



# Solicitors (Scotland) Act 1980

## 1980 CHAPTER 46

### PART V

#### NOTARIES PUBLIC

#### 57 Admission and enrolment of solicitors as notaries public.

[<sup>F1</sup>(1) The offices and functions of—

- (a) the clerk to the admission of notaries public; and
- (b) the keeper of the register of notaries public,

are hereby transferred to the Council.]

(2) Any solicitor [<sup>F2</sup>qualified to practise in accordance with section 4] may apply to the Court to be admitted as a notary public; and on any such application the Court may so admit the applicant and may [<sup>F3</sup>direct the Council to register him in the register of notaries public.]

[<sup>F4</sup>(2A) A petition by the Council under section 6(3A) for the admission of a person as a solicitor may, if the person so requests, include an application for the person's admission as a notary public; and an order on any such petition admitting that person as a solicitor may admit him as a notary public and direct the Council to register him in the register of notaries public.

(2B) A petition by a person under section 6(2) for his admission as a solicitor may include an application for his admission as a notary public; and an order on any such petition admitting that person as a solicitor may admit him as a notary public and direct the Council to register him in the register of notaries public.]

(3) It shall not be necessary for any person to find caution on his admission as a notary public.

(4) The procedure to be followed. . . <sup>F5</sup> on any application by a [<sup>F6</sup>person] to be admitted a notary public may be prescribed by rules of court.

*Changes to legislation: Solicitors (Scotland) Act 1980, PART V is up to date with all changes known to be in force on or before 25 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

[<sup>F7</sup>(5) The Council may charge such reasonable fees as they consider appropriate in respect of the admission of any person as a notary public.]

#### Textual Amendments

- F1** S. 57(1) substituted (20.7.1992) by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 76:2), s. 37(2)(a); S.I. 1992/1599, art.4, Sch. 2
- F2** Words in s. 57(2) inserted (23.11.2007) by Legal Profession and Legal Aid (Scotland) Act 2007 (asp 5), ss. 62(2), 82 (with s. 77); S.S.I. 2007/497, art. 2
- F3** Words in s. 57(2) substituted (20.7.1992) by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 76:2), s. 37(2)(b); S.I. 1992/1599, art.4, Sch. 2
- F4** S. 57(2A)(2B) inserted (20.7.1992) by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 76:2), s. 37(2)(c); S.I. 1992/1599, art.4, Sch. 2
- F5** Words repealed by Solicitors (Scotland) Act 1988 (c. 42, SIF 76:2), s. 6(2), Sch. 2
- F6** Word in s. 57(4) substituted (20.7.1992) for by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 76:2), s. 37(2)(d); S.I. 1992/1599, art.4, Sch. 2
- F7** S. 57(5) substituted (20.7.1992) by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 76:2), s. 37(2)(e); S.I. 1992/1599, art.4, Sch. 2

## 58 Removal from and restoration to register of names of notaries public.

- (1) In the case of any person who is both a solicitor and a notary public, if his name is struck off the roll of solicitors or is removed from that roll in pursuance of an order under any provision of this Act, the Council shall forthwith [<sup>F8</sup>strike off or, as the case may be, remove his name from the register of notaries public].
- (2) If the name of any such person, having been struck off or removed from the roll as aforesaid, is subsequently restored thereto in pursuance of an order under any provision of this Act, [<sup>F9</sup>the Council shall forthwith] restore the name to the register of notaries public.
- [<sup>F10</sup>(3) Where a person who is both a solicitor and a notary public is suspended from practising as a solicitor under this Act the Council shall forthwith remove the person's name from the register of notaries public.
- (4) If the suspension of such a person as is mentioned in subsection (3) is terminated or otherwise comes to an end the Council shall restore the person's name to the register.]
- [<sup>F11</sup>(5) Where a person who is a solicitor and a notary public no longer has in force a practising certificate, the Council shall forthwith remove the person's name from the register of notaries public.
- (6) If the person mentioned in subsection (5) becomes qualified to practise as a solicitor in accordance with section 4, the Council shall restore the person's name to the register of notaries public.]

#### Textual Amendments

- F8** Words in s. 58(1) substituted (20.7.1992) by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 76:2), s. 37(3)(a); S.I. 1992/1599, art.4, Sch. 2
- F9** Words in s. 58(2) substituted (20.7.1992) by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 76:2), s. 37(3)(b); S.I. 1992/1599, art.4, Sch. 2

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- F10** S. 58(3)(4) added (20.7.1992) by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 76:2), s. 37(3)(c); S.I. 1992/1599, art.4, Sch. 2
- F11** S. 58(5)(6) inserted (23.11.2007) by Legal Profession and Legal Aid (Scotland) Act 2007 (asp 5), ss. 62(3), 82 (with s. 77); S.S.I. 2007/497, art. 2

## 59 Authority of notaries public to administer oaths, etc.

- (1) Subject to subsection (2), in any case where the administration of an oath, or the receipt of an affidavit or solemn affirmation, is authorised by or under any enactment, it shall be lawful for the oath to be administered, or, as the case may be, for the affidavit or affirmation to be received, by a notary public.
- (2) Nothing in this section applies to an oath or affirmation relating to any matter or thing relating to the preservation of the peace or to the prosecution, trial or punishment of an offence, or to any proceedings before either House of Parliament or any committee thereof [<sup>F12</sup> or before the Scottish Parliament or any committee thereof].
- (3) This section is without prejudice to any other statutory provision relating to the administration of oaths by notaries public.

### Textual Amendments

- F12** Words in s. 59(2) inserted (6.5.1999) by S.I. 1999/1042, art. 3, Sch. 1 Pt. I para.8

## [<sup>F13</sup>59A Rules regarding notaries public

- (1) Subject to subsections (2) and (3), the Council may, if they think fit, make rules for regulating in respect of any matter the admission, enrolment and professional practice of notaries public.
- (2) The Council shall, before making any rules under this section—
  - (a) send to each notary public a draft of the rules; and
  - (b) take into consideration any representations made by any notary public on the draft.
- (3) Rules made under this section shall not have effect unless the Lord President, after considering any representations the Lord President thinks relevant, has approved the rules so made.
- (4) If a notary public fails to comply with any rule made under this section that failure may be treated as professional misconduct or unsatisfactory professional conduct on the part of the solicitor who is the notary public.]

### Textual Amendments

- F13** S. 59A inserted (23.11.2007) by Legal Profession and Legal Aid (Scotland) Act 2007 (asp 5), ss. 63, 82 (with s. 77); S.S.I. 2007/497, art. 2

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### Textual Amendments

**F14** S. 60 repealed by [Solicitors \(Scotland\) Act 1988 \(c. 42, SIF 76:2\)](#), s. 6(2), [Sch. 2](#)

**Changes to legislation:**

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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)(iia) inserted by [2010 asp 16 s. 118\(2\)\(b\)](#)