restricted admission to or compulsory attendance in the courses.

(3) The course committee shall lay down guidelines for payment of fees and reimbursement of travel expenses to the censors as well as to the judges participating in a mock trial. The course committee shall also lay down guidelines for payment of fees and reimbursement of travel expenses to other participants in a mock trial.

(4) The Minister for Justice shall approve the course committee's guidelines for the content and organisation of course instruction and the guidelines for the litigation test. The same shall apply to the committee's determination of the participants' payment for registration for courses and the examination and the litigation test as well as payment for the course material mentioned in section 19(3).

11. The course committee's decisions shall be made by a simple majority of votes. In case of an equality of votes, the chairman shall have the casting vote.

12.–(1) The course committee shall be made up of eight persons appointed by the Minister for Justice. Three members of the committee shall be appointed on the recommendation of the General Council of the Danish Bar and Law Society, two members on the recommendation of the Association of Lawyers and Assistant Attorneys in the Association of Danish Lawyers and Economists, one member on the joint recommendation of the presidents of the High Courts, the Maritime and Commercial Court and the district courts and one member on the recommendation of the Association of Danish Lawyers and Economists. One member shall be appointed as a representative of the Ministry of Justice. The course committee shall appoint one of its number to serve as chairman of the committee.

(2) The members of the course committee shall be appointed for a period of two years. In the event that a member resigns before the end of the two-year period, a new member shall be appointed for only the remainder of the period.

(3) The expenses of the course committee's operation shall form part of the financial statements of the basic education programme. The committee members shall receive no fee for committee work, but may be reimbursed for reasonable travel and board expenses.

(4) The Minister for Justice shall approve the course committee's rules of procedure.

Part 6

Tasks of the Bar and Law Society

13.–(1) The Bar and Law Society shall be responsible for the basic education programme, the examination and the practical litigation test on the basis of the guidelines laid down by the course committee; cf. section 9(1).

(2) Every year, the Bar and Law Society shall submit budget and financial statements for operating the courses to the Ministry of Justice for the Minister for Justice's approval of the registration fee fixed for the courses, the examination and the litigation test.

Part 7

Complaints about the theoretical examination or the practical litigation test

14.–(1) Complaints about the conduct and assessment of the theoretical examination as well as complaints about the assessment of the litigation test may be filed with the course committee. Complaints shall be filed within two weeks after the candidate has received the result of the examination or the litigation test or such result has been published.

(2) Complaints may be filed digitally. A complaint filed digitally shall be provided with a digital signature.

(3) At the earliest possible time, the course committee secretariat shall submit the complaint to the examiner and censor who participated in the examination, respectively the professional judge(s) and censor who participated in the litigation test, in pursuance of section 5(1) or section 6(3).

15.–(1) In the event of a complaint about the theoretical examination, the examiner and censor may, after renewed review, decide to change the assessment from “not passed” to “passed” or to recommend to the course committee either to maintain the initial assessment or to cancel the examination with the effect that it is not included in the three attempts mentioned in section 3(3). The decision to change an assessment from “not passed” to “passed” or to cancel the examination shall require agreement between the examiner and the censor.

(2) The course committee may decide to maintain the assessment, cancel the examination or change the assessment from “not passed” to “passed”.

16.–(1) In the event of a complaint about the litigation test, the three professional judges, respectively the professional judge and censor, may, after renewed review, decide to maintain the assessment, change the assessment from “not passed” to “passed” or cancel the test with the effect that it is not included in the three attempts mentioned in section 4(3).

(2) A decision under subsection (1) to change the assessment from “not passed” to “passed” or to cancel the test shall require agreement between the three professional judges, respectively between the professional judge and censor.

(3) In the event that pursuant to subsection (1) the three professional judges, respectively the professional judge and censor, have informed the course committee that the initial assessment is maintained, the course committee may, if special circumstances exist, decide that the test not be included in the three attempts mentioned in section 4(3). The course committee cannot change the assessment “not passed” to “passed”.

17. Insofar as possible, the complaint about the theoretical examination or the litigation test shall be finally considered and the complainant shall have received the result within two months of filing the complaint.

