



# Solicitors in the Supreme Courts of Scotland (Amendment) Act 2021

2021 asp 2

**The Bill for this Act of the Scottish Parliament was passed by the Parliament on 3rd December 2020 and received Royal Assent on 20th January 2021**

An Act of the Scottish Parliament to amend the Solicitors in the Supreme Courts of Scotland Act 1871 in order to abolish the offices of librarian and fiscal; to rename the Widows' Fund as the Dependents' Fund and to make further provision as regards persons entitled to the benefit of that fund; to make new provision for members of the Society to resign; and to give the Society new powers including to close the Dependents' Fund completely or close it to new members, to create new categories of membership, or to wind up the Society; and for connected purposes.

## **1 Amendment of the 1871 Act**

- (1) The Solicitors in the Supreme Courts of Scotland Act 1871 (in this Act referred to as “the 1871 Act”) is amended as follows.
- (2) In section 2 (interpretation of terms), the existing provisions become subsection (1) of the section and after that subsection insert—
  - “(2) With all necessary modifications, this Act applies in respect of—
    - (a) a widower or surviving civil partner as it applies in respect of a widow; and
    - (b) a civil partnership as it applies in respect of a marriage.”.
- (3) In section 8(1) (office-bearers), the words “, librarian, fiscal” are repealed.
- (4) In section 11 (quorum and chairman at meetings), the existing provisions become subsection (1) of the section and after that subsection insert—
  - “(2) Subsection (1) of this section is without prejudice to any such provision as to a voting threshold as is referred to in section 52B(5) of this Act.”.
- (5) In section 29 (termination of membership)—
  - (a) in subsection (1)(a), the words “on a report by the fiscal of the Society, or” are repealed,
  - (b) in subsection (1)(b), for the words “widows' fund”, in both places in which they occur, substitute “Dependents' Fund”,

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(c) after subsection (1), insert—

“(1A) A member may resign at any time from the Society for personal reasons unconnected with disciplinary matters or retirement.”.

- (6) In section 31, for the words “Widows' Fund” substitute “Dependents' Fund”.
- (7) The title of section 31 becomes “ **Property of Dependents' Fund etc.** ”.
- (8) The title of section 34 becomes “ **Sum to be paid to Dependents' Fund from admission dues** ”.
- (9) In section 41 (annuities to widows), for subsection (5) substitute—
- “(6) In the event of a claim for an annuity based on a period of cohabitation with a contributor, the Council may decide the claim on the whole facts and circumstances of the relationship between the deceased member and the claimant.”.
- (10) In section 42 (annuities to minor children if no widow of contributor), the word “lawful” is repealed.
- (11) In section 44(1), for the words “widows' fund” substitute “Dependents' Fund”.
- (12) The title of section 44 becomes “ **Investigations of affairs of Dependents' Fund** ”.
- (13) In section 45(2) (dates of actuarial investigation and reports), for the words “widows' fund” substitute “Dependents' Fund”.
- (14) In section 47(1) (power to alter annuities), for the words “widows' fund” substitute “Dependents' Fund”.
- (15) In section 51 (investment of funds), for the words “widows' fund” substitute “Dependents' Fund”.
- (16) After section 51, insert—

**“51A Dependents Fund: additional powers**

- (1) The Society may, by resolution, close the Dependents' Fund completely.
- (2) The Society may, by resolution, close that fund to persons becoming members of the Society after a date specified in the resolution.
- (3) If the fund is closed under subsection (1) of this section, any person who is an annuitant at, or who but for that closure would have become an annuitant after, the date of closure, shall be offered such lump sum or other payment as seems reasonable to the Council as settlement for loss of the future benefits of being an annuitant.
- (4) After all such payments as are mentioned in subsection (3) of this section have been made, any residual money shall be transferred from the fund to the Society, to be accounted for as part of the Society's assets.
- (5) Any proceedings under subsection (1) or (2) of this section may be commenced only after—

