



# Solicitors Act 1974

## 1974 CHAPTER 47

### PART II

#### PROFESSIONAL PRACTICE, CONDUCT AND DISCIPLINE OF SOLICITORS AND CLERKS

##### *Restrictions on practice as solicitor*

#### **38 Solicitor who is justice of the peace not to act in certain proceedings.**

- (1) Subject to the provisions of this section, it shall not be lawful for any solicitor who is one of the justices of the peace for any area, or for any partner of his, to act in connection with proceedings before any of those justices as solicitor or agent for the solicitor of any person concerned in those proceedings.
- (2) Where the area for which a solicitor is a justice of the peace is divided into petty sessional divisions, his being a justice for the area shall not subject him or any partner of his to any disqualification under this section in relation to proceedings before justices acting for a petty sessional division for which he does not ordinarily act.
- (3) Where a solicitor is a justice of the peace for any area, that shall not subject him or any partner of his to any disqualification under this section if his name is entered in the supplemental list kept under [<sup>F1</sup>section 8 of the Justices of the Peace Act 1979]
- (4) Where a solicitor is, as being Lord Mayor or alderman, a justice of the peace for the City of London, that shall not subject him or any partner of his to any disqualification under this section, if he is in accordance with [<sup>F2</sup>the proviso to section 39(1) of the Justices of the Peace Act 1979]excluded from the exercise of his functions as a justice for the City.

#### **Textual Amendments**

**F1** Words substituted by [Justices of the Peace Act 1979 \(c. 55, SIF 82\)](#), s. 71, [Sch. 2 para. 29\(a\)](#)

**F2** Words substituted by [Justices of the Peace Act 1979 \(c. 55, SIF 82\)](#), s. 71, [Sch. 2 para. 29\(b\)](#)

*Status: Point in time view as at 01/02/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Solicitors Act 1974, Cross Heading: Restrictions on practice as solicitor. (See end of Document for details)*

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

C1 Modified (prosp.) by [Administration of Justice Act 1985 \(c.61,SIF 34\)](#), **ss. 9, 69(2)**,Sch.2 para.7

F3**39** .....

**Textual Amendments**

F3 [S. 39](#) repealed by [Courts and Legal Services Act 1990 \(c. 41, SIF 76:1\)](#), **ss. 59(1), 66(1)(2), 125(7), Sch. 20**

**40 Solicitor not to commence or defend actions while in prison.**

- (1) No solicitor while a prisoner in any prison shall as a solicitor, in his own name or in the name of any other solicitor, issue any writ or process, or commence, prosecute or defend any action or any matter in bankruptcy.
- (2) If any solicitor commences, prosecutes or defends any action or any matter in bankruptcy in contravention of subsection (1)—
  - (a) he shall be incapable of maintaining an action for the recovery of any costs in respect of any business so done by him; and
  - (b) he and any other solicitor in whose name he is permitted to commence, prosecute or defend the action or matter shall be guilty of contempt of the court in which it is commenced, prosecuted or defended and may be punished accordingly.

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

C2 [S. 40](#) extended (22.5.2000) by [S.I. 2000/1119, regs.1, 37\(3\)](#), **Sch. 4 para. 7(2)**

**Status:**

Point in time view as at 01/02/1991.

**Changes to legislation:**

There are currently no known outstanding effects for the Solicitors Act 1974, Cross Heading:  
Restrictions on practice as solicitor.