



# Solicitors (Scotland) Act 1980

## 1980 CHAPTER 46

### PART II

#### RIGHT TO PRACTISE AS A SOLICITOR

##### *Unqualified persons acting as solicitors*

#### **31 Offence for unqualified persons to pretend to be solicitor or notary public.**

[<sup>F1</sup>(1)] Any <sup>F2</sup> . . . person (including a body corporate) who [<sup>F3</sup>, not having the relevant qualification,] either by himself or together with others, wilfully and falsely—

(a) pretends to be a solicitor or notary public; or

[<sup>F4</sup>(aa) pretends to be a registered European lawyer; or]

[<sup>F5</sup>(ab) pretends to be a registered foreign lawyer; or]

(b) takes or uses any name, title, addition or description implying that he is duly qualified to act as a solicitor or a notary public [<sup>F6</sup>[<sup>F7</sup>, registered European lawyer or registered foreign lawyer], as the case may be,] or recognised by law as so qualified;

shall be guilty of an offence.

<sup>F8</sup>  
...

[<sup>F9</sup>(2) Any person (including a body corporate) who either by himself or together with others, wilfully and falsely—

(a) pretends to be an incorporated practice;

(b) takes or uses any name, title, addition or description implying that he is an incorporated practice,

shall be guilty of an offence.

[ This section does not apply to an incorporated practice.  
<sup>F10</sup>(2A)

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(2B) This section does not apply in relation to the taking or using by a licensed legal services provider of a name, title, addition or description if the licensed provider has the Society's written authority for using it.

(2C) For the purpose of subsection (2B), the Council are to make rules which—

- (a) set the procedure for getting the Society's authority (and specify the conditions that the Society may impose if it gives that authority),
- (b) specify the grounds on which the Society may refuse to give that authority (and require the Society to give reasons in writing if it refuses to give that authority).]

(3) <sup>F11</sup> .....

#### Textual Amendments

- F1** S. 31 renumbered as subsection (1) of that section by Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73, SIF 76:2), s. 56, **Sch. 1 Pt. 1 para. 8**
- F2** Word in s. 31(1) repealed (22.5.2000) by S.S.I. 2000/121, regs. 1(1), 37(1), **Sch. 1 para. 1(8)(a)**
- F3** Words in s. 31(1) inserted (22.5.2000) by S.S.I. 2000/121, regs. 1(1), 37(1), **Sch. 1 para. 1(8)(b)**
- F4** S. 31(1)(aa) inserted (22.5.2000) by S.S.I. 2000/121, regs. 1(1), 37(1), **Sch. 1 para. 1(8)(c)**
- F5** S. 31(1)(ab) inserted (1.10.2004) by The Solicitors (Scotland) Act 1980 (Foreign Lawyers and Multi-national Practices) Regulations (S.S.I. 2004/383), {reg. 6(a)}
- F6** Words in s. 31(1)(b) inserted (22.5.2000) by S.S.I. 2000/121, regs. 1(1), 37(1), **Sch. 1 para. 1(8)(d)**
- F7** Words in s. 31(1)(b) substituted (1.10.2004) by The Solicitors (Scotland) Act 1980 (Foreign Lawyers and Multi-national Practices) Regulations (S.S.I. 2004/383), {reg. 6(b)}
- F8** Words in s. 31 repealed (2.7.2012) by Legal Services (Scotland) Act 2010 (asp 16), **ss. 123(3)(a)**, 150(2); S.S.I. 2012/152, art. 2, sch.
- F9** S. 31(2)(3) inserted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73, SIF 76:2), s. 56, **Sch. 1 Pt. 1 para. 8(b)**
- F10** S. 31(2A)-(2C) inserted (2.7.2012) by Legal Services (Scotland) Act 2010 (asp 16), **ss. 123(3)(b)**, 150(2); S.S.I. 2012/152, art. 2, sch.
- F11** S. 31(3) repealed (3.6.1991) by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 76:2), s. 74, **Sch. 9**; S.I. 1991/1252, art. 3, **Sch. 1**

