



Law Society
of Scotland



International
Conference of
Legal Regulators

Workshop B1: Foreign Legal Consultants, Mutual Recognition Agreements, Memorandums of Understanding – The Alphabet Soup of Foreign Relations for Regulators?

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CHALLENGES FOR REGULATORS IN THE LEGAL PROFESSION IN EAST AFRICA



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EAC CURRENT MEMBERSHIP POST NOV. 1999



CHALLENGES AS REGULATORS FACE WITH FOREIGN PRACTICING IN KENYA

There are two avenues for admission of foreign practitioners in Kenya.

I. UNDER SECTION 13 OF THE ADVOCATES ACT CAP 16 LAWS OF KENYA

Section 13. Professional and academic qualifications

(1) A person shall be duly qualified if—

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- *(e) he is for the time being admitted as an advocate of the superior court of a country within the Commonwealth and—
 - (i) has practised as such in that country for a period of not less than five years; and*
 - (ii) is a member in good standing of the relevant professional body in that country:**

We have No problems with this cluster of Advocates and we admit them to the profession and since they submit themselves to the Regulatory Framework of the Profession they are regulated as such


2. UNDER THE PROTOCOL ESTABLISHING THE EAST AFRICAN COMMUNITY COMMON MARKET

The Profession is struggling with admission of foreign practitioners to practice in Kenya.

The only way to give effect to the recognition of Professional qualifications is through an MRA which would essentially give effect to Article II of the Protocol on the Establishment of the East African Community Common Market.

The provisions of the Protocol are

- ***Harmonisation and Mutual Recognition of Academic and Professional Qualifications***
- *For the purpose of ensuring the free movement of labour, the Partner States undertake to:*
 - *(a) mutually recognise the academic and professional qualifications granted, experience obtained, requirements met, licences or certifications granted, in other Partner States; and*
 - *(b) harmonise their curricula, examinations, standards, certification and accreditation of educational and training institutions.*
- *The implementation of this Article shall be in accordance with Annexes to be concluded by the Partner States.*



We are struggling with signing the Mutual Recognition Agreement between the Member states of the EAC and as a result we have not given effect to the provisions of the Protocol on exchange of professional qualifications.

The Medical Doctors, Architects and Engineers have signed their respective MOUs.

As a result of the grey areas above, admission for us has mainly been done by the Bench.

Which is a problem in itself

When we recognize your professional qualifications;

There are No Restrictions on the areas of practice or Regulation since you become a member of the profession and therefore subject to Regulation Under the Advocates' Act

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Negotiating Better Access to Foreign Markets for Professional Service Providers