18.–(1) Requests for participation in an examination or litigation test in excess of the three attempts mentioned in section 3(3) and section 4(3) may be submitted to the course committee. The course committee shall then assess whether such special circumstances exist that the request can be granted.

(2) Insofar as possible, the request under subsection (1) shall be finally considered and the person concerned shall have received the result within two months of the submission of the request.

Part 8

Exemption

19.–(1) In special cases, when the necessary knowledge must be considered to have been acquired in another manner, the Minister for Justice may in consultation with the course committee exempt a person in whole or in part from the requirement set out in section 119(2)(v) of the Administration of Justice Act on completion of theoretical basic education.

(2) In cases where a person has had a career of relevance to the profession of lawyer so diverse that the person concerned will unquestionably be able to practise law in a fully appropriate manner, the Minister for Justice may in consultation with the course committee also exempt the person from the requirement of section 119(2)(v) on examination and the requirement of the practical test in litigation.

(3) A person who has been exempted from the requirement to complete theoretical basic education shall be entitled, against payment, to receive a copy of the course material used.

Part 9

Commencement

20.–(1) This Order comes into force on 1 January 2008.

(2) At the same time, Order No. 1129 of 13 December 1996 on mandatory continuing education as a condition for admission to practise law is repealed.

Part 10

Transitional provisions

21.–(1) The rules in this Order shall not apply to persons who have registered for or completed theoretical continuing education in areas of special importance to lawyers before 1 January 2008 under the rules of section 119(6) of the Administration of Justice Act previously in force. For such persons, the rules in Order No. 1129 of 13 December 1996 on mandatory continuing education as a condition for admission to practise law shall still apply. Such persons can thus be admitted to practise law although they do not meet the requirements set out in this Order, including the requirement for a practical test in litigation. The continuing education must have been completed on or before 31 December 2009, and the examination must have been passed on or before 31 January 2011. Persons covered by the scheme before 1 January 2008 may choose to be covered by the new rules.

(2) Persons who have passed the Master's degree examination in Law before 1 January 1997 may be admitted to practise law, even though they do not satisfy the conditions set out in this Order.

22.–(1) The first basic education programme will start in August 2008. The first theoretical examination will be held in June 2009. The first test in the mock trial, to be offered only once in 2008, will be held in the second half of 2008.

(2) The General Part of the former basic education programme will no longer be offered. The special modules will be offered as needed in 2008 and 2009.

23. In the event that a participant has non-passed examination attempts from lawyer examinations from a scheme before this Order commenced, such non-passed attempts will be deducted from the three examination attempts mentioned in section 3(3).

Ministry of Justice, 11 December 2007

LENE ESPERSEN

/ Birgit Thostrup Christensen

Order on the activities of the Disciplinary Board and of the district committees in the consideration of complaints about lawyers, etc.

Pursuant to section 144(4) and section 145(2) of the Danish Administration of Justice Act, cf. Consolidated Act No. 1261 of 23 October 2007, the following is laid down:

Part 1

The Disciplinary Board of the Bar and Law Society

1.-(1) The Disciplinary Board of the Danish Bar and Law Society shall be tasked with considering complaints that a lawyer has violated the rules of professional conduct (disciplinary cases), complaints that relate to the fee charged by a lawyer for his work (fee complaints) and cases on revocation of disbarment under section 147 f of the Administration of Justice Act.

(2) The rules of this Order shall apply similarly to complaints about professional corporations of lawyers or complaints about persons mentioned in section 124(3)(ii) of the Administration of Justice Act who own shares in a professional corporation of lawyers.

2.-(1) The Disciplinary Board may act as the full board or in divisions.

(2) Each division shall consist of seven members.

3.-(1) The chairman of the Disciplinary Board shall distribute cases between the full Board and the divisions.

(2) Cases of fundamental importance, cases in which issues of disbarment under section 147 c(3) or (4) of the Administration of Justice Act may arise and cases on revocation of disbarment under section 147 f of the Administration of Justice Act shall insofar as possible be considered by the full Board.