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

- C1** S. 31 amended by Copyright, Designs and Patents Act 1988 (c. 48, SIF 67A), **s. 278(2)(3)**
- C2** S. 31 modified (31.10.1994) by 1994 c. 26, **s. 86(2)**; S.I. 1994/2550, **art. 2**

## 32 Offence for unqualified persons to prepare certain documents.

(1) Subject to the provisions of this section [<sup>F12</sup>and regulations 6, 11, 12 and 13 of the European Communities (Lawyer's Practice) (Scotland) Regulations 2000 [<sup>F13</sup>as those regulations have effect by virtue of regulation 6 or 7 of the Services of Lawyers and Lawyer's Practice (EU Exit) (Scotland) (Amendment etc.) Regulations 2019]], any unqualified person (including a body corporate) who draws or prepares—

- (a) any writ relating to heritable or moveable estate; or
- (b) any writ relating to any [<sup>F14</sup>action or proceedings in any court]; or
- (c) any papers on which to found or oppose an application for a grant of confirmation in favour of executors,

shall be guilty of an offence.

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(2) Subsection (1) shall not apply—

- (a) to an unqualified person if he proves that he drew or prepared the writ or papers in question without receiving, or without expecting to receive, either directly or indirectly, any fee, gain or reward [<sup>F15</sup>(other than by way of remuneration paid under a contract of employment)]; or
- (b) to an advocate; or
- (c) to any public officer drawing or preparing writs in the course of his duty; or
- (d) to any person employed merely to engross any writ [<sup>F16</sup>or
- (e) an incorporated practice][<sup>F17</sup>; or
- (ea) a licensed legal services provider;][<sup>F18</sup>; or
- (f) to a member of a body which has made a successful application under section 25 of the 1990 Act but only to the extent to which the member is exercising rights acquired by virtue of section 27 of that Act]

[<sup>F19</sup>(2A) Subsection (1)(a) shall not apply to [<sup>F20</sup>—

- (a) a [<sup>F21</sup>“conveyancing practitioner”] providing conveyancing services within the meaning of section 23 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990.]

[ an approved lay representative within the meaning of section 5F of the Heritable Securities (Scotland) Act 1894 or section 24E of the Conveyancing and Feudal Reform (Scotland) Act 1970 (lay representation in proceedings by creditors for repossession of residential property) while acting in pursuance of the section in question.]

(2B) Subsection (1)(b) shall not apply to a person who is, by virtue of an act of sederunt made under section 32 (power of Court of Session to regulate procedure) of the <sup>M1</sup>Sheriff Courts (Scotland) Act 1971, permitted to represent [<sup>F23</sup>—

- (a)] a party to a summary cause;

[ a debtor or hirer in proceedings for—

- <sup>F24</sup>(b) (i) a time order under section 129 of the Consumer Credit Act 1974 (time orders); or
- (ii) variation or revocation, under section 130(6) of that Act (variation and revocation of time orders), of a time order made under section 129].

(2C) Subsection (1)(c) shall not apply to an executry practitioner or a recognised financial institution providing executry services within the meaning of section 23 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990.]

(3) In this section “writ” does not include—

- (a) a will or other testamentary writing;
- (b) a document *in re mercatoria*, missive or mandate;
- (c) a letter or power of attorney;
- (d) a transfer of stock containing no trust or limitation thereof.

[<sup>F25</sup>(4) For the purposes of this section, “ unqualified person ” includes a registered foreign lawyer. ]

