



# Solicitors (Scotland) Act 1980

## 1980 CHAPTER 46

### PART VI **S**

#### MISCELLANEOUS AND GENERAL

##### *Miscellaneous*

#### 60A <sup>[F1]</sup>Registered foreign lawyers] **S**

- (1) Subject to the provisions of this section, solicitors and incorporated practices may enter into multi-national practices with registered foreign lawyers.
- (2) The Council shall maintain a register of foreign lawyers, and may make rules with regard to registration; and, without prejudice to the generality of the foregoing, such rules may include provision as to—
  - (a) the manner in which applications for registration are to be made;
  - <sup>[F2]</sup>(aa) the information which shall accompany such applications;
  - (b) the fees payable in respect of such applications;
  - (c) conditions which may be imposed in respect of registration; and
  - (d) the period for which any such registration is to run.
- (3) Section 34(2) and (3) apply to rules made under subsection (2) as they apply to rules made under that section.
- <sup>[F3]</sup>(4) A foreign lawyer may apply to the Council to be registered as such for the purposes of—
  - (a) subsection (1); or
  - (b) having an interest in a licensed legal services provider as a solicitor investor within the meaning given by section 67(6) of the 2010 Act.
- (4ZA) Where an application is made under subsection (4), the Council are to enter the lawyer's name on the register of foreign lawyers if they are satisfied that the legal profession of which the applicant is a member is so regulated as to make it appropriate for the applicant to be registered for those purposes.]

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- [<sup>F4</sup>(4A) Any person may inspect the register of foreign lawyers during office hours without payment.
- (4B) A registered foreign lawyer who wishes his name to be removed from the register of foreign lawyers may make an application to the Council in that behalf, and the Council shall, if the registered foreign lawyer satisfies the Council that he has made adequate arrangements with respect to the business that he has then in hand, remove the name of that foreign lawyer from the register of foreign lawyers.
- (4C) On an application to the Council by a foreign lawyer whose name has been removed from the register of foreign lawyers under subsection (4B), the Council may, after such inquiry as they think proper, restore the name of the foreign lawyer to the register of foreign lawyers.
- (4D) A foreign lawyer whose name has been removed (other than pursuant to an application made under subsection (4B)) from the register of foreign lawyers shall have his name restored to that register only if, on an application in that behalf made by him to the Tribunal and after such inquiry as the Tribunal thinks proper, the Tribunal so orders.
- (4E) Rules made by the Tribunal under section 52 (procedure on complaints to the Tribunal) may—
- (a) regulate the making, hearing and determining of applications under subsection (4D); and
  - (b) provide for payment by the applicant to the Council of such fee in respect of restoration to the register of foreign lawyers as the rules may specify.
- (4F) Where, following an application under subsection (4), the Council decide not to enter the name of a foreign lawyer in the register of foreign lawyers the applicant may, within three months of the notification to him of the Council's decision (or later with the permission of the court), appeal to the court against the decision and, on such an appeal, the court may—
- (a) order the Council to register the foreign lawyer;
  - (b) refuse the appeal; or
  - (c) remit the matter to the Council with such directions as it sees fit.
- (4G) Sections 24A to 24G (registration certificates for registered European lawyers) shall apply to registered foreign lawyers as they apply to registered European lawyers and any reference in those sections (as so applied) to a registration certificate shall be construed as a reference to a registration certificate for a registered foreign lawyer.]
- (5) Subject to subsection (6), the Secretary of State may by order made by statutory instrument provide that any enactment or instrument—
- (a) <sup>F5</sup> . . . . .
  - (b) having effect in relation to solicitors; and
  - (c) specified in the order,
- shall have effect with respect to registered foreign lawyers as it has effect with respect to solicitors.
- (6) Before making any order under subsection (5), the Secretary of State shall consult the Council.
- (7) An order under subsection (5) may provide for an enactment or instrument to have effect with respect to registered foreign lawyers subject to such additions, omissions or other modifications as the Secretary of State specifies in the order.

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- (8) No order shall be made under subsection (5) unless a draft of the order has been approved by both Houses of Parliament.