4.-(1) The full Disciplinary Board shall form a quorum when at least 11 members are present, one of whom must be a member of the chairmanship, five members must have been appointed by the Minister for Justice, and five members must have been appointed by the Bar and Law Society.

(2) A division shall form a quorum when at least three members or alternates are present, one of whom must be a member of the chairmanship, one member must have been appointed by the Minister for Justice and one must have been appointed by the Bar and Law Society.

(3) The chairman concerned shall decide whether an alternate is to be called in the event of a member's absence.

5. Notices to the Disciplinary Board may be sent digitally. The notice shall be provided with a digital signature.

6. The Disciplinary Board shall lay down rules of procedure, including deadlines for various steps in the consideration of cases and a target for how long total consideration of a case should take.

7. The Disciplinary Board shall submit an annual report on its activities to the Minister for Justice. The Board shall publish the report on its website.

Part 2

District committees

8. The committees of the local districts (the district committees) may assist the Disciplinary Board in considering complaints about lawyers.

9. In the consideration of complaints, a member appointed by the Minister for Justice shall join the district committee. The district committee may act jointly or in divisions. The chairman or vice-chairman of the district committee shall head a division.

10. The district committee or a division of a district committee shall form a quorum when at least two-thirds of the members of the district committee or division, including the member appointed by the Minister for Justice, are present.

11. The district committee shall consider cases at meetings, on a written basis or electronically. Meetings shall be held on the meeting days decided by the district committee or when the chairman of a district committee so decides.

12. The chairmanship of the Disciplinary Board shall set a deadline for the district committee's consideration of the case.

13. The meetings of the district committee shall not be public.

14.—(1) District committees may submit a written recommendation, which shall be reasoned.

(2) At the minority's request, a recommendation shall include information on the minority's recommendation, but without stating the names of the members in question.

Part 3

Disqualification

15.–(1) No member of the Disciplinary Board or a district committee may participate in the consideration of a case if

(i) such member has a special personal or financial interest in the outcome of the case or in the same case is or was previously representing someone who has such interest;

(ii) such member's spouse or persons related by blood or by marriage in direct line of ascent or descent or in the collateral line as close as nephews, nieces and cousins or other persons closely connected with the member have a special personal or financial interest in the outcome of the case or are representing someone who has such interest;

(iii) such member participates in the management of or otherwise has close ties to a company, an association or other legal person with a special interest in the outcome of the case; or

(iv) there are other circumstances that may cast doubt about the member's impartiality.

(2) A member shall inform the chairman of the Board or of the district committee immediately in the event of circumstances as mentioned in subsection (1). The Board or the district committee shall make the final administrative decision as to whether a member may participate in the consideration of a case. The member concerned shall not participate in the consideration and decision of this matter.

Part 4

Bringing cases before the Disciplinary Board

16.–(1) Any person having a legal interest therein may bring a case before the Disciplinary Board. Furthermore, the General Council of the Bar and Law Society may bring a case before the Board.

(2) Where the Disciplinary Board assesses that a case brought before the Board may result in disbarment under section 147 c(3) and (4) of the Administration of Justice Act, the case may be submitted to the General Council for a decision as to whether the General Council will enter into the case.

17.–(1) On the relevant chairman's recommendation, the Disciplinary Board may dismiss a complaint from a person who has no legal interest in the matter to which the complaint relates. The same shall apply to a complaint that cannot be determined by the Board because of the nature of the case.

(2) On the recommendation of the relevant chairman, the Disciplinary Board may dismiss a complaint deemed manifestly unfounded. Any Board member may request that the case be considered on its merits.

18.–(1) The secretariat of the Disciplinary Board shall provide guidance on the rules for the Board's consideration of complaints.

(2) The deadline for filing complaints shall be one year. For complaints about a lawyer's conduct, the deadline shall be counted from the time when the complainant became aware of the matter to which the complaint relates. For complaints about a lawyer's fee, the deadline shall be counted from the time when the complainant became aware of the final payment in the case concerned.

(3) The Disciplinary Board may consider a complaint filed too late if the grounds for the delay are found to be reasonable.

