



Solicitors (Scotland) Act 1980

1980 CHAPTER 46

PART III

PROFESSIONAL PRACTICE, CONDUCT AND DISCIPLINE OF SOLICITORS

Accounts rules ^[F1] and fees

Textual Amendments

- F1** Words in s. 35 cross-heading inserted (18.1.2018) by The Oversight of Professional Body Anti-Money Laundering and Counter Terrorist Financing Supervision Regulations 2017 (S.I. 2017/1301), regs. 1(1), 28(2)

35 Accounts rules.

(1) The Council shall, subject to section 34(2) and (3), make rules (in this Act referred to as “accounts rules”)—

- (a) as to the opening and keeping by solicitors [^{F2}and incorporated practices] of accounts and deposits at the banks specified in subsection (2) [^{F3}or with a building society] for moneys not belonging to them received by them in the course of their practice;
- (b) as to the opening and keeping by solicitors [^{F2}and incorporated practices] of—
 - (i) a deposit or share account with a building society. . . ^{F4}, or
 - (ii) an account showing sums on loan to a local authority,being in either case for a client whose name is specified in the title of the account;
- (c) as to the keeping by solicitors [^{F2}and incorporated practices] of books and accounts containing particulars and information as to money not belonging to them received, held or paid by them in the course of their practice;. . . ^{F5}
- (d) as to the action which the Council may take to enable them to ascertain whether or not the rules are being complied with [^{F6}]; and

Changes to legislation: Solicitors (Scotland) Act 1980, Cross Heading: Accounts rules and fees is up to date with all changes known to be in force on or before 27 June 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) View outstanding changes

- (e) as to the recovery from solicitors of fees and other costs incurred by the Council in ascertaining whether or not a solicitor who has failed to comply with the accounts rules has remedied that failure and is complying with the rules.]
- (2) The banks mentioned in paragraph (a) of subsection (1) are—
- (a) the Bank of England;
 - (b) . . . ^{F7}
 - (c) the National Savings Bank;
 - ^{F8}(d)
 - [^{F9}(e) a person (other than a building society) who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits;
 - ^{F9}(ea) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to the Financial Services and Markets Act 2000 which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to accept deposits;]
 - (f) ^{F10}
- and the rules may specify the location of the banks' or companies' branches at which the accounts are to be kept.
- [^{F11}(2A) Paragraphs (e) and (ea) of subsection (2) must be read with—
- (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that section; and
 - (c) Schedule 2 to that Act.]
- (3) If any solicitor fails to comply with any rule made under this section that failure may be treated as professional misconduct [^{F12}or as unsatisfactory professional conduct.].
- (4) Rules made under this section shall not apply to a solicitor—
- (a) who is in employment as solicitor to a Minister of the Crown or a Government Department or as an assistant or officer appointed to act under the direction of such solicitor; or
 - [^{F13}(b) who is in employment to which Part V of the Legal Aid (Scotland) Act 1986 applies;]
 - (c) who is in employment in an office connected with the administration of a local authority or a statutory undertaking or a designated body to which he has been appointed by the authority or the statutory undertakers or the persons responsible for the management of that body by reason of his being a solicitor,
- so far as regards monies received, held or paid by him in the course of that employment.
- In this subsection—
- “local authority” means a local authority within the meaning of the ^{M1}Local Government (Scotland) Act 1973;
 - “statutory undertakers” means any persons (including a local authority) authorised by any enactment or statutory order or any scheme made under or confirmed by an enactment to construct, work or carry on any railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, pier or lighthouse undertaking or any undertaking for the supply of gas, electricity, hydraulic power or water;

Changes to legislation: Solicitors (Scotland) Act 1980, Cross Heading: Accounts rules and fees is up to date with all changes known to be in force on or before 27 June 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) View outstanding changes

“designated body” means any body whether corporate or unincorporate for the time being designated by the Council for the purposes of this section.