#### Textual Amendments

- F1** Ss. 60A Title substituted (2.7.2012) by [The Legal Services \(Scotland\) Act 2010 \(Ancillary Provision\) Regulations 2012 \(S.S.I. 2012/212\)](#), regs. 1, **2(3)**
- F2** S. 60A(2)(aa) inserted (1.10.2004) by The Solicitors (Scotland) Act 1980 (Foreign Lawyers and Multi-national Practices) Regulations ([S.S.I. 2004/383](#)), {reg. 11(a)}
- F3** S. 60A(4)(4ZA) substituted for s. 60(4) (2.7.2012) by [The Legal Services \(Scotland\) Act 2010 \(Ancillary Provision\) Regulations 2012 \(S.S.I. 2012/212\)](#), regs. 1, **2(2)**
- F4** S. 60A(4A)-(4G) inserted (1.10.2004) by The Solicitors (Scotland) Act 1980 (Foreign Lawyers and Multi-national Practices) Regulations ([S.S.I. 2004/383](#)), {reg. 11(b)}
- F5** S. 60A(5)(a) omitted (1.10.2004) by virtue of The Solicitors (Scotland) Act 1980 (Foreign Lawyers and Multi-national Practices) Regulations ([S.S.I. 2004/383](#)), {reg. 11(c)}

## 61 Protection of banks. **S**

- (1) Subject to the provisions of this section, no bank [<sup>F6</sup>or building society] shall, in connection with any transaction on any account of a solicitor [<sup>F7</sup>or an incorporated practice] kept with it or with any other bank [<sup>F6</sup>or building society]—
- incur any liability, or
  - be under any obligation to make any enquiry, or
  - be deemed to have any knowledge of any right of any person to any money paid or credited to the account,
- which it would not incur, or be under, or be deemed to have (as the case may be) in the case of an account kept by a person entitled absolutely to all money paid or credited to it; but nothing in this subsection shall relieve a bank [<sup>F6</sup>or building society] from any liability or obligation under which it would be apart from this Act.
- (2) In subsection (1) “account” does not include an account kept by a solicitor [<sup>F7</sup>or an incorporated practice] as trustee for a specified beneficiary.
- (3) Notwithstanding anything in the preceding provisions of this section a bank [<sup>F6</sup>or building society] at which a solicitor [<sup>F8</sup>or an incorporated practice] keeps a special account for clients’ money shall not, in respect of any liability of the solicitor [<sup>F8</sup>or, as the case may be, the incorporated practice] to the bank [<sup>F6</sup>or building society] (not being a liability in connection with that account) have or obtain any recourse or right, whether by way of set-off, counter-claim, charge or otherwise, against money standing to the credit of that account.

#### Textual Amendments

- F6** Words inserted by [Solicitors \(Scotland\) Act 1988 \(c. 42, SIF 76:2\)](#), s. 6(1), **Sch. 1 para. 19**
- F7** Words inserted by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1985 \(c. 73, SIF 76:2\)](#), s. 56, **Sch. 1 Pt. I para. 31(a)**
- F8** Words inserted by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1985 \(c. 73, SIF 76:2\)](#), s. 56, **Sch. 1 Pt. I para. 31(b)**

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

- C1** S. 61 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}

### [<sup>F9</sup>61A Solicitors fees. **S**

- (1) Subject to the provisions of this section, and without prejudice to—
- (a) section 32(1)(i) of the <sup>M1</sup>Sheriff Courts (Scotland) Act 1971; or
  - (b) section 5(h) of the <sup>M2</sup>Court of Session Act 1988,
- where a solicitor and his client have reached an agreement in writing as to the solicitor's fees in respect of any work done or to be done by him for his client it shall not be competent, in any litigation arising out of any dispute as to the amount due to be paid under any such agreement, for the court to remit the solicitor's account for taxation.
- (2) Subsection (1) is without prejudice to the court's power to remit a solicitor's account for taxation in a case where there has been no written agreement as to the fees to be charged.
- (3) A solicitor and his client may agree, in relation to a litigation undertaken on a speculative basis, that, in the event of the litigation being successful, the solicitor's fee shall be increased by such a percentage as may, subject to subsection (4), be agreed.
- (4) The percentage increase which may be agreed under subsection (3) shall not exceed such limit as the court may, after consultation with the Council, prescribe by act of sederunt.]

#### Textual Amendments

- F9** S. 61A inserted (20.7.1992) by Law Reform (Miscellaneous Provisions)(Scotland) Act 1990 (c. 40, SIF 76:2), s. 36(3); S.I. 1992/1599, art.4, Sch. 2

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

- C2** S. 61A 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}

#### Marginal Citations

- M1** 1971 c.58(36:3).  
**M2** 1988 c.36(36:1).

### 62 Charge for expenses out of property recovered. **S**

- (1) Where a solicitor has been employed by a client to pursue or defend any action or proceeding, the court before which the action or proceeding has been heard or is depending may declare the solicitor entitled, in respect of the taxed expenses of or in reference to the action or proceeding, to a charge upon, and a right to payment out of, any property (of whatsoever nature, tenure or kind it may be) which has been recovered or preserved on behalf of the client by the solicitor in the action or proceeding; and the court may make such order for the taxation of, and for the raising and payment of, those expenses out of the said property as the court thinks just.