Part 5

Preparation of the complaint case

19.–(1) The Bar and Law Society secretariat shall handle the Disciplinary Board's secretariat tasks.

(2) The Board shall prepare guidelines for considering cases with personal appearance and guidelines for disbarment cases. The guidelines shall be published on the Board's website.

20.–(1) The secretariat shall assist the Disciplinary Board in preparing fee and disciplinary cases.

(2) The secretariat shall ensure that the necessary information for considering a case is available and that the necessary investigations have been made.

(3) In cases assessed to be dismissed by the Board pursuant to section 15, the secretariat may refrain from requesting the lawyer for a statement and submit the case to the relevant chairman, who may then recommend to the Board that the case be dismissed.

21.–(1) The secretariat may submit the case to one or more district committees.

(2) If the case is deemed to be suitable for such purpose, the secretariat may encourage the parties to settle the matter amicably.

22.–(1) Lawyers shall be obliged to supply the Disciplinary Board with information and documents that the Board finds are important for deciding a case. Lawyers shall be obliged to make statements and appear before the Board to give evidence about matters that the Board finds are important for deciding the case.

(2) A lawyer's obligation under subsection (1) shall be limited in accordance with the rules of the Administration of Justice Act on the right of exemption from the duty to give evidence.

23.–(1) When the General Council files a complaint, the Council may appoint a lawyer to work as prosecutor.

(2) In cases where a lawyer risks disbarment, cf. section 147 c(3) of the Administration of Justice Act, or where one of the persons mentioned in section 124(3)(ii) of the Administration

of Justice Act risks being deprived of the right to own shares in a professional corporation of lawyers, cf. section 147 c(4) of the Administration of Justice Act, the Disciplinary Board shall appoint a counsel for the defendant if the defendant has not chosen one himself.

(3) In other disciplinary cases, the Board may appoint a counsel for the defendant.

(4) The Disciplinary Board may appoint a lawyer to safeguard the complainant's interests when deemed necessary.

(5) The expenses for fees, etc. to lawyers appointed pursuant to subsections (1) to (4) shall be fixed by the Board and paid by the Bar and Law Society. In the cases mentioned in subsection (2), the Disciplinary Board may decide that all or part of the expenses for the counsel appointed for the defendant be paid by the person for whom the counsel is appointed.

24. The relevant chairman may decide that parties or witnesses be examined in the district court in the jurisdiction in which they live.

Part 6

Decision of the case

25.–(1) The Disciplinary Board shall consider cases at meetings, on a written basis or electronically.

(2) The relevant chairman may on his own motion or at the request of the parties to the case summon the parties to the case to appear before the Board and give evidence. The Board shall fix the time of such appearance.

(3) In disciplinary cases, the parties shall have a right to appear before the Board.

(4) The relevant chairman may allow other persons to be summoned to give evidence before the Board.

26.–(1) The meetings of the Disciplinary Board shall not be public.

(2) In disciplinary cases, the defendant lawyer may demand that the public be given access to attend the proceedings insofar as public access will not cause unnecessary offence to anyone. Furthermore, the Board may allow public access when a case is deemed to be of public interest, and public access will not cause unnecessary offence to anyone. The Board's deliberations shall not be public.

27. The decisions of the Disciplinary Board shall be made by a simple majority of votes. In the event of an equality of votes, the chairman shall have the casting vote.

28.–(1) The Disciplinary Board's decision cannot be brought before other administrative authorities.

(2) In disciplinary cases, the lawyer concerned may bring the Disciplinary Board's decision or request that such decision be brought before the court in accordance with section 147 d and section 147 e of the Administration of Justice Act.

29.–(1) The decisions of the Disciplinary Board shall be in writing and be reasoned.

(2) Decisions shall include information on any dissent during the voting (but without stating the names of the members in question), as well as the distribution of votes.

(3) The Board's decisions in disciplinary cases shall include advice about the right to seek judicial review and the deadline for doing so.

(4) The Board's decision shall be sent to the parties to the case and to the General Council. In disciplinary cases, the Board's decision shall also be sent to the Ministry of Justice.

