



Solicitors (Scotland) Act 1980

1980 CHAPTER 46

PART I

ORGANISATION

The Law Society of Scotland

1 Establishment and objects of Law Society of Scotland.

- (1) The Law Society of Scotland (referred to in this Act as “the Society”) shall continue to exist and shall exercise the functions conferred upon it by this Act [^{F1}and sections 16 to 23 (which relate to the provision of conveyancing and executry services) of the 1990 Act].
- (2) The objects of the Society shall include the promotion of—
 - (a) the interests of the solicitors’ profession in Scotland; and
 - (b) the interests of the public in relation to that profession.
- (3) The Society may do anything that is incidental or conducive to the exercise of these functions or the attainment of those objects.
- (4) Schedule 1 shall have effect in relation to the Society.

Textual Amendments

- F1** Words in s. 1(1) inserted (15.8.2003) by [Public Appointments and Public Bodies etc. \(Scotland\) Act 2003 \(asp 4\)](#), ss. **12(a)**, 21(2)(3); S.S.I. 2003/384, **art. 2**

2 Membership of Society.

- (1) Every solicitor having in force a practising certificate shall be a member of the Society.

Status: Point in time view as at 01/10/2008.

Changes to legislation: Solicitors (Scotland) Act 1980, Part 1 is up to date with all changes known to be in force on or before 08 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)

- (2) Notwithstanding any other provisions of this Act, the Council may admit as a member of the Society any solicitor not having in force a practising certificate on such terms and conditions (including the payment by him of a reduced annual subscription) as they may determine.
- (3) Subject to subsection (2), a solicitor shall—
- (a) be treated as if he were not a member of the Society while suspended from practice as a solicitor under any enactment;
 - (b) cease to be a member of the Society when his practising certificate ceases to have effect.

The Council of the Law Society

3 Establishment and functions of Council of Law Society.

- (1) The business of the Society shall continue to be conducted by the Council of the Society (referred to in this Act as “the Council”) the members of which shall be elected in accordance with the provisions of the scheme made under paragraph 2 of Schedule 1.
- (2) The Council shall have the functions conferred upon them by this Act ^[F2]and sections 16 to 23 of the 1990 Act].

Textual Amendments

F2 Words in s. 3(2) inserted (15.8.2003) by [Public Appointments and Public Bodies etc. \(Scotland\) Act 2003 \(asp 4\)](#), **ss. 12(b)**, 21(2)(3); S.S.I. 2003/384, **art. 2**

[F3A Discharge of functions of Council of the Law Society

- (1) The Council may arrange for any of their functions (other than excepted functions) to be discharged on their behalf by—
- (a) a committee of the Council;
 - (b) a sub-committee of such a committee; or
 - (c) an individual (whether or not a member of the Society’s staff).
- (2) Where, under subsection (1)(a), the Council have arranged for any of their functions to be discharged by a committee, the committee may, with the approval of the Council, arrange for that function to be discharged on behalf of the Council by—
- (a) a sub-committee of the committee; or
 - (b) an individual (whether or not a member of the Society’s staff).
- (3) Where, under subsection (1) or (2), the Council or a committee have arranged for any of the Council’s functions to be discharged by a sub-committee, the sub-committee may, with the approval of the Council, arrange for that function to be discharged on behalf of the Council by a member of the Society’s staff.
- (4) A power given by subsection (1), (2) or (3) may be exercised so as to impose restrictions or conditions on the body or person by whom the function concerned is to be discharged.

Status: Point in time view as at 01/10/2008.