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- (2) Where a declaration has been made under subsection (1) any act done or deed granted by the client after the date of the declaration except an act or deed in favour of a bona fide purchaser or lender, shall be absolutely void as against the charge or right.

**[<sup>F10</sup>62A Council's power to recover expenses incurred under section <sup>F11</sup> . . . 45 or 46. S**

- (1) Without prejudice to the Society's entitlement under section 46(4) to recover expenses, the Council shall be entitled to recover from a solicitor or incorporated practice in respect of whom it has taken action under section <sup>F12</sup> . . . 45, or 46, any expenditure reasonably incurred by it in so doing.
- (2) Expenditure incurred in taking action under section <sup>F12</sup> . . . [<sup>F13</sup>45 or 46] is recoverable under subsection (1) above only where notice has been served under paragraph 5(2) of Schedule 3 in connection with that action and—
- (a) no application has been made in consequence under paragraph 5(4) of that Schedule; or
- (b) the Court, on such an application, has made a direction under paragraph 5(5) of that Schedule.]

**Textual Amendments**

- F10** S. 62A inserted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73, SIF 76:2), s. 56, **Sch. 1 Pt. II para. 6**
- F11** S. 62A: words in sidenote repealed (1.10.2008) by Legal Services Act 2007 (c. 29), ss. 195, 211, Sch. 20 para. 1(20); **Sch. 24** (with ss. 29, 192, 193); S.I. 2008/1436, **art. 3**
- F12** Words in s. 62A(1)(2) repealed (1.10.2008) by Legal Services Act 2007 (c. 29), ss. 195, 210, 211, Sch. 20 para. 1(16), **Sch. 23** (with ss. 29, 192, 193); S.I. 2008/1436, **art. 3**
- F13** Words in s. 62A(2) inserted (1.10.2008) by Legal Profession and Legal Aid (Scotland) Act 2007 (asp 5), ss. 81, 82, **Sch. 5 para. 1(22)** (with s. 77); S.S.I. 2008/311, **art. 2**

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

- C3** S. 62A applied in part (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}

*General*

**63 Penalties and time limit for prosecution of offences S**

- (1) Any person guilty of an offence under this Act shall be liable on summary conviction to a fine not exceeding [<sup>F14</sup>[<sup>F15</sup>level 4] on the standard scale][<sup>F16</sup> . . .]
- (2) Notwithstanding any provision of the <sup>M3</sup>Criminal Procedure (Scotland) Act 1975, the prosecution of any offence under this Act shall be commenced within 6 months of its first discovery by the prosecutor or in any event within 2 years after the commission of that offence.
- [<sup>F17</sup>(3) Where an offence under this Act is committed by a body corporate and is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of—
- (a) any director, secretary or other similar officer of the body corporate; or
- (b) any person who was purporting to act in any such capacity,

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he (as well as the body corporate) shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

- (4) Where an offence under this Act is committed by a partnership or by an unincorporated association (other than a partnership) and is proved to have been committed with the consent or connivance of a partner in the partnership or, as the case may be, a person concerned in the management or control of the association, he (as well as the partnership or association) shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.]

#### Textual Amendments

- F14** Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), **ss. 289F, 289G**
- F15** Words in [s. 63\(1\)](#) substituted ([3.6.1991](#)) by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1990 \(c. 40, SIF 76:2\)](#), [s. 74](#), **Sch. 8 Pt. II para. 29(14)(a)(i)**; [S.I. 1991/1252](#), [art. 3](#), **Sch.1**
- F16** Words in [s. 63\(1\)](#) repealed ([3.6.1991](#)) by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1990 \(c. 40, SIF 76:2\)](#), [s. 74](#), **Sch. 8 Pt. II para. 29(14)(a)(ii)**, **Sch. 9**; [S.I. 1991/1252](#), [art. 3](#), **Sch. 1**
- F17** [S. 63\(3\)\(4\)](#) inserted ([3.6.1991](#)) by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1990 \(c. 40, SIF 76:2\)](#), [s. 74](#), **Sch. 8 Pt. II para. 29(14)(b)**; [1991/1252](#), [art. 3](#), **Sch.1**

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

- C4** [S. 63](#) 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](#)}

#### Marginal Citations

- M3** [1975 c.21](#).

## 64 Service of notices etc. **S**

Any notice or other document which is required or authorised under this Act to be given to, or served on, any person shall be taken to be duly given or served if it is delivered to him or left at, or sent by post to, his last-known place of business or residence [<sup>F18</sup>or, in the case of an incorporated practice, it is left at, or delivered or sent by post to, its registered office].