30. On request, the Disciplinary Board may decide to resume consideration of a complaint where special reasons exist, including in particular if new, important information appears that is expected to lead to another outcome.

Part 8

Commencement

31.–(1) This Order comes into force on 24 January 2008.

(2) At the same time, Order No. 284 of 22 June 1983 on the district committees' consideration of complaints about lawyers' fees and on assistance to the Disciplinary Board and Order No. 188 of 21 March 2002 on the activities of the Disciplinary Board are repealed.

Part 9

Transitional provisions

32. Complaints about fees that a lawyer has charged for his work that were filed before this Order enters into force shall be considered under the rules previously in force.

Ministry of Justice, 17 January 2008

LENE ESPERSEN

/ Birgit Thostrup Christensen

Order on EU lawyers' establishment in Denmark¹

Pursuant to section 130 of the Danish Administration of Justice Act, cf. Consolidated Act No. 1261 of 23 October 2007, the following is laid down:

Part 1

Introductory provisions

1.–(1) Lawyers having obtained their professional qualification in another EU Member State, in an EEA country or in Switzerland may, on a permanent basis, practise the profession of lawyer in a self-employed or a salaried capacity in Denmark under their home-country professional title.

(2) For the purposes of this Order, lawyer means any person who is a national of an EU Member State, an EEA country or Switzerland and who is authorised to pursue his professional activities under one of the following professional titles:

| | |
|----------------|------------------------------|
| Belgium | Avocat/Advocaat/Rechtsanwalt |
| Bulgaria | Адвокат |
| Cyprus | Δικηγόρος |
| Czech Republic | Advokát |
| United Kingdom | Advocate/Barrister/Solicitor |
| Estonia | Vandeadvokaat |
| Finland | Asianajaja/Advokat |
| France | Avocat |
| Greece | Δικηγόρος |
| Ireland | Barrister/Solicitor |

¹ The Order implements Directive 98/5/EC of the European Parliament and of the Council of 16 February 1998 to facilitate practice of the profession of lawyer on a permanent basis in a Member State other than that in which the qualification was obtained (Official Journal of the European Communities 1998 No L 77, page 36), as amended by Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded (Official Journal of the European Communities 2003 No L 236, page 33) and Directive 2006/100/EC of 20 November 2006 on adaptation of certain Directives relating to the free movement of persons by reason of the accession of Bulgaria and Romania (Official Journal of the European Communities 2006 No L 363, page 141).

| | |
|-----------------|---|
| Italy | Avvocato |
| Latvia | Zverinats advokats |
| Lithuania | Advokatas |
| Luxembourg | Avocat |
| Malta | Avukat/Prokurator Legali |
| Netherlands | Advocaat |
| Poland | Adwokat/Radca prawny |
| Portugal | Advogado |
| Romania | Avocat |
| Slovak Republic | <i>Advokát/Komerčný právnik</i> |
| Slovenia | Odvetnik/Odvetnica |
| Spain | Abogado/Advocat/Avogado/Abokatu |
| Sweden | Advokat |
| Germany | Rechtsanwalt |
| Hungary | Ügyvéd |
| Austria | Rechtsanwalt |
| Iceland | Lögmaður |
| Liechtenstein | Rechtsanwalt |
| Norway | Advokat |
| Switzerland | Avocat/Advokat, Rechtsanwalt, Anwalt, Fürsprecher, Fürsprech/Avvocato |

(3) For the purposes of this Order, home Member State means the Member State in which the lawyer acquired the right to use one of the professional titles referred to in subsection (2) before practising the profession of lawyer in another Member State.

(4) For the purposes of this Order, grouping means any entity, with or without legal personality, formed under the law of a Member State, within which lawyers pursue their professional activities jointly under a joint name.

(5) Practice of the profession of lawyer within the meaning of this Order shall not include the provision of services, which is covered by the Council Directive to facilitate the effective exercise by lawyers of freedom to provide services and the Order on EU lawyers' services in Denmark.

Part 2

Right to practise under the home-country professional title

2.–(1) A lawyer who wishes to practise in Denmark shall register with the Danish Bar and Law Society.