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- (a) an actuarial investigation has taken place on the instruction of the Council and the results of that investigation have been circulated to all members of the Society;
  - (b) in the case of—
    - (i) proceedings under subsection (1) of this section, the Council has recommended that the fund be closed completely; or
    - (ii) proceedings under subsection (2) of this section, the Council has recommended that the fund be closed to new members of the Society; and
  - (c) all members of the Society have been notified in writing, or by electronic means, of a special general meeting convened to consider the recommendation.
- (6) Any proceedings under subsection (1) of this section may be commenced only after all annuitants and prospective annuitants have been notified of the recommendation that the fund be closed completely.
- (7) Without prejudice to the generality of subsections (1) and (2) of this section, the fund may be—
- (a) closed to new members on one date and closed completely on a later date; or
  - (b) closed completely without first having been closed to new members.
- (8) Any decision to close the fund completely or to close it to new members is without prejudice to the rights of annuitants under section 41 of this Act.
- (9) Powers that may be exercised under this section may be exercised notwithstanding any other provision of this Act.”.
- (17) After section 52, insert—

**“52A Power to create new forms of membership**

- (1) The Society may provide for new forms of membership distinct from full membership.
- (2) Without prejudice to the generality of subsection (1) of this section, those forms may include—
  - (a) corporate membership;
  - (b) trainee membership;
  - (c) associate membership.
- (3) A form of membership created under subsection (1) of this section does not include an entitlement—
  - (a) to participate in the Dependents' Fund;
  - (b) to use—
    - (i) the designation “Solicitor in the Supreme Courts of Scotland”; or
    - (ii) the post-nominal letters “SSC”; or
  - (c) to participate in a decision mentioned in section 51A of this Act or in any other matter decided at a stated general meeting, or special general meeting, of the Society.

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### **52B Power to wind up the Society**

- (1) The Society—
  - (a) may, by resolution, decide to wind up the Society; and
  - (b) may make arrangements to achieve such winding up.
- (2) A decision under subsection (1)(a) of this section may be taken only at a special general meeting—
  - (a) convened to allow members to discuss a proposal by the Council to wind up the Society; and
  - (b) of which the members have been given at least 30 days' notice in writing.
- (3) The special general meeting referred to in subsection (2) of this section is not to be convened without first consulting the members of the Society as to how the Society's property is (after satisfaction of the Society's liabilities) to be distributed in the event of the Society being wound up.
- (4) The procedure by which a decision to wind up the Society is to be taken and such consultation as is referred to in subsection (3) of this section is to be carried out must be determined by the Society—
  - (a) at a general meeting other than the special general meeting referred to in subsection (2) of this section; or
  - (b) by means of bye-laws under section 52 of this Act.
- (5) Without prejudice to the generality of subsection (4) of this section, a determination under that subsection must include a provision as to the voting threshold required for a decision to wind up the Society and as to the quorum at the general meeting at which that decision is taken.
- (6) Where a decision has been made under subsection (1) of this section and such arrangements as are mentioned in that subsection—
  - (a) have been made, the Council must implement that decision in accordance with those arrangements;
  - (b) have not been made, the Council must implement that decision in such manner as it considers expedient.”.

## **2 Expenses of this Act**

All the costs, charges, fees and expenses of and incidental to the applying for, obtaining and passing of this Act, or related to it, shall be paid out of—

- (a) the Dependents' Fund,
- (b) the Society's other funds, or
- (c) both the Dependents' Fund and the Society's other funds in such proportions as the Council may determine.

## **3 Repeals**

Sections 17 (security to be found by treasurer and collector), 33 (present contributors may join fund for children) and 53 (saving any future Act relating to privileges) of the 1871 Act are repealed.

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**4 Commencement**

This Act comes into force at the end of the period of one month beginning with the day of Royal Assent.

**5 Short title**

The short title of this Act is the Solicitors in the Supreme Courts of Scotland (Amendment) Act 2021.

**Changes to legislation:**

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