



# Solicitors (Scotland) Act 1980

## 1980 CHAPTER 46

### PART II

#### RIGHT TO PRACTISE AS A SOLICITOR

##### *Unqualified persons acting as solicitors*

#### **32 Offence for unqualified persons to prepare certain documents.**

- (1) Subject to the provisions of this section [<sup>F1</sup>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—
- (a) any writ relating to heritable or moveable estate; or
  - (b) any writ relating to any [<sup>F2</sup>action or proceedings in any court]; or
  - (c) 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—
- (a) 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 [<sup>F3</sup>(other than by way of remuneration paid under a contract of employment)]; or
  - (b) to an advocate; or
  - (c) to any public officer drawing or preparing writs in the course of his duty; or
  - (d) to any person employed merely to engross any writ [<sup>F4</sup>or
  - (e) an incorporated practice][<sup>F5</sup>; or
  - (f) to a member of a body which has made a successful application under section 25 of the 1990 Act but only to the extent to which the member is exercising rights acquired by virtue of section 27 of that Act]

*Status: Point in time view as at 01/10/2008. This version of this provision has been superseded.*

*Changes to legislation: Solicitors (Scotland) Act 1980, Section 32 is up to date with all changes known to be in force on or before 25 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)*

- [<sup>F6</sup>(2A) Subsection (1)(a) shall not apply to a [<sup>F7</sup>“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 <sup>M1</sup>Sheriff Courts (Scotland) Act 1971, permitted to represent [<sup>F8</sup>—
- (a)] a party to a summary cause;
- [ a debtor or hirer in proceedings for—
- <sup>F9</sup>(b) (i) a time order under section 129 of the Consumer Credit Act 1974 (time orders); or
- (ii) variation or revocation, under section 130(6) of that Act (variation and revocation of time orders), of a time order made under section 129].
- (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.
- [<sup>F10</sup>(4) For the purposes of this section, “unqualified person” includes a registered foreign lawyer.]

#### Textual Amendments

- F1** 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)**
- F2** Words substituted by Solicitors (Scotland) Act 1988 (c. 42, SIF 76:2), s. 6(1), **Sch. 1 para. 7**
- F3** 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)**
- F4** 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**
- F5** S. 32(2)(f) and preceding word inserted (19.3.2007) by Legal Profession and Legal Aid (Scotland) Act 2007 (asp 5), **ss. 61, 82** (with s. 77); S.S.I. 2007/140, **art. 2**
- F6** 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**
- F7** 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**
- F8** Words in s. 32(2B) re-numbered (1.10.2008) as s. 32(2B)(a) by virtue of Consumer Credit Act 2006 (c. 14), **ss. 16(5)(a)**, 71; S.I. 2007/3300, **art. 3(3)**, **Sch. 3**
- F9** S. 32(2B)(b) inserted (1.10.2008) by Consumer Credit Act 2006 (c. 14), **ss. 16(5)(b)**, 71; S.I. 2007/3300, **art. 3(3)**, **Sch. 3**
- F10** S. 32(4) inserted (1.10.2004) by The Solicitors (Scotland) Act 1980 (Foreign Lawyers and Multi-national Practices) Regulations (S.S.I. 2004/383), {reg. 7}

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

- C1** 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\(36:3\)](#).

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