(2) A certificate attesting to the lawyer's registration with the competent authority of the home Member State shall be presented for the purpose of registration. When presented to the Bar and Law Society, the certificate shall not be more than three months old.

(3) When registering, a lawyer shall state whether he is a member of a grouping in his home Member State and shall inform the Bar and Law Society of such grouping. If the lawyer subsequently becomes a member of a grouping in the home Member State, he shall inform the Bar and Law Society of such membership.

(4) On registration, the lawyer shall become a member of the Bar and Law Society.

3. The Bar and Law Society shall inform the Danish Ministry of Justice of registrations under section 2. The Bar and Law Society shall also inform the competent authority in the lawyer's home Member State of the registration.

4.–(1) A lawyer practising in Denmark under his home-country professional title shall do so in accordance with Article 4(1), Article 5(1), Article 6(1) and Article 7(1) of the Directive of the European Parliament and of the Council to facilitate practice of the profession of lawyer on a permanent basis in a Member State other than that in which the qualification was obtained. A consolidated version of the directive is included as an Appendix to this Order.

(2) A lawyer shall be entitled to appear before the High Court and in all cases before the Maritime and Commercial Court when the lawyer has passed a test in litigation; cf. section 133 of the Administration of Justice Act. A lawyer shall be entitled to appear before the Supreme Court when the lawyer meets the conditions set out in section 134 of the Administration of Justice Act.

(3) Whenever Danish law prescribes an obligation to be represented by counsel, a lawyer may appear before a Danish court only if he works in conjunction with a lawyer who holds a Danish practising certificate and is entitled to appear before the court hearing the case.

5. The General Council of the Danish Bar and Law Society shall supervise the lawyers mentioned in section 2; cf. section 143 of the Administration of Justice Act.

6.–(1) A lawyer shall take out professional indemnity insurance in accordance with the rules laid down in the Bye-Laws of the Danish Bar and Law Society. Nevertheless, a lawyer shall be exempted from the above requirement if he can prove to the Bar and Law Society that he is covered by insurance taken out or a guarantee provided in accordance with the rules of his home Member State, insofar as such insurance or guarantee is equivalent in terms of the conditions and extent of cover to the insurance or guarantee set out in the Bye-Laws of the Danish Bar and Law Society.

(2) The Bar and Law Society may require that additional insurance or an additional guarantee be contracted to cover the elements which are not already covered by the insurance or guarantee contracted in accordance with the rules of the home Member State.

7.–(1) A lawyer practising under his home-country professional title shall state the competent authority in the home Member State with which he is registered.

(2) A lawyer stating the name of the grouping to which he belongs in his home Member State shall mention the legal form of the grouping in the home Member State. The lawyer shall also state the names of any members of the grouping practising in Denmark.

8. The provisions of Part 14 of the Administration of Justice Act on cessation of the right to practise law shall apply similarly to the right of the lawyers mentioned in section 2 above to practice in Denmark.

9.–(1) Should the right of a lawyer mentioned in section 2 to practise in Denmark cease in pursuance of the provisions of Part 14 of the Administration of Justice Act, the Danish Bar and Law Society shall cancel the registration.

(2) The Bar and Law Society shall also cancel the registration if the competent authority in the home Member State temporarily or permanently withdraws the lawyer's authorisation to practise the profession.

(3) In the event that the registration is cancelled, the lawyer shall resign from the Bar and Law Society.

10.–(1) The Bar and Law Society shall inform the competent authority in the lawyer's home Member State if disciplinary proceedings are initiated against a lawyer mentioned in section 2.

(2) If proceedings are initiated before the Disciplinary Board of the Bar and Law Society against a lawyer who holds a Danish practising certificate and is also registered in another Member State, the Bar and Law Society shall inform the competent authority in such Member State accordingly.

Part 3

Access to obtain a Danish practising certificate

11. When applying for a Danish practising certificate, a lawyer practising under his home-country professional title who has effectively and regularly pursued for a period of at least three years an activity in Denmark in Danish law, including Community law, shall be exempted from the conditions set out in Article 14(1) and (3) of the Directive on recognition of professional qualifications.