Textual Amendments

- F2** Words inserted by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1985 \(c. 73, SIF 76:2\)](#), s. 56, **Sch. 1 Pt. I para. 13**
- F3** Words inserted by [Solicitors \(Scotland\) Act 1988 \(c. 42, SIF 76:2\)](#), s. 6(1), **Sch. 1 para. 9**
- F4** Words repealed by [Solicitors \(Scotland\) Act 1988 \(c. 42, SIF 76:2\)](#), s. 6(2), **Sch. 2**
- F5** Word repealed by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1985 \(c. 73, SIF 76:2\)](#), s. 56, **Sch. 1 Pt. II para. 4(a)**, Sch. 4
- F6** S. 35(1)(e) added by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1985 \(c. 73, SIF 76:2\)](#), s. 56, **Sch. 1 Pt. II para. 4(b)**
- F7** S. 33(2)(b) repealed by [Trustee Savings Banks Act 1985 \(c. 58, SIF 110\)](#), ss. 4(3), 7(3), **Sch. 4**
- F8** S. 35(2)(d) repealed (26.3.2001) by [S.I. 2001/1149](#), art. 3(2), **Sch. 2**
- F9** S. 35(2)(e)(ea) substituted for s. 35(2)(e) (1.12.2001) by [S.I. 2001/3649](#), **arts. 1**, 222(2)
- F10** S. 35(2)(f) repealed by [Banking Act 1987 \(c. 22, SIF 10\)](#), s. 108(1)(2), **Sch. 6 para. 9**, **Sch. 7 Pt. I** (in Sch. 7 Pt. I the repeal is expressed to include the word “and” immediately preceding paragraph (f))
- F11** S. 35(2A) inserted (1.12.2001) by [S.I. 2001/3649](#), **arts. 1**, 222(3)
- F12** Words in s. 35(3) substituted (1.10.2008) by [Legal Profession and Legal Aid \(Scotland\) Act 2007 \(asp 5\)](#), ss. 81, 82, **Sch. 5 para. 1(7)** (with s. 77); [S.S.I. 2008/311](#), **art. 2**
- F13** S. 35(4)(b) substituted by [Legal Aid \(Scotland\) Act 1986 \(c. 47, SIF 77:2\)](#), ss. 43, 45, **Sch. 3 para. 7**, **Sch. 4 para. 3(1)**

Modifications etc. (not altering text)

- C1** S. 35 modified (1.10.2004) by [The Solicitors \(Scotland\) Act 1980 \(Foreign Lawyers and Multi-national Practices\) Regulations \(S.S.I. 2004/383\)](#), {reg. 14}
- C2** S. 35(2) amended (1.1.1993) by [1992/3218](#), reg. 82(1), **Sch. 10 Pt. I para. 11**

Marginal Citations

- M1** 1973 c. 65.

36 Interest on client’s money.

- (1) Accounts rules shall make provision for requiring a solicitor [^{F14}or and incorporated practice], in such cases as may be prescribed by the rules, . . . ^{F15}
- (a) to keep in a separate deposit or savings account at a bank [^{F16}or with a building society], or on a separate deposit receipt at a bank, for the benefit of the client money received for or on account of a client; or
- [^{F17}(aa) to keep in—
- (i) a deposit or share account with a . . . ^{F18} building society; or
- (ii) an account showing sums on loan to a local authority,
- being in either case an account kept by the solicitor in his [^{F14}or, as the case may be, the incorporated practice in its]own name for a specified client, money so received; or]
- (b) to make good to the client out of the solicitor’s [^{F14}or, as the case may be, the incorporated practice’s] own money a sum equivalent to the interest which would have accrued if the money so received had been kept as mentioned in paragraph (a) [^{F19}or (aa)].

Changes to legislation: Solicitors (Scotland) Act 1980, Cross Heading: Accounts rules and fees is up to date with all changes known to be in force on or before 27 June 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) View outstanding changes

- (2) The cases in which a solicitor [^{F20}or incorporated practice] may be required to act as mentioned in subsection (1) may be defined among other things by reference to the amount of any sum received or balance held or the period for which it is or is likely to be retained or held or both; and the rules may include provision for enabling a client (without prejudice to any other remedy) to require that any question arising under the rules in relation to the client’s money be referred to and determined by the Society.
- (3) Except as provided by the rules, a solicitor [^{F21}or incorporated practice] shall not be liable by virtue of the relation between solicitor and client to account to any client for interest received by the solicitor [^{F21}or, as the case may be, the incorporated practice] on monies lodged in an account [^{F22}at a bank or with a building society], or on deposit receipt, at a bank, being monies received or held for or on account of his [^{F21}or, as the case may be, its] clients generally.
- (4) Nothing in this section or in the rules shall affect any arrangement in writing whenever made between a solicitor and his client [^{F23}or an incorporated practice and its client] as to the application of the client’s money or interest on it.