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#### Textual Amendments

**F12** Words in s. 32(1) inserted (22.5.2000) by S.S.I. 2000/121, regs. 1(1), 37(1), Sch. 1 para. 1(9)

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- F13** Words in s. 32(1) 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(5)**; 2020 c. 1, Sch. 5 para. 1(1)
- F14** Words substituted by Solicitors (Scotland) Act 1988 (c. 42, SIF 76:2), s. 6(1), **Sch. 1 para. 7**
- F15** Words inserted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 76:2), s. 74, **Sch. 8 Pt. II para. 29(6)(a)**
- F16** S. 32(2)(e) inserted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73, SIF 76:2), s. 56, **Sch. 1 Pt. I para. 9**
- F17** S. 32(2)(ea) and word inserted (2.7.2012) by Legal Services (Scotland) Act 2010 (asp 16), **ss. 123(4), 150(2)**; S.S.I. 2012/152, art. 2, sch.
- F18** S. 32(2)(f) and preceding word inserted (19.3.2007) by Legal Profession and Legal Aid (Scotland) Act 2007 (asp 5), **ss. 61, 82** (with s. 77); S.S.I. 2007/140, **art. 2**
- F19** S. 32(2A)–(2C) inserted (1.3.1997 for all purposes except in relation to a recognised financial institution and except as to subsection (2B) the insertion of which came into force 1.1.1991; see S.I. 1990/2624) by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 76:2), s. 74, **Sch. 8 Pt. II para. 29(6)(b)**; S.I. 1996/2894, art. 3, **Sch.** as amended by S.I. 1996/2966, **art. 2**
- F20** Words in s. 32(2A) renumbered (3.10.2010) by virtue of Home Owner and Debtor Protection (Scotland) Act 2010 (asp 6), **ss. 7(3)(a), 17(3)** (with s. 14); S.S.I. 2010/314, art. 4 (with transitional provisions and savings in S.S.I. 2010/316, art. 4)
- F21** Words in s. 32(2A) substituted (15.8.2003) by Public Appointments and Public Bodies etc. (Scotland) Act 2003 (asp 4), **ss. 17, 21(2)(3), Sch. 4 para. 7**; S.S.I. 2003/384, **art. 2**
- F22** S. 32(2A)(b) added (3.10.2010) by virtue of Home Owner and Debtor Protection (Scotland) Act 2010 (asp 6), **ss. 7(3)(b), 17(3)** (with s. 14); S.S.I. 2010/314, art. 4 (with transitional provisions and savings in S.S.I. 2010/316, art. 4)
- F23** Words in s. 32(2B) re-numbered (1.10.2008) as s. 32(2B)(a) by virtue of Consumer Credit Act 2006 (c. 14), **ss. 16(5)(a), 71**; S.I. 2007/3300, **art. 3(3)**, Sch. 3
- F24** S. 32(2B)(b) inserted (1.10.2008) by Consumer Credit Act 2006 (c. 14), **ss. 16(5)(b), 71**; S.I. 2007/3300, **art. 3(3)**, Sch. 3
- F25** S. 32(4) inserted (1.10.2004) by The Solicitors (Scotland) Act 1980 (Foreign Lawyers and Multi-national Practices) Regulations (S.S.I. 2004/383), {reg. 7}

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

- C3** S. 32 amended (17.5.2004) by S.I. 1978/1910, arts. 5, 8, 18(1), **Sch. Pt. 2** (as amended by The European Communities (Services of Lawyers) Amendment (Scotland) Order (S.S.I. 2004/186), {art. 7(b)});

#### Marginal Citations

- M1** 1971 c.58(36:3).

### 33 Unqualified persons not entitled to fees, etc.

[<sup>F26</sup>(1) [<sup>F27</sup>Subject to the provisions of regulations 12 and 13 of the European Communities (Lawyer's Practice) (Scotland) Regulations 2000 [<sup>F28</sup>as those regulations have effect by virtue of regulation 6 or 7 of the Services of Lawyers and Lawyer's Practice (EU Exit) (Scotland) (Amendment etc.) Regulations 2019],] no fee, reward, outlay or expenses on account of or in relation to any act or proceeding done or taken by any person who—

- (a) acts as a solicitor or as a notary public without being duly qualified so to act; or
- (b) not being so qualified, <sup>F29</sup> . . . frames or draws any writs to which section 32 applies,

shall be recoverable by any person in any action or matter. ]

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[<sup>F30</sup>(2) [<sup>F31</sup>This section does not apply to an incorporated practice][<sup>F32</sup>or a licensed legal services provider][<sup>F33</sup>or in relation to writs framed or drawn by a person who is, by virtue of an act of sederunt made under section 32 of the Sheriff Courts (Scotland) Act 1971, permitted to represent a party to a summary cause.]]