#### Textual Amendments

- F18** Words inserted by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1985 \(c. 73, SIF 76:2\)](#), [s. 56](#), **Sch. 1 Pt. I para. 32**

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

- C5** [S. 64](#) 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](#)}

## [<sup>F19</sup>64A Advisory and supervisory functions of the [<sup>F20</sup>Competition and Markets Authority] . **S**

- (1) Before considering any rule—
- (a) made under [section 25A\(4\)](#) or [\(5\)](#)<sup>F21</sup>...

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<sup>F21</sup>(b) .....

the Secretary of State shall send a copy of the proposed rule in question to the [<sup>F22</sup>CMA]

- (2) The [<sup>F22</sup>CMA] shall consider whether the rule in question would have, or would be likely to have, the effect of restricting, distorting or preventing competition to any significant extent.
- (3) When the [<sup>F23</sup>CMA has completed its consideration, the CMA] shall give such advice to the Secretary of State as [<sup>F24</sup>it thinks] fit.
- (4) [<sup>F25</sup>The CMA may publish advice given] under subsection (3).
- (5) The [<sup>F26</sup>CMA] shall, so far as practicable, exclude from anything published under subsection (4) any matter—
  - (a) which relates to the affairs of a particular person; and
  - (b) the publication of which would, or might in the [<sup>F27</sup>CMA's] opinion, seriously and prejudicially affect the interests of that person.
- (6) For the purposes of the law of defamation, the publication of any advice or report by the [<sup>F28</sup>CMA] under this section shall be absolutely privileged.]

#### Textual Amendments

- F19** Ss. 64A–64D inserted (3.6.1991) by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 76:2), s.43; S.I. 1991/1252, art. 3, Sch.1
- F20** Words in s. 64A heading substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), Sch. 6 para. 11(7); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F21** S. 64A(1)(b) and word repealed (2.7.2012) by Legal Services (Scotland) Act 2010 (asp 16), ss. 124(2)(b), 150(2); S.S.I. 2012/152, art. 2, sch.
- F22** Word in s. 64A(1)(2) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), Sch. 6 para. 11(2); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F23** Words in s. 64A(3) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), Sch. 6 para. 11(3)(a); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F24** Words in s. 64A(3) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), Sch. 6 para. 11(3)(b); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F25** Words in s. 64A(4) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), Sch. 6 para. 11(4); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F26** Word in s. 64A(5) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), Sch. 6 para. 11(5)(a); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F27** Word in s. 64A(5) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), Sch. 6 para. 11(5)(b); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F28** Word in s. 64A(6) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), Sch. 6 para. 11(6); S.I. 2014/416, art. 2(1)(d) (with Sch.)

#### <sup>F29</sup>64B Duty of Secretary of State. **S**

When he has received advice under section 64A(3) in relation to a rule made under section 25A(4) or (5) <sup>F30</sup>..., the Secretary of State may, having considered—

- (a) that advice;
- (b) whether the interests of justice require that there should be such a rule; and

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- (c) in relation to a rule made under section 25A(5), any relevant practice obtaining in the sheriff court, approve or refuse to approve the rule.]

**Textual Amendments**

**F29** Ss. 64A–64D inserted (3.6.1991) by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 76:2), **s.43**; S.I. 1991/1252, art. 3, **Sch.1**

**F30** Words in s. 64B repealed (2.7.2012) by Legal Services (Scotland) Act 2010 (asp 16), **ss. 124(2)(c)**, 150(2); S.S.I. 2012/152, art. 2, sch.

**[<sup>F31</sup>64C Investigatory powers of the [<sup>F32</sup> Competition and Markets Authority ]. S**

- (1) For the purpose of investigating any matter under section 64A, the [<sup>F33</sup>CMA] may by notice in writing—
  - (a) require any person to produce to [<sup>F34</sup>the CMA] or to any person appointed by [<sup>F34</sup>the CMA] for the purpose, at a time and place specified in the notice, any documents which are specified or described in the notice and which—
    - (i) are in that person’s custody or under that person’s control; and
    - (ii) relate to any matter relevant to the investigation; or
  - (b) require any person carrying on any business to furnish to [<sup>F34</sup>the CMA] (within such time and in such manner and form as the notice may specify) such information as may be specified or described in the notice.
- (2) A person shall not be required under this section to produce any document or disclose any information which he would be entitled to refuse to produce or disclose on the grounds of confidentiality between a client and his professional legal adviser in any civil proceedings.

[ A notice under this section may be issued on the CMA's behalf by any member of <sup>F35</sup>(2A) the CMA Board.]

- (3) <sup>F36</sup>.....]