Textual Amendments

- F14** Words inserted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73, SIF 76:2), s. 56, **Sch. 1 Pt. I para. 14(a)**
- F15** Word repealed by Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 (c. 55, SIF 36:3), s. 25(a)(i)
- F16** Words inserted by Solicitors (Scotland) Act 1988 (c. 42, SIF 76:2), s. 6(1), **Sch. 1 para. 10(a)**
- F17** S. 36(1)(aa) inserted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 (c. 55, SIF 36:3), s. 25(a)(ii)
- F18** Word repealed by Solicitors (Scotland) Act 1988 (c. 42, SIF 76:2), s. 6(2), **Sch. 2**
- F19** Words inserted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 (c. 55, SIF 36:3), s. 25(a)(iii)
- F20** Words inserted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73, SIF 76:2), s. 56, **Sch. 1 Pt. I para. 14(b)**
- F21** Words inserted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73, SIF 76:2), s. 56, **Sch. 1 Pt. I para. 14(c)**
- F22** Words inserted by Solicitors (Scotland) Act 1988 (c. 42, SIF 76:2), s. 6(1), **Sch. 1 para. 10(b)**
- F23** Words inserted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73, SIF 76:2), s. 56, **Sch. 1 Pt. I para. 14(d)**

Modifications etc. (not altering text)

- C3** S. 36 modified (1.10.2004) by The Solicitors (Scotland) Act 1980 (Foreign Lawyers and Multi-national Practices) Regulations (S.S.I. 2004/383), {reg. 14}

37 Accountant’s certificates.

- (1) This section shall have effect for the purpose of securing satisfactory evidence of compliance with the accounts rules.
- (2) Subject to the following provisions of this section, every solicitor [^{F24}and incorporated practice] to whom the accounts rules apply shall, in accordance with the rules made under subsection (3), deliver to the Council a certificate by an accountant (in this section referred to as an “accountant’s certificate”).

Changes to legislation: Solicitors (Scotland) Act 1980, Cross Heading: Accounts rules and fees is up to date with all changes known to be in force on or before 27 June 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) [View outstanding changes](#)

- (3) The Council shall make rules (in this Act referred to as “accountant’s certificate rules”) prescribing—
- (a) the qualifications to be held by an accountant by whom an accountant’s certificate may be given;
 - (b) the nature and extent of the examination to be made by an accountant of the books and accounts of a solicitor or his firm [^{F25}or of an incorporate practice] and of any other relative documents with a view to the signing of an accountant’s certificate;
 - (c) the intervals at which an accountant’s certificate shall be delivered to the Council, not being more frequent than once in each practice year;
 - (d) the accounting period for which an accountant’s certificate shall be delivered or the different accounting periods for which in different circumstances an accountant’s certificate shall be delivered;
 - (e) the period within which an accountant’s certificate shall be delivered; and
 - (f) the form and content of an accountant’s certificate.
- (4) The accountant’s certificate rules may include such other provisions as the Council consider necessary or proper for the purpose of giving effect to the foregoing provisions of this section and for regulating any incidental, consequential or supplementary matters.
- (5) The delivery of an accountant’s certificate in pursuance of subsection (2) shall not be required in the case of—
- (a) a solicitor who [^{F26}or incorporated practice which], in agreement with the Council, furnishes to the Council and keeps in force a fidelity bond by an insurance office or other institution accepted by the Court as cautioners for a judicial factor appointed by the Court for such amount as the Council may determine, guaranteeing the intromissions of the solicitor or his firm [^{F27}or, as the case may be, of the incorporated practice] with money held by him or them [^{F26}or, as the case may be, it] for or on behalf of clients; or
 - (b) a solicitor [^{F26}or incorporated practice] who satisfies the Council that during the accounting period to which the accountant’s certificate would ordinarily relate he has not in the course of his practice [^{F26}or, as the case may be, it has not] held or received any money on behalf of clients.
- (6) If the Council are of the opinion that satisfactory evidence of compliance with the accounts rules for the time being in force will be secured by some method other than by delivery of an accountant’s certificate under subsection (2), they may make rules—
- (a) prescribing—
 - (i) that other method;
 - (ii) the terms and conditions to be observed in connection therewith; and
 - (iii) the procedure to be followed by solicitors [^{F28}or incorporated practices] desiring to adopt that other method, and
 - (b) containing such incidental, consequential and supplementary provisions relative thereto as the Council may consider necessary or proper;
- and a solicitor who satisfies the Council that he [^{F28}or, as the case may be, an incorporate practice which satisfies the Council that it] is complying with rules made under this subsection shall not be required to deliver an accountant’s certificate in pursuance of subsection (2).

