

ELIZABETH II



1979 CHAPTER iii

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1936, relating to Solicitors in the Supreme Courts of Scotland (Amendment). [22nd February 1979]

WHEREAS the Provisional Order set forth in the schedule hereunto annexed has been made by the Secretary of State under the provisions of the Private Legislation Procedure (Scotland) Act 1936, and it is requisite that the said 1936 c. 52. Order should be confirmed by Parliament:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1. The Provisional Order contained in the schedule hereunto annexed is hereby confirmed. Confirmation of Order in schedule.
2. This Act may be cited as the Solicitors in the Supreme Courts of Scotland (Amendment) Order Confirmation Act 1979. Short title.

SCHEDULE

SOLICITORS IN THE SUPREME COURTS
OF SCOTLAND (AMENDMENT)

Provisional Order to vary and amend the provisions of the Solicitors in the Supreme Courts of Scotland Act 1871 and for purposes connected therewith.

1871 c. cvii.

Whereas by the Solicitors in the Supreme Courts of Scotland Act 1871 (hereinafter referred to as "the Act of 1871") the Royal Charter dated the 24th day of January 1797 and sealed the 23rd day of February 1797 incorporating the Society of Solicitors in the Court of Session, Commission of Teinds and High Court of Justiciary in Scotland was ratified and confirmed and the said Society was re-incorporated under the name of the Society of Solicitors in the Supreme Courts of Scotland (hereinafter referred to as "the Society"):

And whereas the Act of 1871 is to some extent out of date and it is expedient that it should be amended to meet modern conditions and that the further powers as in this Order provided should be conferred upon the Society:

1936 c. 52.

And whereas the purposes aforesaid cannot be effected without an Order confirmed by Parliament under the provisions of the Private Legislation Procedure (Scotland) Act 1936:

Now therefore in pursuance of the powers contained in the last-mentioned Act the Secretary of State orders as follows:—

Short and collective titles.

1. This Order may be cited as the Solicitors in the Supreme Courts of Scotland (Amendment) Order 1978 and this Order and the Act of 1871 may be cited together as the Solicitors in the Supreme Courts of Scotland Acts 1871 and 1979.

Interpretation.

2. In this Order unless the context otherwise requires the following expressions have the meanings hereby assigned to them respectively:—

"Act of 1871" means the Solicitors in the Supreme Courts of Scotland Act 1871;

"Society" means the Society of Solicitors in the Supreme Courts of Scotland.

Amendment and repeals of Act of 1871.

3.—(1) The provisions of the Act of 1871 specified in the Schedule to this Order shall have effect subject to the amendments set out in the said Schedule.

(2) Sections 22, 23, 26, 27, 28, 35 and 46 of the Act of 1871 are hereby repealed.

Costs of Order.

4. All costs, charges and expenses of and incidental to the preparing for, obtaining and confirming this Order or otherwise in relation thereto shall be paid by the Society.

SCHEDULE

AMENDMENTS OF ACT OF 1871

1. For section 8 (Office-bearers) there shall be substituted the following section:—

“ Office-bearers.

8.—(1) The office-bearers of the Society shall consist of a president, vice-president, treasurer, secretary, librarian, fiscal and collector and such additional office-bearers as may from time to time be appointed by the Society all of whom shall be members of the Society:

Provided that nothing herein contained shall prevent the same person from being appointed both treasurer and collector.

(2) The office-bearers of the Society, other than such additional office-bearers as aforesaid, shall, along with seven other members of the Society to be elected as hereinafter provided, form the council of the Society:

Provided that nothing herein contained shall prevent any such additional office-bearer being elected as one of the seven ordinary members of council.”.

2. For section 9 (Stated general meetings) there shall be substituted the following section:—

“ Stated general meetings.

9.—(1) There shall be three general meetings of the Society in each year, viz., one on the first Tuesday of March, the second on the first Tuesday of July and the third on the first Tuesday of December, or on such other dates as the council may determine; and any of the said meetings may be adjourned from time to time as the meeting shall see fit.

(2) If the council determine that the second of such general meetings as aforesaid shall be held on a day other than the first Tuesday of July references in this Act to ‘ the stated general meeting in July ’ and ‘ the general meeting in July ’ shall be construed accordingly.”.

3. For section 12 (Election of office-bearers) there shall be substituted the following section:—

“ Election of office-bearers, etc.

12.—(1) The office-bearers of the Society shall be elected annually at the stated general meeting in July or at such other date as may be prescribed by the Society’s byelaws and subject as hereinafter provided each of the office-bearers shall be eligible for re-election.

(2) At the stated general meeting in July the Society shall—

(a) elect two members as auditors, each of whom shall be eligible for re-election; or

(b) by resolution appoint as auditor a properly qualified auditor who shall subject as hereinafter provided be a member of a body of accountants established

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1948 c. 38. in the United Kingdom and for the time being recognised by the Department of Trade for the purposes of section 161 of the Companies Act 1948.

(3) The power of the Society under section 52 of this Act to make byelaws shall include power to prescribe respective periods during which office-bearers and auditors elected under this section shall be eligible for re-election."

4. For section 13 (Council and their election) there shall be substituted the following section:—

" Election of council.

13. The secretary shall keep a list of the ordinary members of council on which the names of such members shall be placed in the order in which they were elected and at the stated general meeting in July the two ordinary members at the top of the list shall retire and two other members shall be elected in their stead and the names of the persons so elected shall be put at the bottom of the list of ordinary members of council:

Provided that any ordinary member of council who has retired as aforesaid may be re-elected as an ordinary member of council but not earlier than the next following stated general meeting in July "

5. After section 13 insert the following section:—

" Casual vacancies.

