



# Legal Services (Scotland) Act 2010

## 2010 asp 16

### PART 4

#### THE LEGAL PROFESSION

### CHAPTER 3

#### SOLICITORS AND OTHER REPRESENTATIVES

##### *The 1980 Act: further modification*

#### **134 Keeping the solicitors roll etc.**

(1) In section 7 (keeping the roll) of the 1980 Act, after subsection (2) insert—

“(2A) The roll is also to record against the name of each enrolled solicitor the address of the place of business of that solicitor (as given under subsection (2) of that section).”.

(2) In section 12A (keeping the register) of the 1980 Act, after subsection (2) insert—

“(2A) The register is also to record against the name of each lawyer entered on it the address of the place of business of that lawyer and related information (as given under section 12B(1)).”.

#### **135 Removal from the roll etc.**

(1) In section 9 (removal of name from roll on request) of the 1980 Act—

- (a) the existing text becomes subsection (1),
- (b) in subsection (1) (as so numbered), the words from “on” to “hand,” are repealed,
- (c) after subsection (1) (as so numbered) insert—

“(2) But the Council are required to remove the name or annotation only if they are satisfied that—

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- (a) the solicitor has made adequate arrangements with respect to the business which the solicitor then has in hand, and
  - (b) it is otherwise appropriate to do so.”
- (2) In section 12C (removal of name from register on request) of the 1980 Act—
- (a) the existing text becomes subsection (1),
  - (b) in subsection (1) (as so numbered), the words from “, on” to “hand,” are repealed,
  - (c) after subsection (1) (as so numbered) insert—
    - “(2) But the Council are required to remove the name or annotation only if they are satisfied that—
    - (a) the solicitor has made adequate arrangements with respect to the business which the solicitor then has in hand, and
    - (b) it is otherwise appropriate to do so.”

### **136 Restoration to the roll**

- (1) In section 10 (restoration of name to roll on request) of the 1980 Act—
- (a) after subsection (1) insert—
    - “(1ZA) Where the restoration of a solicitor’s name to the roll has been prohibited under section 53(2)(aa), the solicitor is entitled to have the solicitor’s name restored to the roll if (but only if) the Tribunal so orders—
    - (a) on an application made to it by the solicitor, and
    - (b) after such enquiry as it thinks proper.”
  - (b) in subsection (1A), after “section 9” insert “(except where subsection (1ZA) applies)”,
  - (c) in subsection (2), after “subsection (1)” insert “or (1ZA)”.
- (2) In section 53 (powers of Tribunal) of the 1980 Act, in subsection (2)—
- (a) after paragraph (a) insert—
    - “(aa) if the solicitor’s name has been removed from the roll under section 9, by order prohibit the restoration of the solicitor’s name to the roll;”,
  - (b) the word “or” where it occurs immediately after any of paragraphs (a) to (e) is repealed.

### **137 Suspension from practice**

- (1) In section 18 (suspension of practising certificates) of the 1980 Act—
- (a) after subsection (1) insert—
    - “(1ZA) The Council may suspend from practice a solicitor who—
    - (a) has been convicted of an offence involving dishonesty, or
    - (b) in respect of an offence, has been—
      - (i) fined an amount equivalent to level 4 on the standard scale or more (whether on summary or solemn conviction), or