Changes to legislation: Solicitors (Scotland) Act 1980, Cross Heading: Accounts rules and fees is up to date with all changes known to be in force on or before 27 June 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) View outstanding changes

- (7) A certificate under the hand of the secretary of the Society certifying that a specified solicitor [^{F29}or incorporated practice] has or has not, as the case may be, delivered to the Council an accountant’s certificate, or supplied any evidence required from him [^{F29}or, as the case may be, it] under this section or under the accountant’s certificate rules or, as the case may be, under any rules made under subsection (6), shall, unless the contrary is proved, be evidence of the fact so certified.
- (8) Failure by a solicitor to comply with any provision of this section or of the accountant’s certificate rules or of any rules made under subsection (6), so far as applicable to him, may be treated as professional misconduct [^{F30}or as unsatisfactory professional conduct].

Textual Amendments

- F24** Words inserted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73, SIF 76:2), s. 56, **Sch. 1 Pt. I para. 15(a)**
- F25** Words inserted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73, SIF 76:2), s. 56, **Sch. 1 Pt. I para. 15(b)**
- F26** Words inserted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73, SIF 76:2), s. 56, **Sch. 1 Pt. I para. 15(c)**
- F27** Words inserted by virtue of Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73, SIF 76:2), s. 56, **Sch. 1 Pt. I para. 15(c)** (which provided that after the word “firm” there should be substituted the words inserted in the text)
- F28** Words inserted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73, SIF 76:2), s. 56, **Sch. 1 Pt. I para. 15(d)**
- F29** Words inserted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73, SIF 76:2), s. 56, **Sch. 1 Pt. I para. 15(e)**
- F30** Words in s. 37(8) substituted (1.10.2008) by Legal Profession and Legal Aid (Scotland) Act 2007 (asp 5), ss. 81, 82, **Sch. 5 para. 1(8)** (with s. 77); S.S.I. 2008/311, **art. 2**

Modifications etc. (not altering text)

- C4** S. 37 applied (with modifications) (1.10.2004) by The Solicitors (Scotland) Act 1980 (Foreign Lawyers and Multi-national Practices) Regulations (S.S.I. 2004/383), {reg. 13}
- C5** S. 37 modified (1.10.2004) by The Solicitors (Scotland) Act 1980 (Foreign Lawyers and Multi-national Practices) Regulations (S.S.I. 2004/383), {reg. 14}

[^{F31}37A [^{F32}Accounts and anti-money laundering fees]

- (1) [^{F33}An annual accounts fee (the “accounts fee”) and an annual anti-money laundering fee (the “anti-money laundering fee”) are to be paid by each] —
- solicitor who is required by paragraph 1 of Schedule 3 (as read with section 43(7)) to pay an annual contribution on behalf of the Guarantee Fund,
 - incorporated practice that is required by that paragraph of that Schedule to pay an annual corporate contribution on that behalf.
- (2) [^{F34}The accounts fee and the anti-money laundering fee are] also to be paid by each—
- registered European lawyer or registered foreign lawyer who is required by virtue of paragraph 1A or 1B of that Schedule to pay an annual contribution on that behalf,
 - multi-national practice to which the accounts rules apply by virtue of an enactment.

