



# Solicitors (Scotland) Act 1980

## 1980 CHAPTER 46

### PART II

#### RIGHT TO PRACTISE AS A SOLICITOR

##### *Restriction on rights of practising*

#### 26 Offence for solicitors to act as agents for unqualified persons.

- (1) Any solicitor to whom this subsection applies who [<sup>F1</sup>or incorporated practice which] upon the account or for the profit of any unqualified person—
- acts as agent in any action or proceedings in any court, or
  - permits or suffers his [<sup>F1</sup>or, as the case may be, its] name to be made use of in any way in any such action or proceedings; or
  - [<sup>F2</sup>subject to subsection (4),] draws or prepares any writ to which section 32 applies, or
  - [<sup>F3</sup>subject to subsection (4),] permits or suffers his [<sup>F1</sup>or, as the case may be, its] name to be made use of in the drawing or preparing of any such writ; or
  - does any other act to enable that person to appear, act or practise in any respect as a solicitor or notary public,

knowing that person not to be a qualified solicitor or notary public, as the case may be, shall be guilty of an offence.

- (2) Subsection (1) applies to any solicitor [<sup>F4</sup>, registered foreign lawyer][<sup>F5</sup>or registered European lawyer pursuing professional activities within the meaning of the European Communities (Lawyer's Practice) (Scotland) Regulations 2000], not being a solicitor [<sup>F4</sup>, registered foreign lawyer][<sup>F5</sup>or registered European lawyer pursuing professional activities within the meaning of the European Communities (Lawyer's Practice) (Scotland) Regulations 2000]who is employed full-time on a fixed salary by a body corporate [<sup>F6</sup>or employed by a law centre][<sup>F7</sup>or a citizens advice body].]
- (3) In this section “person” includes a body corporate [<sup>F8</sup>but “unqualified person” does not include [<sup>F9</sup>a licensed legal services provider,] an incorporated practice][<sup>F10</sup>, registered

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foreign lawyer, multi national practice]]<sup>F11</sup> or a registered European lawyer pursuing professional activities within the meaning of the European Communities (Lawyer's Practice) (Scotland) Regulations 2000].

<sup>F12</sup>(4) Subsection (1)(c) and (d) shall not apply in relation to—

- (a) writs relating to heritable or moveable property drawn or prepared upon the account of or for the profit of independent qualified conveyancers providing conveyancing services within the meaning of section 23 (interpretation of sections 16 to 22) of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990; or
- (b) papers to found or oppose an application for a grant of confirmation in favour of executors drawn or prepared upon the account of or for the profit of an executry practitioner or recognised financial institution providing executry services within the meaning of the said section 23.]

<sup>F13</sup>(5) In this section, any reference to the European Communities (Lawyer's Practice) (Scotland) Regulations 2000 is to those Regulations as they have effect by virtue of the Services of Lawyers and Lawyer's Practice (EU Exit) (Scotland) (Amendment etc.) Regulations 2019.]

#### Textual Amendments

- F1** Words inserted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73, SIF 76:2), s. 56, **Sch. 1 Pt. I para. 4(a)**
- F2** Words inserted in s. 26(1)(a) (1.3.1997 for all purposes except in relation to a recognised financial institution) by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 76:2), s. 74, **Sch. 8 Pt. II para. 29(5)(a)**; S.I. 1966/2894, art. 3, **Sch.** as amended by S.I. 1996/2966, **art. 2**
- F3** Words inserted in s. 26(1)(d) (1.3.1997 for all purposes except in relation to a recognised financial institution) by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 76:2), s. 74, **Sch. 8 Pt. II para. 29(5)(b)**; S.I. 1966/2894, art. 3, **Sch.** as amended by S.I. 1996/2966, **art. 2**
- F4** Words in s. 26(2) inserted (1.10.2004) by The Solicitors (Scotland) Act 1980 (Foreign Lawyers and Multi-national Practices) Regulations (S.S.I. 2004/383), {reg. 4}
- F5** Words in s. 26(2) inserted (22.5.2000) by S.S.I. 2000/121, regs. 1(1), 37(1), **Sch. 1 para. 1(6)(a)**
- F6** Words inserted in s.26(2) (17.3.1993) by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 76:2), s. 74, **Sch. 8 Pt. II para. 29(5)(c)**; S.I. 1993/641, art. 3, **Sch.**
- F7** Words in s. 26(2) inserted (1.4.2011) by Legal Services (Scotland) Act 2010 (asp 16), **ss. 125(1), 150(2)**; S.S.I. 2011/180, art. 3, **Sch.**
- F8** Words inserted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73, SIF 76:2), s. 56, **Sch. 1 Pt. I para. 4(b)**
- F9** Words in s. 26(3) inserted (2.7.2012) by Legal Services (Scotland) Act 2010 (asp 16), **ss. 123(1), 150(2)**; S.S.I. 2012/152, art. 2, **sch.**
- F10** Words in s. 26(3) inserted (1.10.2004) by The Solicitors (Scotland) Act 1980 (Foreign Lawyers and Multi-national Practices) Regulations (S.S.I. 2004/383), {reg. 4}
- F11** Words in s. 26(3) inserted (22.5.2000) by S.S.I. 2000/121, regs. 1(1), 37(1), **Sch. 1 para. 1(6)(b)**
- F12** S. 26(4) inserted (1.3.1997 for all purposes except in relation to a recognised financial institution) by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 76:2), s. 74, **Sch. 8 Pt. II para. 29(5)(d)**; S.I. 1996/2894, art. 3, **Sch.** as amended by S.I. 1996/2966, **art. 2**
- F13** S. 26(5) inserted (31.12.2020) by The Services of Lawyers and Lawyer's Practice (EU Exit) (Scotland) (Amendment etc.) Regulations 2019 (S.S.I. 2019/127), reg. 1(1), **sch. para. 1(4)**; 2020 c. 1, Sch. 5 para. 1(1)

