



# Solicitors (Scotland) Act 1980

## 1980 CHAPTER 46

### PART III

#### PROFESSIONAL PRACTICE, CONDUCT AND DISCIPLINE OF SOLICITORS

##### *Powers of Council to intervene*

#### **42 Distribution of sums in client bank account.**

- (1) Subject to the provisions of this section, where, in any of the events mentioned in subsection (2) [<sup>F1</sup>or (2A)], the sum at the credit of any client account kept by a solicitor [<sup>F1</sup>or an incorporated practice] (or where several such accounts are kept by him [<sup>F1</sup>or, as the case may be, by it] the total of the sums at the credit of those accounts) is less than the total of the sums received by him in the course of his practice on behalf of his clients [<sup>F1</sup>or, as the case may be, by it on behalf of its clients] and remaining due by him [<sup>F1</sup>or, as the case may be, by it] to them, then, notwithstanding any rule of law to the contrary, the sum at the credit of the client account (or where several such accounts are kept, the total of the sums at the credit of those accounts) shall be divisible proportionately among the clients of the solicitor [<sup>F1</sup>or, as the case may be, the incorporated practice] according to the respective sums received by him in the course of his practice on their behalf [<sup>F1</sup>or, as the case may be, by it on their behalf] and remaining due by him [<sup>F1</sup>or, as the case may be, by it] to them.
- (2) The events to which subsection (1) applies are in relation to any solicitor—
- the sequestration of his estate;
  - the granting by him of a trust deed for behoof of creditors;
  - the appointment of a judicial factor on his estate.
- [<sup>F2</sup>(2A) The events to which subsection (1) applies are in relation to any incorporated practice—
- the making of an administration or winding up order or the appointment of a provisional liquidator, liquidator, receiver or judicial factor; or

*Status: Point in time view as at 01/02/1991.*

*Changes to legislation: Solicitors (Scotland) Act 1980, Section 42 is up to date with all changes known to be in force on or before 06 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)*

- (b) the passing of a resolution for voluntary winding-up (other than one passed solely for the purposes of reconstruction or amalgamation with another incorporated practice)]
- (3) Where a solicitor [<sup>F3</sup>or an incorporated practice] keeps an account at a bank in his [<sup>F3</sup>or, as the case may be, its] own name [<sup>F3</sup>or, as the case may be, by the incorporated practice in its own name] for a specified client no regard shall be had for the purposes of this section to the sum at the credit of that account or to any sums received by the solicitor in the course of his practice on behalf of that client [<sup>F3</sup>or, as the case may be, by the incorporated practice on that behalf] and remaining due by him [<sup>F3</sup>or, as the case may be, by it] to that client, so far as these are represented by the sum at the credit of that bank account [<sup>F4</sup>; nor shall any regard be had for such purposes to any—
- (a) deposit or share account with a . . . <sup>F5</sup> building society; or
- (b) account showing sums on loan to a local authority,
- being in either case an account kept by the solicitor in his own name [<sup>F3</sup>or, as the case may be, by the incorporated practice in its own name] for a specified client.]
- (4) For the purposes of this section any reference to an account at a bank includes a reference to a deposit receipt at a bank.

#### Textual Amendments

- F1** Words inserted by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1985 \(c. 73, SIF 76:2\)](#), s. 56, **Sch. 1 Pt. I para. 20(a)**
- F2** S. 42(2A) inserted by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1985 \(c. 73, SIF 76:2\)](#), s. 56, **Sch. 1 Pt. I para. 20(b)**
- F3** Words inserted by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1985 \(c. 73, SIF 76:2\)](#), s. 56, **Sch. 1 Pt. I para. 20(c)**
- F4** Words added by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1980 \(c. 55, SIF 76:3\)](#), s. 25(b)
- F5** Word repealed by [Solicitors \(Scotland\) Act 1988 \(c. 42, SIF 76:2\)](#), s. 6(2), **Sch. 2**

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

- C1** S. 42 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}

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