**Textual Amendments**

**F31** Ss. 64A–64D inserted (3.6.1991) by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 76:2), **s.43**; S.I. 1991/1252, art. 3, **Sch.1**

**F32** Words in s. 64C heading substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 12(4)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)

**F33** Word in s. 64C(1) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 12(2)(a)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)

**F34** Words in s. 64C(1) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 12(2)(b)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)

**F35** S. 64C(2A) inserted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 12(3)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)

**F36** S. 64C(3) repealed (20.6.2003) by The Enterprise Act 2002 (Consequential and Supplemental Provisions) Order (S.I. 2003/1398), art. 2, {Sch. para. 2(2)}



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## [<sup>F37</sup>64CA] Enforcement of notices under section 64C **S**

- (1) The court may, on an application by the [<sup>F38</sup>CMA], enquire into whether any person (“the defaulter”) has refused or otherwise failed, without reasonable excuse, to comply with a notice under section 64C(1).
- (2) An application under subsection (1) shall include details of the possible failure which the [<sup>F38</sup>CMA] considers has occurred.
- (3) In enquiring into a case under subsection (1), the court shall hear any witness who may be produced against or on behalf of the defaulter and any statement which may be offered in defence.
- (4) Subsections (5) and (6) apply where the court is satisfied, after hearing any witnesses and statements as mentioned in subsection (3), that the defaulter has refused or otherwise failed, without reasonable excuse, to comply with a notice under section 64C(1).
- (5) The court may punish the defaulter as it would have been able to punish him had he been guilty of contempt of court.
- (6) Where the defaulter is a body corporate or is a partnership constituted under the law of Scotland, the court may punish any director, officer or (as the case may be) partner of the defaulter as it would have been able to punish that director, officer or partner had he been guilty of contempt of court.

### Textual Amendments

- F37** Ss. 64CA, 64CB inserted (20.6.2003) by The Enterprise Act 2002 (Consequential and Supplemental Provisions) Order (S.I. 2003/1398), art. 2, {Sch. para. 2(3)}
- F38** Word in s. 64CA(1)(2) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), Sch. 6 para. 13; S.I. 2014/416, art. 2(1)(d) (with Sch.)

## 64CB Altering, etc. documents required to be produced under section 64C **S**

- (1) A person commits an offence if he intentionally alters, suppresses or destroys a document which he has been required to produce by a notice under section 64C(1).
- (2) A person who commits an offence under subsection (1) shall be liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.]

### Textual Amendments

- F37** Ss. 64CA, 64CB inserted (20.6.2003) by The Enterprise Act 2002 (Consequential and Supplemental Provisions) Order (S.I. 2003/1398), art. 2, {Sch. para. 2(3)}

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## <sup>F39</sup>64D Review of rules approved by the Secretary of State. **S**

- (1) Without prejudice to the power of the Council to review any rule made by them, where the Secretary of State has approved a rule under section 64B he may, and if so requested by the Lord President shall, require the Council to review its terms.
- (2) When they have reviewed a rule following a requirement made under subsection (1), the Council may revise the rule in the light of that review, and shall then submit the rule as revised or, if they have not revised it, as previously approved to the Lord President and the Secretary of State.
- (3) Where the Lord President and the Secretary of State are agreed that the terms of the rule as submitted to them are satisfactory, the Secretary of State shall approve the rule, and may direct the Council to bring it into force as soon as is practicable.
- (4) Where either the Secretary of State or the Lord President is of the view that any rule, as submitted to them, is not satisfactory, but they do not agree as to what the terms of the rule should be, the rule shall continue to have effect as previously approved.
- (5) Where the Secretary of State and the Lord President agree both that any rule submitted to them under subsection (2) is not satisfactory, and as to what the terms of the rule should be, the Secretary of State may direct the Council—
  - (a) to amend the rule in such manner as he and the Lord President consider appropriate; and
  - (b) to bring the rule, as so amended, into force as soon as is practicable.
- (6) The provisions of sections 64A and 64B apply to rules submitted to the Secretary of State under this section as they apply to rules submitted to him under [<sup>F40</sup>section 25A(9) or (10)] .]

### Textual Amendments

- F39** Ss. 64A–64D inserted (3.6.1991) by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1990](#) (c. 40, SIF 76:2), [s.43](#); S.I. 1991/1252, art. 3, [Sch.1](#)
- F40** Words in s. 64D(6) substituted (2.7.2012) by [Legal Services \(Scotland\) Act 2010](#) (asp 16), [ss. 124\(2\)\(d\)](#), 150(2); S.S.I. 2012/152, art. 2, [sch.](#)