13A. In the event of any vacancy occurring among the office-bearers or ordinary members of council a member may be elected to fill such vacancy either at the next stated general meeting or at a special general meeting to be convened for that purpose."

6. In section 14 (Meetings and duties of council) for the words " Any three members of council along with the president or in his absence the vice-president, shall be a quorum " there shall be substituted the words " Any five members of council shall be a quorum ".

7. In section 15 (Powers and duties of treasurer) for the word " June " there shall be substituted the word " July ".

8. In section 16 (Powers and duties of collector) for the word " June " there shall be substituted the word " July ".

9. In section 18 (Moneys to be deposited in bank) for the words " above thirty pounds ", there shall be substituted the words " for more than twenty-one days a sum in excess of one hundred pounds ".

10. For section 19 (Duties of secretary) there shall be substituted the following section:—

" Duties of secretary.

19. It shall be the duty of the secretary—

(a) to attend all meetings of the Society and of the council;

- (b) to frame the minutes of the proceedings of all such meetings;
 - (c) to keep minute books in which shall be engrossed all proceedings of the Society and the council respectively;
 - (d) to cause intimation of all meetings to be made to members of the Society or of the council as the case may be as prescribed by the byelaws; and
- to perform such other duties as the council may from time to time prescribe.”.

11. For section 20 (Salaries of treasurer, secretary and collector) there shall be substituted the following section:—

“ Salaries
of
treasurer,
secretary
and
collector.

20. The Society may from time to time pay to the treasurer, the secretary and the collector such salaries and allowances out of the funds of the Society as the council of the Society shall think fit.”.

12. For section 21 (Application of Society's funds) there shall be substituted the following section:—

“ Applica-
tion of
Society's
funds.

21. The Society shall have power to apply the funds of the Society, other than those specially applicable to the annuities, in extending and improving the library, and paying any necessary salaries or allowances in connexion therewith, in purchasing, erecting or fitting up a hall for the use of the Society, in making allowances, if they see cause, for members or their respective widows and families, employees, former employees of the Society or their respective widows and families and for such other purposes as the Society may consider proper.”.

13. For section 24 (Qualification of members) there shall be substituted the following section:—

“ Eligi-
bility for
member-
ship.

24. Any person who at the commencement of the Solicitors in the Supreme Courts of Scotland (Amendment) Order 1978 is a member of the Law Society of Scotland or who is thereafter admitted a member thereof may apply for membership of the Society.”.

14. For section 25 (Application for admission of members and their examination) there shall be substituted the following section:—

“ Applica-
tion for
admission.

25. Every applicant for admission as a member shall lodge a written requisition to that effect with the council and shall produce a certificate of membership of the Law Society of Scotland and a report by a medical practitioner appointed by the council on the state of his health, and shall furnish the Society with such evidence of his qualifications and character and with such reasonable particulars and information as the council may prescribe.”.

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15. For section 29 (Power to suspend and expel members) there shall be substituted the following section:—

“Termination of membership.”

29.—(1) (a) The council may, on a report by the fiscal of the Society, or on the presentation of a complaint by any person aggrieved by the conduct of a member, enquire into any allegations affecting the professional conduct of a member and may, if they shall see cause after making such enquiry, suspend such member for so long as they think fit, or expel him, and a member who has been suspended shall during the period of his suspension be debarred from exercising or enjoying any of the rights or privileges of a member.

(b) In the event of a member of the Society ceasing to hold a certificate entitling him to practise as a solicitor then he may, if he so desires, submit his resignation to the Society which may, if it sees fit and in its sole discretion, accept such resignation upon such terms and conditions as to the Society shall seem fit providing always that in all cases such member so wishing to resign shall have redeemed his annual rates to the widows' fund of the Solicitors in the Supreme Courts of Scotland (in this Act referred to as 'the widows' fund') before such resignation is tendered.

(2) Notwithstanding that a member has been suspended or expelled or has resigned from the Society, such suspension or expulsion or resignation, as the case may be, shall not affect the rights, if any, of his widow and children to participate in the fund nor his obligations as a contributor.”.

16. In section 30 (Dues of admission and subsidies payable by members) the following amendments shall be made:—

(a) the words “presenting his requisition for” and the words “subject to the approval of the Lord President of the Court of Session” shall be omitted; and

(b) for the word “three” there shall be substituted the word “two”.

17. In section 31 (Property of widows' fund vested in Society in trust etc.) the words after “cease and determine” shall be omitted.

18. For section 34 (Sum to be paid to widows' fund from admission dues) there shall be substituted the following section:—

“Sum to be paid to widows' fund from admission dues.”

34. There shall be paid by the treasurer to the collector, out of the dues of admission to be received from each person who is admitted as a member of the Society after the commencement of the Solicitors in the Supreme Courts of Scotland (Amendment) Order 1978 and immediately after the said dues shall be received by the treasurer, such sum in respect of each such person as may be determined by the Society at a general meeting.”.

19. In section 36 (Future members to be contributors etc.) for the words “six pounds six shillings” and for the words “five pounds twelve shillings and sixpence” there shall be substituted the words “such sum as shall be determined by the Society at a general meeting”.



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CHAPTER iii

ARRANGEMENT OF SECTIONS

Section

1. Confirmation of Order in schedule.
2. Short title.

SCHEDULE

SOLICITORS IN THE SUPREME COURTS OF SCOTLAND (AMENDMENT)

1. Short and collective titles.
2. Interpretation.
3. Amendment and repeals of Act of 1871.
4. Costs of Order.

SCHEDULE—Amendments of Act of 1871.