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**Modifications etc. (not altering text)**

- C1** S. 26 amended (17.5.2004) by S.I. 1978/1910, art. 18(2), **Sch. Pt. 3** (as amended by The European Communities (Services of Lawyers) Amendment (Scotland) Order (S.S.I. 2004/186), {art. 7(c)})

**F14** **27** .....

**Textual Amendments**

- F14** S. 27 repealed (17.3.1993) by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 76:2), s. 74, **Sch. 9**; S.I. 1993/641, **art. 3**, Sch.

**28 Offence for solicitors who are disqualified to seek employment without informing employer.**

Any person who—

- (a) has been struck off the roll; or
- (b) suspended from practice as a solicitor <sup>[F15]</sup>; or
- (c) has had his registration as a registered European lawyer withdrawn; or
- (d) has been suspended from practice as a registered European lawyer<sup>[F16]</sup>; or
- (e) has had his registration as a registered foreign lawyer withdrawn; or
- (f) has been suspended from practice as a registered foreign lawyer,]

and while so disqualified from practice seeks or accepts employment by a solicitor in connection with that solicitors practice <sup>[F17]</sup>or by an incorporated practice<sup>[F18]</sup>or multi-national practice] without previously informing him <sup>[F19]</sup>or, as the case may be, it] that he is so disqualified, shall be guilty of an offence.

**Textual Amendments**

- F15** S. 28(c)(d) and the preceding word “or” inserted (22.5.2000) by S.S.I. 2000/121, regs. 1(1), 37(1), **Sch. 1 para. 1(7)**
- F16** S. 28(e)(f) and preceding word inserted (1.10.2004) by The Solicitors (Scotland) Act 1980 (Foreign Lawyers and Multi-national Practices) Regulations (S.S.I. 2004/383), {reg. 5}
- F17** Words inserted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73, SIF 76:2), s. 56, **Sch. 1 Pt. I para. 6(a)**
- F18** Words in s. 28 inserted (1.10.2004) by The Solicitors (Scotland) Act 1980 (Foreign Lawyers and Multi-national Practices) Regulations (S.S.I. 2004/383), {reg. 5}
- F19** Words inserted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73, SIF 76:2), s. 56, **Sch. 1 Pt. I para. 6(b)**

**F20** **29** .....

**Textual Amendments**

- F20** S. 29 repealed (30.9.1991) by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 c. 40, ss. 39, 74(2), **Sch. 9**; S.I. 1991/2151, **art. 3**, Sch.

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### 30 Liability for fees of other solicitor.

Where a solicitor [<sup>F21</sup>or an incorporated practice], authorised by and acting for a client employs another solicitor [<sup>F22</sup>or incorporated practice][<sup>F23</sup>or a licensed legal services provider] he [<sup>F24</sup>or, as the case may be, it] shall (whether or not he [<sup>F24</sup>or, as the case may be, it] discloses the client) be liable to the [<sup>F25</sup>employed party] for that [<sup>F26</sup>party's] fees and outlays, unless at the time of the employment he [<sup>F24</sup>or, as the case may be, it] expressly disclaims any such liability.

#### Textual Amendments

- F21** Words inserted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73, SIF 76:2), s. 56, **Sch. 1 Pt. I para. 7(a)**
- F22** Words inserted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73, SIF 76:2), s. 56, **Sch. 1 Pt. I para. 7(b)**
- F23** Words in s. 30 inserted (2.7.2012) by Legal Services (Scotland) Act 2010 (asp 16), **ss. 123(2)(a)**, 150(2); S.S.I. 2012/152, art. 2, sch.
- F24** Words inserted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73, SIF 76:2), s. 56, **Sch. 1 Pt. I para. 7(c)**
- F25** Words in s. 30 substituted (2.7.2012) by Legal Services (Scotland) Act 2010 (asp 16), **ss. 123(2)(b)**, 150(2); S.S.I. 2012/152, art. 2, sch.
- F26** Words in s. 30 substituted (2.7.2012) by Legal Services (Scotland) Act 2010 (asp 16), **ss. 123(2)(c)**, 150(2); S.S.I. 2012/152, art. 2, sch.

#### Modifications etc. (not altering text)

- C2** S. 30 applied (with modifications) (1.10.2004) by The Solicitors (Scotland) Act 1980 (Foreign Lawyers and Multi-national Practices) Regulations (S.S.I. 2004/383), {reg. 13}

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 12A(2)(ba) inserted by [2010 asp 16 s. 118\(3\)](#)
- s. 32(1)(d) and word inserted by [2010 asp 16 s. 118\(2\)\(a\)\(i\)](#)
- s. 32(2D) inserted by [2010 asp 16 s. 118\(2\)\(a\)\(iv\)](#)
- Sch. 4 para. 1A(b)(ia) inserted by [2010 asp 16 s. 118\(2\)\(b\)](#)