## 65 Interpretation. **S**

- (1) In this Act, except in so far as the context otherwise requires—
  - “accounts rules” has the meaning given by section 35;
  - “accountant’s certificate rules” has the meaning given by section 37(3);
  - [<sup>F41</sup>“accounts fee” has the meaning given by section 37A(1);]
  - “advocate” means a member of the Faculty of Advocates;
  - [<sup>F42</sup>“anti-money laundering fee” has the meaning given by section 37A(1);]
  - [<sup>F43</sup>“building society” means a building society within the meaning of the <sup>M4</sup>Building Societies Act 1986; ]
  - [<sup>F44</sup>“citizens advice body” means an association which is formed (and operates)—
    - (a) otherwise than for the purpose of making a profit, and
    - (b) with the sole or primary objective of providing legal and other advice (including information) to the public for no fee, gain or reward;]

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“client account” means a current or deposit or savings account [<sup>F45</sup>at a bank or with a building society], or a deposit receipt, at a bank, being an account or, as the case may be, a deposit receipt in the title of which the word “client”, “trustee”, “trust” or other fiduciary term appears, including—

- (a) an account or deposit receipt for a client whose name is specified in the title of the account on deposit receipt, and
- (b) an account such as is mentioned in paragraphs (a) and (b) of section 35(1);

[<sup>F46</sup>“ the Commission ” means the Scottish Legal Complaints Commission;

]

[<sup>F47</sup>“the CMA” means the Competition and Markets Authority;]

[<sup>F47</sup>“the CMA Board” has the same meaning as in Schedule 4 to the Enterprise and Regulatory Reform Act 2013;]

“the Council” has the meaning given by section 3;

“the Court” means the Court of Session;

<sup>F48</sup>[<sup>F49</sup> ...

“ foreign lawyer ” means a person who is not a solicitor or an advocate but who is a member, and entitled to practise as such, of a legal profession regulated within a jurisdiction outwith Scotland; ]

<sup>F50</sup>

.....  
“functions” includes powers and duties;

<sup>F51</sup>

[<sup>F52</sup>“ incorporated practice ” has the meaning given by section 34(1A)( c ); ]

“judge” includes sheriff;

[<sup>F53</sup> “ law centre ” means a body—

- (a) established for the purpose of providing legal services to the public generally as well as to individual members of the public; and
- (b) which does not distribute any profits made either to its members or otherwise, but reinvests any such profits for the purposes of the law centre;]

[<sup>F54</sup>“licensed legal services provider” (or “licensed provider”)” is to be construed in accordance with Part 2 of the 2010 Act;]

<sup>F55</sup>

.....  
“Lord President” means the Lord President of the Court of Session;

<sup>F56</sup>[<sup>F57</sup> ...

“ multi-national practice ” means—

- (a) a partnership whose members are solicitors or incorporated practices and registered foreign lawyers; or
- (b) a body corporate whose members include registered foreign lawyers, and membership of which is restricted to solicitors, incorporated practices, registered foreign lawyers and other multi-national practices;]

[<sup>F58</sup> “ the 1990 Act ” means the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40); ]

[<sup>F59</sup> “ the 2007 Act ” means the Legal Profession and Legal Aid (Scotland) Act 2007 (asp 5); ]

[<sup>F60</sup> “ the 2010 Act ” means the Legal Services (Scotland) Act 2010;]

“notary public” means a notary public duly admitted in Scotland;

“practice year” means the year ending on 31st October;

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“practising certificate” has the meaning given by section 4;

“property” includes property, whether heritable or moveable, and rights and interests in, to or over such property;

[<sup>F61</sup>“registered European lawyer” means a person registered with the Society in accordance with regulation 17 of the European Communities (Lawyer’s Practice) (Scotland) Regulations 2000 [<sup>F62</sup>, 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];]

[<sup>F63</sup> “ registered foreign lawyer ” means a foreign lawyer who is registered under section 60A; ]

[<sup>F64</sup>“regulatory committee” means the regulatory committee formed in accordance with section 3B(1);]

“the roll” has the meaning given by section 7;

“the Society” has the meaning given by section 1;

[<sup>F65</sup> “ Scottish legal services ombudsman ” means the ombudsman appointed under section 34 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990; ]

“solicitor” means any person enrolled or deemed to have been enrolled as a solicitor in pursuance of this Act;

“the Tribunal” has the meaning given by section 50;

“unqualified person” means a person <sup>F66</sup>... who is not qualified under section 4 to act as a solicitor [<sup>F67</sup>;

“unsatisfactory professional conduct” as respects a solicitor has the meaning given (as respects a practitioner who is a solicitor) by section 46 of the 2007 Act].