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- (5) Any arrangement made under this section shall not arrange for any of the following functions of the Council to be discharged by an individual—
- (a) ^{F4}
[that under section 47(2) of the 2007 Act of determining what action to
^{F5}(aa) propose, or take, as respects a conduct complaint remitted to them under section 6(a) or 15(5)(a) of that Act;
 - (ab) that under—
 - (i) section 42ZA(1) or (2) of this Act or section 20ZB(1) or (2) of the 1990 Act of determining whether or not to uphold a conduct complaint so remitted which suggests unsatisfactory professional conduct;
 - (ii) section 42ZA(3)(b) of this Act or section 20ZB(3)(b) of the 1990 Act of determining what steps to take when upholding such a conduct complaint;
 - (ac) that under section 51(1) of this Act of determining whether or not to make a complaint to the Tribunal as respects a conduct complaint so remitted which suggests professional misconduct;
 - (ad) ^{F4}]
 - (b) [^{F6}that] under section 20(1) or (2) of the 1990 Act ^{F7}. . . of determining—
 - (i) whether any of paragraphs (a) to (d) of the said section 20(1) apply to the practitioner; and
 - (ii) what action to take in the matter.
- (6) An arrangement made under this section may identify an individual by name or by reference to an office or post which the individual holds.
- (7) An arrangement under this section for the discharge of any of the functions of the Council may extend to any of the functions of the Society which is exercisable by the Council.
- (8) Where any arrangement is made under this section for the discharge of any of the functions of the Council by a body or person, the function shall be exercised by that body or person in the name of the Council, except that, where the function in question is a function of the Society which is exercisable by the Council, it shall be exercised in the name of the Society.
- (9) Any arrangement under this section for the discharge of any of the functions of the Council—
- (a) does not affect the responsibility of the Council for the exercise of the function or any liability arising therefrom;
 - (b) does not prevent the Council from exercising the function; and
 - (c) may be revoked at any time by the Council and also, in the case of any arrangement made under subsection (2) or (3), by the committee or sub-committee which made that arrangement.
- (10) In this section, “excepted functions” means—
- (a) any function of the Council to make rules or regulations under this Act or any other enactment; and
 - (b) any function of the Council under paragraph 2 of Schedule 1 to prepare a scheme (scheme for the constitution of the Council etc.).

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- (11) This section is without prejudice to any other power which the Council may have to arrange for the discharge of their functions.
- (12) During any period before—
- (a) paragraph 14(6)(a) of schedule 4 to the Public Appointments and Public Bodies etc. (Scotland) Act 2003 (asp 4) comes into force, subsection (5) applies as if paragraph (b) and the word “and” that precedes it were omitted;
 - (b) section 12(c) of that Act comes into force, subsection (5)(a) applies as if for the words “the 1990 Act” there were substituted the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40) (“the 1990 Act”).]

Textual Amendments

- F3** S. 3A inserted (1.6.2003) by [Council of the Law Society of Scotland Act 2003 \(asp 14\)](#), **ss. 1, 3**
- F4** S. 3A(5)(a)(ad) repealed (1.10.2008) by [Legal Services Act 2007 \(c. 29\)](#), **ss. 195, 210, 211, Sch. 20 para. 1(2), Sch. 23** (with **ss. 29, 192, 193**); S.I. 2008/1436, **art. 3**
- F5** Words in s. 3A(5) substituted (1.10.2008) by [Legal Profession and Legal Aid \(Scotland\) Act 2007 \(asp 5\)](#), **ss. 81, 82**, {Sch. 5 para. 1(2)(a)(ii)} (with s. 77); S.S.I. 2008/311, **art. 2**
- F6** Word in s. 3A(5)(b) inserted (1.10.2008) by [Legal Profession and Legal Aid \(Scotland\) Act 2007 \(asp 5\)](#), **ss. 81, 82, Sch. 5 para. 1(2)(b)(i)** (with s. 77); S.S.I. 2008/311, **art. 2**
- F7** Words in s. 3A(5)(b) repealed (1.10.2008) by [Legal Profession and Legal Aid \(Scotland\) Act 2007 \(asp 5\)](#), **ss. 81, 82, Sch. 5 para. 1(2)(b)(ii)** (with s. 77); S.S.I. 2008/311, **art. 2**

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