



# Solicitors (Scotland) Act 1980

## 1980 CHAPTER 46

### PART III

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

##### *Protection of clients*

#### 43 Guarantee Fund

- (1) There shall be a fund to be called “The Scottish Solicitors Guarantee Fund” (in this Act referred to as “the Guarantee Fund”, which shall be vested in the Society and shall be under the control and management of the Council.
- (2) Subject to the provisions of this section and of Schedule 3 the Guarantee Fund shall be held by the Society for the purpose of making grants in order to compensate persons who in the opinion of the Council suffer pecuniary loss by reason of dishonesty on the part of
  - [<sup>F1</sup>(a)] any solicitor in practice in the United Kingdom, or any employee of such a solicitor in connection with the practice of the solicitor, whether or not he had a practising certificate in force when the act of dishonesty was committed, and notwithstanding that subsequent to the commission of that act he may have died or had his name removed from or struck off the roll or may have ceased to practise or been suspended from practice. [<sup>F2</sup>; or
  - (b) any incorporated practice or any director, manager, secretary or other employee of an incorporated practice, notwithstanding that subsequent to the commission of that act it may have ceased to be recognised under section 34(1A) or have been wound up].
- (3) No grant may be made under this section—
  - (a) in respect of a loss made good otherwise;
  - (b) in respect of a loss which in the opinion of the Council has arisen while the solicitor was suspended from practice;

*Status: Point in time view as at 01/02/1991. This version of this provision has been superseded.*

*Changes to legislation: Solicitors (Scotland) Act 1980, Section 43 is up to date with all changes known to be in force on or before 24 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)*

- (c) to a solicitor or his representatives in respect of a loss suffered by him or them in connection with his practice as a solicitor by reason of dishonesty on the part of a partner or employee of his; or
  - [<sup>F3</sup>(cc) to an incorporated practice or any director or member thereof in respect of a loss suffered by it or him by reason of dishonesty on the part of any director, manager, secretary or other employee of the incorporated practice in connection with the practice]
  - (d) unless an application for a grant is made to the Society in such manner, and within such period after the date on which the loss first came to the knowledge of the applicant, as may be prescribed by rules made under Schedule 3.
- (4) The decision of the Council with respect to any application for a grant shall be final.
- (5) The Council may refuse to make a grant, or may make a grant only to a limited extent, if they are of opinion that there has been negligence on the part of the applicant or of any person for whom he is responsible which has contributed to the loss in question.
- (6) The Council or any committee appointed by them may administer oaths for the purpose of inquiry into any matters which affect the making or refusal of a grant from the Guarantee Fund.
- (7) Part I of Schedule 3 shall have effect with respect to the Guarantee Fund, including the making of contributions thereto by solicitors and the administration and management of the Fund by the Council; but nothing in that Schedule shall apply to or in the case of a solicitor—
- (a) who is not in practice as a solicitor; or
  - (b) who is suspended from practice as a solicitor during suspension; or
  - (c) who is in any such employment as is specified in section 35(4) [<sup>F4</sup>or in the employment of an incorporated practice];
- but where any solicitor in any such employment as is mentioned in paragraph (c) engages in private practice as a solicitor, the said Schedule and the other provisions of this Act relating to the Guarantee Fund shall apply to him and in his case so far as regards such private practice.

#### Textual Amendments

- F1** “(a)” inserted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73, SIF 76:2), s. 56, **Sch. 1 Pt. I para. 21(a)**
- F2** “; or” and s. 43(2)(b) inserted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73, SIF 76:2), s. 56, **Sch. 1 Pt. I para. 21(a)**
- F3** S. 43(3)(cc) inserted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73, SIF 76:2), s. 56, **Sch. 1 Pt. I para. 21(b)**
- F4** Words inserted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73, SIF 76:2), s. 56, **Sch. 1 Pt. I para. 21(c)**

**Status:**

Point in time view as at 01/02/1991. This version of this provision has been superseded.

**Changes to legislation:**

Solicitors (Scotland) Act 1980, Section 43 is up to date with all changes known to be in force on or before 24 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.