12.–(1) A lawyer practising under his home-country professional title who has proven to the Ministry of Justice that he has effectively and regularly pursued a professional activity in Denmark for a period of at least three years but for a lesser period in Danish law may be granted a Danish practising certificate, without having to meet the conditions referred to in Article 14(1) and (3) of the Directive on the recognition of professional qualifications.

(2) When assessing the lawyer's effective and regular activity as stated in subsection (1), the Ministry of Justice shall take into account the lawyer's knowledge and professional experience of Danish law and whether the lawyer has participated in courses and seminars on Danish law.

(3) The assessment of the lawyer's effective and regular activity in Denmark and the assessment of his capacity to continue the activity he has pursued here shall be carried out by means of an interview with the Ministry of Justice. During the interview, the regular and effective nature of the activity pursued shall be verified.

Part 4

Joint practice

13.–(1) The lawyers mentioned in section 2 may practise law in a Danish professional corporation of lawyers. The lawyers mentioned in section 2 may also practise law jointly in a grouping consisting of lawyers from one or more EU Member States or of lawyers from one or more EU Member States and one or more Danish lawyers.

(2) The provisions of sections 124 to 127 of the Administration of Justice Act and provisions issued pursuant to section 124(5) and (8) of the Administration of Justice Act shall apply similarly to the professional corporations of lawyers mentioned in subsection (1) above.

14.–(1) One or more of the lawyers mentioned in section 2 who belong to the same grouping may pursue their professional activities in Denmark in a branch or agency of their grouping.

(2) Where the fundamental rules governing that grouping in the home Member State are incompatible with the statutory or administrative rules governing groupings in Denmark, the latter rules shall prevail insofar as compliance therewith is justified by the public interest in protecting clients and third parties.

15.–(1) The right pursuant to sections 13 and 14 to practise law in Denmark shall not apply to lawyers who pursue their professional activities as members of a grouping if such grouping includes persons who are not members of the profession; but see subsection (3).

(2) A grouping is deemed to include persons who are not members of the profession if

(i) the capital of the grouping is held entirely or partly, or

(ii) the name under which it practises is used, or

(iii) the decision-making power in that grouping is exercised,

by persons who do not have the status of lawyer within the meaning of section 1.

(3) Irrespective of subsection (1), lawyers may practise in Denmark as members of a public or private limited professional corporation of lawyers owned by employees in the corporation who are not lawyers, provided that jointly such persons own less than one tenth of the shares in the corporation and that jointly they have less than one tenth of the votes in the corporation; cf. section 124 of the Administration of Justice Act.

Part 5

Digital communication

16. Notices to the Ministry of Justice or the Bar and Law Society may be sent digitally. The notice shall be provided with a digital signature.

Part 6

Penalty

17.—(1) Persons who have not obtained their professional qualification as lawyer, cf. section 1, shall not use the professional titles mentioned in section 1(2) or any other title capable of being confused therewith. The same shall apply to persons who are excluded from practising law or whose right to do so has ceased.

(2) Violation of the provisions of subsection (1) shall be punishable by a fine, provided that the offence is not subject to a more severe penalty under other legislation.

Part 7

Commencement

18.—(1) This Order comes into force on 1 January 2008.

(2) At the same time, Order No. 276 of 14 April 2000 on EU lawyers' establishment in Denmark, etc., is repealed.

Ministry of Justice, 11 December 2007

LENE ESPERSEN

/ Rasmus Blaabjerg

Order on EU lawyers' services in Denmark, etc.¹

Pursuant to section 130 of the Danish Administration of Justice Act, cf. Consolidated Act No. 1261 of 23 October 2007, the following is laid down:

1.–(1) Lawyers who are established in another EU Member State, in an EEA country or in Switzerland may provide services as lawyers in Denmark, including appearing before Danish courts.

