



Solicitors (Scotland) Act 1980

1980 CHAPTER 46

PART VI

MISCELLANEOUS AND GENERAL

Miscellaneous

60A [F¹Registered foreign lawyers]

- (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;
 - [F²(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.
- [F³(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.]

Status: Point in time view as at 02/07/2012.

Changes to legislation: Solicitors (Scotland) Act 1980, Cross Heading: Miscellaneous is up to date with all changes known to be in force on or before 15 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)

- [^{F4}(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) ^{F5}
 - (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.

- (1) Subject to the provisions of this section, no bank [^{F6}or building society] shall, in connection with any transaction on any account of a solicitor [^{F7}or an incorporated practice] kept with it or with any other bank [^{F6}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 [^{F6}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 [^{F7}or an incorporated practice] as trustee for a specified beneficiary.
- (3) Notwithstanding anything in the preceding provisions of this section a bank [^{F6}or building society] at which a solicitor [^{F8}or an incorporated practice] keeps a special account for clients’ money shall not, in respect of any liability of the solicitor [^{F8}or, as the case may be, the incorporated practice] to the bank [^{F6}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}

[^{F9}61A Solicitors fees.

- (1) Subject to the provisions of this section, and without prejudice to—
 - (a) section 32(1)(i) of the ^{M1}Sheriff Courts (Scotland) Act 1971; or
 - (b) section 5(h) of the ^{M2}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.

- (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.

[^{F10}**62A Council's power to recover expenses incurred under section^{F11} . . . 45 or 46.**

- (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 ^{F12} . . . 45, or 46, any expenditure reasonably incurred by it in so doing.
- (2) Expenditure incurred in taking action under section ^{F12} . . . [^{F13}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}

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