Changes to legislation: Solicitors (Scotland) Act 1980, Cross Heading: Accounts rules and fees is up to date with all changes known to be in force on or before 27 June 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) View outstanding changes

- (3) The accounts fee is to be set by the Council for the purpose of funding the exercise of their function of securing compliance (by the categories specified in subsections (1) and (2)) with the accounts rules.

[The anti-money laundering fee is to be set by the Council for the purpose of funding^{F35}(3A) the exercise of their functions of—

- (i) complying with the Oversight of Professional Body Anti-Money Laundering and Counter Terrorist Financing Supervision Regulations 2017, and
- (ii) securing compliance (by the categories specified in subsections (1) and (2)) with the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017.]

- (4) [^{F36}The accounts fee and the anti-money laundering fee are] to be—

- (a) set—
 - (i) no later than 30 September each year in respect of the 12 month period beginning with 1 November that year, or
 - (ii) by reference to such other dates as the Council may fix,
- (b) paid to the Council by such date as they may fix.

- (5) The accounts fee [^{F37}and the anti-money laundering fee] may be set—

- (a) so as to involve different amounts (including nil) for different—
 - (i) categories (as specified in subsections (1) and (2)),
 - (ii) circumstances (by reference to all relevant factors),
- (b) in the case of incorporated practices, by particular reference to the number of solicitors that they have as directors, members or employees.

- (6) The Council may take such steps as they consider necessary for recovering the accounts fee [^{F38}and the anti-money laundering fee] due in accordance with this section.]

Textual Amendments

- F31** S. 37A inserted (1.5.2011) by [Legal Services \(Scotland\) Act 2010 \(asp 16\)](#), ss. **138(1)**, 150(2); S.S.I. 2011/180, art. 4(a)
- F32** S. 37A heading substituted (18.1.2018) by [The Oversight of Professional Body Anti-Money Laundering and Counter Terrorist Financing Supervision Regulations 2017 \(S.I. 2017/1301\)](#), regs. 1(1), **28(3)(a)**
- F33** Words in s. 37A(1) substituted (18.1.2018) by [The Oversight of Professional Body Anti-Money Laundering and Counter Terrorist Financing Supervision Regulations 2017 \(S.I. 2017/1301\)](#), regs. 1(1), **28(3)(b)**
- F34** Words in s. 37A(2) substituted (18.1.2018) by [The Oversight of Professional Body Anti-Money Laundering and Counter Terrorist Financing Supervision Regulations 2017 \(S.I. 2017/1301\)](#), regs. 1(1), **28(3)(c)**
- F35** S. 37A(3A) inserted (18.1.2018) by [The Oversight of Professional Body Anti-Money Laundering and Counter Terrorist Financing Supervision Regulations 2017 \(S.I. 2017/1301\)](#), regs. 1(1), **28(3)(d)**
- F36** Words in s. 37A(4) substituted (18.1.2018) by [The Oversight of Professional Body Anti-Money Laundering and Counter Terrorist Financing Supervision Regulations 2017 \(S.I. 2017/1301\)](#), regs. 1(1), **28(3)(e)**
- F37** Words in s. 37A(5) inserted (18.1.2018) by [The Oversight of Professional Body Anti-Money Laundering and Counter Terrorist Financing Supervision Regulations 2017 \(S.I. 2017/1301\)](#), regs. 1(1), **28(3)(f)**

Changes to legislation: Solicitors (Scotland) Act 1980, Cross Heading: Accounts rules and fees is up to date with all changes known to be in force on or before 27 June 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) [View outstanding changes](#)

F38 Words in s. 37A(6) inserted (18.1.2018) by [The Oversight of Professional Body Anti-Money Laundering and Counter Terrorist Financing Supervision Regulations 2017 \(S.I. 2017/1301\)](#), regs. 1(1), **28(3)(f)**

Changes to legislation:

Solicitors (Scotland) Act 1980, Cross Heading: Accounts rules and fees is up to date with all changes known to be in force on or before 27 June 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.

[View outstanding changes](#)

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