(2) For the purposes of this Order, lawyer means any person who is a national of an EU Member State, an EEA country or Switzerland and who is authorised to pursue his professional activities under one of the following professional titles:

| | |
|----------------|------------------------------|
| Belgium | Avocat/Advocaat/Rechtsanwalt |
| Bulgaria | Адвокат |
| Cyprus | Δικηγόρος |
| Czech Republic | Advokát |
| United Kingdom | Advocate/Barrister/Solicitor |
| Estonia | Vandeadvokaat |
| Finland | Asianajaja/Advokat |
| France | Avocat |
| Greece | Δικηγόρος |
| Ireland | Barrister/Solicitor |
| Italy | Avvocato |
| Latvia | Zverinats advokats |
| Lithuania | Advokatas |
| Luxembourg | Avocat |
| Malta | Avukat/Prokurator Legali |
| Netherlands | Advocaat |
| Poland | Adwokat/Radca prawny |

¹ The Order implements Council Directive 77/249/EEC of 22 March 1977 to facilitate the effective exercise by lawyers of freedom to provide services (Official Journal of the European Communities 1977 No L 78, page 17), as amended by Council decision 95/1/EC of 1 January 1995 on adjustment of the legislative acts concerning the accession to the European Union of new Member States (Official Journal of the European Communities 1995 No L 1, page 1) and Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded, (Official Journal of the European Communities 2003 No L 236, page 33) and Directive 2006/100/EC of 20 November 2006 on adaptation of certain Directives relating to the free movement of persons by reason of the accession of Bulgaria and Romania (Official Journal of the European Communities 2006 No L 363, page 141).

| | |
|-----------------|--|
| Portugal | Advogado |
| Romania | Avocat |
| Slovak Republic | <i>Advokát/Komerčný právnik</i> |
| Slovenia | Odvetnik/Odvetnica |
| Spain | Abogado/Advocat/Avogado/Abokatu |
| Sweden | Advokat |
| Germany | Rechtsanwalt |
| Hungary | Ügyvéd |
| Austria | Rechtsanwalt |
| Iceland | Lögmaður |
| Liechtenstein | Rechtsanwalt |
| Norway | Advokat |
| Switzerland | Avocat/Advokat, Rechtsanwalt, Anwalt, Fürsprecher, Fürsprech/Avvocato |

2. Activities in Denmark pursued by the lawyers mentioned in section 1 shall be exercised in accordance with Article 3 and Article 4(1), (2) and (4) of the Council Directive to facilitate the effective exercise by lawyers of freedom to provide services. A consolidated version of the directive is included as an Appendix to this Order.

3.–(1) Danish authorities and courts may require proof that in his home Member State a lawyer is entitled to pursue the professional activities mentioned in section 1.

(2) Whenever Danish law prescribes an obligation to be represented by counsel, a lawyer covered by section 1 shall appear before a Danish court only if he works in conjunction with a lawyer who holds a Danish practising certificate and is entitled to appear before the court hearing the case.

4. The provisions of Part 14 of the Administration of Justice Act on cessation of the right to practise law shall apply similarly to the right of the lawyers mentioned in section 1 above to practise in Denmark.

5. The General Council of the Danish Bar and Law Society shall supervise the lawyers mentioned in section 1; cf. section 143 of the Administration of Justice Act.

6.–(1) Complaints about fees charged for their work by any of the lawyers mentioned in section 1 may be filed with the Disciplinary Board of the Bar and Law Society by the person having a legal interest therein; cf. Part 15 a of the Danish Administration of Justice Act.

(2) Complaints that any of the lawyers mentioned in section 1 has neglected duties that follow from the Administration of Justice Act or rules laid down in pursuance of the Administration of Justice Act may be filed with the Disciplinary Board of the Bar and Law Society; cf. Part 15 b of the Administration of Justice Act.

(3) In the event that the lawyer has no office in Denmark, decisions pursuant to section 147 c of the Administration of Justice Act shall be reviewed by the Eastern Division of the Danish High Court.

7. Notices to the Ministry of Justice or the Bar and Law Society may be sent digitally. The notice shall be provided with a digital signature.

8.-(1) This Order comes into force on 1 January 2008.

(2) At the same time, Order No. 231 of 24 April 2002 on EU lawyers' services in Denmark is repealed.

Ministry of Justice, 11 December 2007

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