#### Textual Amendments

- F26** Words in s. 33 renumbered as s. 33(1) (2.7.2012) by [Legal Services \(Scotland\) Act 2010 \(asp 16\)](#), **ss. 123(5)(a), 150(2)**; [S.S.I. 2012/152](#), art. 2, sch.
- F27** Words in s. 33 inserted (22.5.2000) by [S.S.I. 2000/121](#), regs. 1(1), 37(1), **Sch. 1 para. 1(10)**
- F28** Words in s. 33(1) 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(6)**; 2020 c. 1, Sch. 5 para. 1(1)
- F29** Words repealed by [Solicitors \(Scotland\) Act 1988 \(c. 42, SIF 76:2\)](#), s. 6(1)(2), Sch. 1 para. 8, **Sch. 2**
- F30** Words in s. 33 renumbered as s. 33(2) (2.7.2012) by [Legal Services \(Scotland\) Act 2010 \(asp 16\)](#), **ss. 123(5)(a), 150(2)**; [S.S.I. 2012/152](#), art. 2, sch.
- F31** Words inserted by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1985 \(c. 73, SIF 76:2\)](#), s. 56, **Sch. 1 Pt. I para. 10**
- F32** Words in s. 33(2) inserted (2.7.2012) by [Legal Services \(Scotland\) Act 2010 \(asp 16\)](#), **ss. 123(5)(b), 150(2)**; [S.S.I. 2012/152](#), art. 2, sch.
- F33** Words inserted by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1990 \(c. 40, SIF 76:2\)](#), s. 74, **Sch. 8 Pt. II para. 29(7)**

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

- C4** S. 33 excluded (17.5.2004) by [S.I. 1978/1910](#), **art. 18(3)** (as amended by [The European Communities \(Services of Lawyers\) Amendment \(Scotland\) Order \(S.S.I. 2004/186\)](#), {art. 6(b)})

#### [<sup>F34</sup>33A Rules as to professional practice, conduct and discipline.

- (1) Any communication made to or by an incorporated practice in the course of its acting as such for a client shall in any legal proceedings be privileged from disclosure in like manner as if the body had at all material times been a solicitor acting for the client.
- (2) Any enactment or instrument making special provision in relation to a solicitor or other legal representative as to the disclosure of information, or as to the production, seizure or removal of documents, with respect to which a claim to professional privilege could be maintained, shall, with any necessary modifications, have effect in relation to an incorporated practice as it has effect in relation to a solicitor.]

#### Textual Amendments

- F34** S. 33A inserted by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1985 \(c. 73, SIF 76:2\)](#), s. 56, **Sch. 1 Pt. I para. 11**

#### [<sup>F35</sup>33B

- (1) Any communication made to or by a registered foreign lawyer in the course of his acting as such for a client shall in any legal proceedings be privileged from disclosure in like manner as if the registered foreign lawyer had at all material times been a solicitor acting for a client.

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- (2) Any enactment or instrument making special provision in relation to a solicitor or other legal representative as to the disclosure of information, or as to the production, seizure or removal of documents, with respect to which a claim to professional privilege could be maintained, shall, with any necessary modifications, have effect in relation to a registered foreign lawyer as it has effect in relation to a solicitor.]

**Textual Amendments**

**F35** S. 33B inserted (1.10.2004) by The Solicitors (Scotland) Act 1980 (Foreign Lawyers and Multi-national Practices) Regulations (S.S.I. 2004/383), {reg. 8}

[<sup>F36</sup>**33C Licensed legal services providers**

- (1) Subsection (2) applies to any rule made under section 34 which prohibits or unduly restricts the—
- (a) involvement of solicitors in or with, or employment of solicitors by, licensed legal services providers,
  - (b) provision of services by licensed providers, or
  - (c) operation of licensed providers in other respects.
- (2) The rule is of no effect in so far as it does so (and for this purpose it is immaterial when the rule was made).
- (3) The reference in subsection (1)(a) to solicitors does not include a solicitor who is disqualified from practice by reason of having been—
- (a) struck off (or removed from) the roll, or
  - (b) suspended from practice.]

**Textual Amendments**

**F36** S. 33C inserted (2.7.2012) by Legal Services (Scotland) Act 2010 (asp 16), ss. 124(1), 150(2); S.S.I. 2012/152, art. 2, sch.

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