



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.

[^{F1}(1)] Any ^{F2} . . . person (including a body corporate) who [^{F3}, 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

[^{F4}(aa) pretends to be a registered European 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 [^{F5}or registered European lawyer, as the case may be,] or recognised by law as so qualified;

shall be guilty of an offence.

[^{F6}In this section, “^{F2} . . . person” does not include an incorporated practice].

[^{F7}(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.

[^{F8}(3) [.]]

Status: Point in time view as at 15/08/2003. This version of this cross heading contains provisions that are not valid for this point in time.

Changes to legislation: Solicitors (Scotland) Act 1980, Cross Heading: Unqualified persons acting as solicitors is up to date with all changes known to be in force on or before 05 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

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. I 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- F2** Word in s. 31(1) repealed (22.5.2000) by S.S.I. 2000/121, regs. 1(1), 37(1), **Sch. 1 para. 1(8)(a)**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** 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)**
- F6** Words inserted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73, SIF 76:2), s. 56, **Sch. 1 Pt. I para. 8(a)**
- F7** S. 31(2)(3) inserted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73, SIF 76:2), s. 56, **Sch. 1 Pt. I para. 8(b)**
- F8** 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 [^{F9}and regulations 6, 11, 12 and 13 of the European Communities (Lawyer's Practice) (Scotland) Regulations 2000], any unqualified person (including a body corporate) who draws or prepares—
- any writ relating to heritable or moveable estate; or
 - any writ relating to any [^{F10}action or proceedings in any court]; or
 - 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.
- (2) Subsection (1) shall not apply—
- 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 [^{F11}(other than by way of remuneration paid under a contract of employment)]; or
 - to an advocate; or
 - to any public officer drawing or preparing writs in the course of his duty; or
 - to any person employed merely to engross any writ [^{F12}or
 - an incorporated practice.]
- [^{F13}(2A) Subsection (1)(a) shall not apply to a [^{F14}“conveyancing practitioner”] providing conveyancing services within the meaning of section 23 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990.
- (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 ^{MI}Sheriff Courts (Scotland) Act 1971, permitted to represent a party to a summary cause.

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(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.

Textual Amendments

- F9** 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)**
- F10** Words substituted by Solicitors (Scotland) Act 1988 (c. 42, SIF 76:2), s. 6(1), **Sch. 1 para. 7**
- F11** 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)**
- F12** 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**
- F13** 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**
- F14** 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**

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.

[^{F15}Subject to the provisions of regulations 12 and 13 of the European Communities (Lawyer’s Practice) (Scotland) Regulations 2000,]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, . . . ^{F16} frames or draws any writs to which section 32 applies,

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

[^{F17}This section does not apply to an incorporated practice.][^{F18}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.]

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Textual Amendments

- F15** Words in s. 33 inserted (22.5.2000) by S.S.I. 2000/121, regs. 1(1), 37(1), **Sch. 1 para. 1(10)**
- F16** Words repealed by Solicitors (Scotland) Act 1988 (c. 42, SIF 76:2), s. 6(1)(2), Sch. 1 para. 8, **Sch. 2**
- F17** Words inserted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73, SIF 76:2), s. 56, **Sch. 1 Pt. I para. 10**
- F18** 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)})

[^{F19}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

- F19** S. 33A inserted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73, SIF 76:2), s. 56, **Sch. 1 Pt. I para. 11**

VALID FROM 01/10/2004

[^{F20}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.
- (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

- F20** 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}

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