



Solicitors (Scotland) Act 1980

1980 CHAPTER 46

PART II

RIGHT TO PRACTISE AS A SOLICITOR

Rights of Solicitors

[^{F1}25A Rights of audience in the Court of Session, the [^{F2}Supreme Court], the Judicial Committee of the Privy Council and the High Court of Justiciary.

- (1) [^{F3}Subject to regulations 6 and 11 of the European Communities (Lawyer's Practice) (Scotland) Regulations 2000 [^{F4}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] and] without prejudice to [^{F5}section 103(8) of the Criminal Procedure (Scotland) Act 1995 (right of solicitor to appear before single judge)] and section 48(2)(b) (extension of rights of audience by act of sederunt) of the Court of Session Act 1988, a solicitor who—
 - (a) seeks a right of audience in, on the one hand, the Court of Session, the [^{F2}Supreme Court] and the Judicial Committee of the Privy Council or, on the other hand, the High Court of Justiciary [^{F6}and the Judicial Committee of the Privy Council]; and
 - (b) has satisfied the Council as to the requirements provided for in this section, shall have a right of audience in those courts or, as the case may be, that court.
- (2) The requirements mentioned in subsection (1), in relation to the courts or, as the case may be, the court in which a solicitor seeks a right of audience, are that—
 - (a) he has completed, to the satisfaction of the Council, a course of training in evidence and pleading in relation to proceedings in those courts or that court;
 - (b) he has such knowledge as appears to the Council to be appropriate of—
 - (i) the practice and procedure of; and
 - (ii) professional conduct in regard to, those courts or that court; and

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- (c) he has satisfied the Council that he is, having regard among other things to his experience in appropriate proceedings in the sheriff court, otherwise a fit and proper person to have a right of audience in those courts or that court.
- (3) Where a solicitor has satisfied the Council as to the requirements of subsection (2) in relation to the courts or, as the case may be, the court in which he seeks a right of audience the Council shall make an appropriate annotation on the roll against his name.
- (4) The Council shall make rules under this section as to—
- (a) the matters to be included in, the methods of instruction to be employed in, and the qualifications of the person who will conduct, any course of training such as is mentioned in subsection (2)(a); and
 - (b) the manner in which a solicitor’s knowledge of the practice and procedure and professional conduct mentioned in subsection (2)(b) is to be demonstrated,
- and separate rules shall be so made in relation to, on the one hand, the Court of Session, the [^{F2}Supreme Court] and the Judicial Committee of the Privy Council and, on the other hand, the High Court of Justiciary ^{F7}. . . .
- (5) The Council shall make rules of conduct in relation to the exercising of any right of audience held by virtue of this section.
- (6) Where a solicitor having a right of audience in any of the courts mentioned in subsection (1) is instructed to appear in that court, those instructions shall take precedence before any of his other professional obligations, and the Council shall make rules—
- (a) stating the order of precedence of those courts for the purposes of this subsection;
 - (b) stating general criteria to which solicitors should have regard in determining whether to accept instructions in particular circumstances; and
 - (c) securing, through such of their officers as they think appropriate, that, where reasonably practicable, any person wishing to be represented before any of those courts by a solicitor holding an appropriate right of audience is so represented,
- and for the purposes of rules made under this subsection the Inner and Outer Houses of the Court of Session, and the High Court of Justiciary exercising its appellate Jurisdiction, may be treated as separate courts.
- (7) Subsection (6) does not apply to an employed solicitor whose contract of employment prevents him from acting for persons other than his employer.
- (8) Subject to subsections (9) and (10), the provisions of section 34(2) and (3) apply to rules made under this section as they apply to rules made under that section and, in considering any rules made by the Council under subsection (5), the Lord President shall have regard to the desirability of there being common principles applying in relation to the exercising of rights of audience by all practitioners appearing before the Court of Session and the High Court of Justiciary.
- (9) The Council shall, after any rules made under subsection (4) have been approved by the Lord President, submit such rules to the Secretary of State, and no such rules shall have effect unless the Secretary of State, after consulting the [^{F8}CMA] in accordance with section 64A, has approved them.
- (10) The Council shall, after any rules made under subsection (5) have been approved by the Lord President, submit such rules to the Secretary of State.

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- (11) Where the Secretary of State considers that any rule submitted to him under subsection (10) would directly or indirectly inhibit the freedom of a solicitor to appear in court or undertake all the work preparatory thereto he shall consult the [F⁹CMA] in accordance with section 64A.
- (12) The Council may bring into force the rules submitted by them to the Secretary of State under subsection (10) with the exception of any such rule which he has, in accordance with section 64B, refused to approve.
- (13) Nothing in this section affects the power of any court in relation to any proceedings—
- (a) to hear a person who would not otherwise have a right of audience before the court in relation to those proceedings; or
 - (b) to refuse to hear a person (for reasons which apply to him as an individual) who would otherwise have a right of audience before the court in relation to those proceedings, and where a court so refuses it shall give its reasons for that decision.
- (14) Where a complaint has been made that a solicitor has been guilty of professional misconduct in the exercise of any right of audience held by him by virtue of this section, the Council may, or if so requested by the Lord President shall, suspend him from exercising that right pending determination of that complaint under Part IV.
- [Where the Commission makes a determination under section 9(1) of the 2007 Act
- ^{F10}(14A) upholding a services complaint against a solicitor, the Council may, if they consider that the complaint has a bearing on his fitness to exercise any right of audience held by him by virtue of this section and that it is appropriate to do so, suspend or revoke the right.]
- (15) Where a function is conferred on any person or body by this section he or, as the case may be, they shall exercise that function as soon as is reasonably practicable.]

Textual Amendments

- F1** S. 25A inserted (3.6.1991) by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 76:2), s. 24; S.I. 1991/1252, art. 3, **Sch. 1**
- F2** Words in s. 25A substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 40, 148, **Sch. 9 para. 32(3)(a)**; S.I. 2009/1604, **art. 2**
- F3** Words in s. 25A inserted (22.5.2000) by S.S.I. 2000/121, **regs. 1(1), 37(1)**, Sch. 1 para. 1(5)
- F4** Words in s. 25A(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(3)**; 2020 c. 1, Sch. 5 para. 1(1)
- F5** Words in s. 25A(1) substituted (1.4.1996) by 1995 c. 40, s. 5, **Sch. 4 para. 31**
- F6** Words in s. 25A(1)(a)(4) inserted (20.5.1999) by S.I. 1999/1042, arts. 1(2)(b), 4, **Sch. 2 Pt. I para. 7(2)**
- F7** Words in s. 25A(4) omitted (1.10.2009) by virtue of Constitutional Reform Act 2005 (c. 4), ss. 40, 148, **Sch. 9 para. 32(3)(b)**; S.I. 2009/1604, **art. 2**
- F8** Word in s. 25A(9) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 10**; S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F9** Word in s. 25A(11) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 10**; S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F10** S. 25A(14A) inserted (1.10.2008) by Legal Profession and Legal Aid (Scotland) Act 2007 (asp 5), ss. 81, 82, **Sch. 5 para. 1(5)** (with s. 77); S.S.I. 2008/311, **art. 2**

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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\(2\)\(b\)](#)