- (2) Unless the context otherwise requires a reference—
- (a) in any enactment to law agents includes solicitors [<sup>F68</sup>and registered European lawyers];
  - (b) in any enactment to the register of law agents kept in pursuance of the <sup>M5</sup>Law Agents (Scotland) Act 1873 includes the roll;
  - (c) in any enactment or instrument to the Solicitors Discipline (Scotland) Committee shall be construed as a reference to the Tribunal;
  - (d) in any enactment or instrument or other document to the General Council of Solicitors in Scotland shall be construed as a reference to the Council;
  - (e) in any enactment to a solicitor’s [<sup>F69</sup>or registered European lawyer’s] being entitled to practise in the Court, or in any other court, or to act in any matter, by reason of his being enrolled in, or of his having subscribed, the list of solicitors practising in that court, shall be construed as a reference to his being entitled so to practise or act be reason of his name being included in the appropriate list provided under section 20.
- (3) In this Act references to any enactment shall, except in so far as the context otherwise requires, be construed as references to that enactment as amended, extended or applied by or under any other enactment, including any enactment contained in this Act.
- (4) In this Act, except in so far as the context otherwise requires,—
- (a) any reference to a numbered Part, section or Schedule is a reference to the Part or Section of, or the Schedule to, this Act so numbered;

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- (b) a reference in a section to a numbered subsection is a reference to the subsection of that section so numbered;
- (c) a reference in a section, subsection or Schedule to a numbered or lettered paragraph is a reference to the paragraph of that section, subsection or Schedule so numbered or lettered; and
- (d) a reference to any provision of an Act (including this Act) includes a reference to any Schedule incorporated in the Act by that provision.

[<sup>F70</sup>(5) <sup>F71</sup>.....]

### Textual Amendments

- F41** Words in s. 65(1) inserted (1.5.2011) by [Legal Services \(Scotland\) Act 2010 \(asp 16\)](#), **ss. 138(2), 150(2)**; S.S.I. 2011/180, art. 4(a)
- F42** Words in s. 65(1) 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(4)**
- F43** Definition inserted by [Solicitors \(Scotland\) Act 1988 \(c. 42, SIF 76:2\)](#), s. 6(1), **Sch. 1 para. 20(a)**
- F44** Words in s. 65(1) inserted (1.4.2011) by [Legal Services \(Scotland\) Act 2010 \(asp 16\)](#), **ss. 125(2), 150(2)**; S.S.I. 2011/180, art. 3, Sch.
- F45** Words inserted by [Solicitors \(Scotland\) Act 1988 \(c. 42, SIF 76:2\)](#), s. 6(1), **Sch. 1 para. 20(b)**
- F46** S. 65(1): definition of "the Commission" inserted (1.10.2008) by [Legal Profession and Legal Aid \(Scotland\) Act 2007 \(asp 5\)](#), ss. 81, 82, **Sch. 5 para. 1(23)(b)** (with s. 77); S.S.I. 2008/311, **art. 2**
- F47** Words in s. 65(1) inserted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), **Sch. 6 para. 14(1)(a)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F48** Words in s. 65(1) omitted (1.4.2014) by virtue of [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), **Sch. 6 para. 14(1)(b)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F49** Definitions in s. 65(1) inserted (3.6.1991) by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1990 \(c. 40, SIF 76:2\)](#), s. 74, **Sch. 8 Pt. II para. 29(15)(a)**; S.I. 1991/1252, art. 3, **Sch. 1**
- F50** Definition, which was inserted by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1980 \(c. 55, SIF 63:3\)](#), s. 25(c), now repealed by [Solicitors \(Scotland\) Act 1988 \(c. 42, SIF 76:2\)](#), s. 6(2), **Sch. 2**
- F51** S. 65(1): definition of "inadequate professional services" repealed (1.10.2008) by [Legal Services Act 2007 \(c. 29\)](#), ss. 195, 210, 211, Sch. 20 para. 1(17)(a), **Sch. 23** (with ss. 29, 192, 193); S.I. 2008/1436, **art. 3**
- F52** Definition inserted by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1985 \(c. 73, SIF 76:2\)](#), s. 56, **Sch. 1 Pt. I para. 33**
- F53** Definition inserted (17.3.1993) by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1990 \(c. 40, SIF 76:2\)](#), s. 74, **Sch. 8 Pt. II para. 29(15)(b)**; S.I. 1993/641, art. 3, **Sch.**
- F54** Words in s. 65(1) inserted (2.7.2012) by [Legal Services \(Scotland\) Act 2010 \(asp 16\)](#), **ss. 123(6)(b), 150(2)**; S.S.I. 2012/152, art. 2, sch.
- F55** Definition in s. 65(1) repealed (15.8.1991) by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1990 \(c. 40, SIF 76:2\)](#), s. 74, **Sch. 9**; S.I. 1991/1252, art. 4, **Sch. 2**
- F56** Words in s. 65(1) repealed (2.7.2012) by [Legal Services \(Scotland\) Act 2010 \(asp 16\)](#), **ss. 124(2)(e)(i), 150(2)**; S.S.I. 2012/152, art. 2, sch.
- F57** Definitions inserted (17.3.1993) by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1990 \(c. 40, SIF 76:2\)](#), s. 74, **Sch. 8 Pt. II para. 29(15)(c)**; S.I. 1993/641, art. 3, **Sch.**
- F58** S. 65(1): definition of "the 1990 Act" inserted (15.8.2003) by [Public Appointments and Public Bodies etc. \(Scotland\) Act 2003 \(asp 4\)](#), **ss. 12(c), 21(2)(3)**; S.S.I. 2003/384, **art. 2**
- F59** S. 65(1): definition of "the 2007 Act" inserted (1.10.2008) by [Legal Profession and Legal Aid \(Scotland\) Act 2007 \(asp 5\)](#), ss. 81, 82, **Sch. 5 para. 1(23)(a)** (with s. 77); S.S.I. 2008/311, **art. 2**
- F60** Words in s. 65(1) inserted (2.7.2012) by [Legal Services \(Scotland\) Act 2010 \(asp 16\)](#), **ss. 123(6)(a), 150(2)**; S.S.I. 2012/152, art. 2, sch.