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- (ii) sentenced to imprisonment for a term of 12 months or more.”,
  - (b) in subsection (2), after “subsection (1)” insert “or (1ZA)”.
- (2) In section 19 (further provisions relating to suspension of practising certificates) of the 1980 Act—
  - (a) after subsection (5A) insert—
    - “(5B) A suspension from practice arising by virtue of section 18(1ZA) expires if the grounds for it no longer apply.
    - “(5C) On the occurrence of any of the circumstances mentioned in subsections (4) to (5B), the solicitor concerned must notify the Council in writing (and without delay).”,
  - (b) in subsection (6), after “section 18(1)” insert “or by virtue of section 18(1ZA)”.
- (3) In section 24F (suspension of registration certificate) of the 1980 Act—
  - (a) after subsection (1) insert—
    - “(1A) The Council may suspend from practice a registered European lawyer who—
      - (a) has been convicted of an offence involving dishonesty, or
      - (b) in respect of an offence, has been—
        - (i) fined an amount equivalent to level 4 on the standard scale or more (whether on summary or solemn conviction), or
        - (ii) sentenced to imprisonment for a term of 12 months or more.”,
  - (b) in subsection (2), after “subsection (1)” insert “or (1A)”.
- (4) In section 24G (further provisions relating to suspension of registration certificate) of the 1980 Act—
  - (a) after subsection (4) insert—
    - “(4A) A suspension from practice arising by virtue of section 24F(1A) expires if the grounds for it no longer apply.
    - “(4B) On the occurrence of any of the circumstances mentioned in subsections (2) to (4A), the lawyer concerned must notify the Council in writing (and without delay).”,
  - (b) in subsection (5), after “section 24F(1)” insert “or by virtue of section 24F(1A)”.

### **138 Accounts rules fee**

- (1) After section 37 of the 1980 Act insert—

#### **“37A Accounts fee**

- (1) An annual fee set in accordance with this section (the “accounts fee”) is to be paid by each—

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- (a) solicitor who is required by paragraph 1 of Schedule 3 (as read with section 43(7)) to pay an annual contribution on behalf of the Guarantee Fund,
  - (b) incorporated practice that is required by that paragraph of that Schedule to pay an annual corporate contribution on that behalf.
- (2) The accounts fee is also to be paid by each—
- (a) registered European lawyer or registered foreign lawyer who is required by virtue of paragraph 1A or 1B of that Schedule to pay an annual contribution on that behalf,
  - (b) multi-national practice to which the accounts rules apply by virtue of an enactment.
- (3) The accounts fee is to be set by the Council for the purpose of funding the exercise of their function of securing compliance (by the categories specified in subsections (1) and (2)) with the accounts rules.
- (4) The accounts fee is to be—
- (a) set—
    - (i) no later than 30 September each year in respect of the 12 month period beginning with 1 November that year, or
    - (ii) by reference to such other dates as the Council may fix,
  - (b) paid to the Council by such date as they may fix.
- (5) The accounts fee may be set—
- (a) so as to involve different amounts (including nil) for different—
    - (i) categories (as specified in subsections (1) and (2)),
    - (ii) circumstances (by reference to all relevant factors),
  - (b) in the case of incorporated practices, by particular reference to the number of solicitors that they have as directors, members or employees.
- (6) The Council may take such steps as they consider necessary for recovering the accounts fee due in accordance with this section.”.
- (2) In section 65(1) of the 1980 Act, at the appropriate alphabetical place insert—  
 ““accounts fee” has the meaning given by section 37A(1);”.

### **139 Powers of Tribunal**

- (1) In section 53 (powers of Tribunal) of the 1980 Act—
- (a) in subsection (1)(b), for “sentenced to a term of imprisonment of not less than 2 years” substitute “fined an amount equivalent to level 4 on the standard scale or more (whether on summary or solemn conviction) or sentenced to imprisonment for a term of 12 months or more”,
  - (b) in subsection (2), after paragraph (bb) insert—
    - “(bc) where—
      - (i) an incorporated practice has been convicted, or has been found to have failed, as referred to in subsection (1)(c) or (d), and
      - (ii) the Tribunal consider that the complainer has been directly affected by any misconduct by the practice

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to which the conviction or failure is (to any extent) attributable,

direct the practice to pay to the complainer compensation (for loss, inconvenience or distress resulting from the misconduct) of such amount not exceeding £5,000 as the Tribunal may specify;”,

- (c) in subsection (3A), for “subsection (2)(c), (d) and (e)” substitute “subsection (2)(bb) to (e),
  - (d) in subsection (7C), after “paragraph (bb)” insert “or (bc)”,
  - (e) in subsection (9), after “subsection (2)(bb)” insert “and (bc)”.
- (2) In section 54 (appeals from decisions of Tribunal) of the 1980 Act, in subsections (1C), (1D) and (1E), after “section 53(2)(bb)” in each place where it occurs insert “or (bc)”.