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- F61** S. 65(1): definition of “registered European lawyer” inserted (22.5.2000) by S.S.I. 2000/121, regs. 1(1), 37(1), **Sch. 1 para. 1(12)(a)**
- F62** Words in s. 65(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(7)**; 2020 c. 1, Sch. 5 para. 1(1)
- F63** Definition inserted (17.3.1993) by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 76:2), s. 74, **Sch. 8 Pt. II para. 29(15)(d)**; S.I. 1993/641, art. 3, **Sch.**
- F64** Words in s. 65(1) inserted (1.4.2011 for specified purposes, 1.6.2011 in so far as not already in force) by Legal Services (Scotland) Act 2010 (asp 16), **ss. 133(3), 150(2)**; S.S.I. 2011/180, art. 3, 5(d), Sch.
- F65** Definition in s. 65(1) inserted (3.6.1991) by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 76:2), s. 74, **Sch. 8 Pt. II para. 29(15)(e)**; S.I. 1991/1252, art. 3, **Sch. 1**
- F66** Words in s. 65(1) repealed (2.7.2012) by Legal Services (Scotland) Act 2010 (asp 16), **ss. 124(2)(e)(ii), 150(2)**; S.S.I. 2012/152, art. 2, sch.
- F67** S. 53(6): definition of "unsatisfactory professional conduct" inserted (1.10.2008) by Legal Profession and Legal Aid (Scotland) Act 2007 (asp 5), **ss. 53(6), 82** (with s. 77); S.S.I. 2008/311, **art. 2**
- F68** Words in s. 65(2)(a) added (22.5.2000) by S.S.I. 2000/121, regs. 1(1), 37(1), **Sch. 1 para. 1(12)(b)**
- F69** Words in s. 65(2)(e) inserted (22.5.2000) by S.S.I. 2000/121, regs. 1(1), 37(1), **Sch. 1 para. 1(12)(c)**
- F70** S. 65(5) inserted (1.10.2008) by Legal Profession and Legal Aid (Scotland) Act 2007 (asp 5), **ss. 81, 82, Sch. 5 para. 1(24)** (with s. 77); S.S.I. 2008/311, **art. 2**
- F71** S. 65(5) repealed (1.10.2008) by Legal Services Act 2007 (c. 29), **ss. 195, 210, 211, Sch. 20 para. 1(17)(b), Sch. 23** (with **ss. 29, 192, 193**); S.I. 2008/1436, **art. 3**

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

- C6** S. 65(1) power to modify conferred (1.4.2011) by Legal Services (Scotland) Act 2010 (asp 16), **s. 125(3)(4)150(2)**; S.S.I. 2011/180, art. 3, Sch.

#### Marginal Citations

- M4** 1986 c.53(16).  
**M5** 1873 c.63.

## 66 Transitional and savings provisions, and repeals. **S**

- (1) Schedule 6 (Transitional and savings provisions) shall have effect, but the provisions of that Schedule shall not be taken as prejudicing the operation of section 16 of the <sup>M6</sup>Interpretation Act 1978 (general savings in respect of repeals).
- (2) The enactments specified in Schedule 7 are hereby repealed to the extent shown in column 3 of that Schedule.

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

- C7** The text of s. 66(2), Sch. 5 para. 10, Sch. 7 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

#### Marginal Citations

- M6** 1978 c.30.

## 67 Citation, extent and commencement. **S**

- (1) This Act may be cited as the Solicitors (Scotland) Act 1980.

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- (2) This Act extends to Scotland only.
- (3) This Act shall come into operation on the expiration of one month from the date on which it is passed.

**Changes to legislation:**

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