



# Courts and Legal Services Act 1990

## 1990 CHAPTER 41

### PART II

#### LEGAL SERVICES

##### *Rights of audience and rights to conduct litigation*

#### **27 Rights of audience**

- (1) The question whether a person has a right of audience before a court, or in relation to any proceedings, shall be determined solely in accordance with the provisions of this Part.
- (2) A person shall have a right of audience before a court in relation to any proceedings only in the following cases—
  - (a) where—
    - (i) he has a right of audience before that court in relation to those proceedings granted by the appropriate authorised body; and
    - (ii) that body's qualification regulations and rules of conduct have been approved for the purposes of this section, in relation to the granting of that right;
  - (b) where paragraph (a) does not apply but he has a right of audience before that court in relation to those proceedings granted by or under any enactment;
  - (c) where paragraph (a) does not apply but he has a right of audience granted by that court in relation to those proceedings;
  - (d) where he is a party to those proceedings and would have had a right of audience, in his capacity as such a party, if this Act had not been passed; or
  - (e) where—
    - (i) he is employed (whether wholly or in part), or is otherwise engaged, to assist in the conduct of litigation and is doing so under instructions given (either generally or in relation to the proceedings) by a qualified litigator; and

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- (ii) the proceedings are being heard in chambers in the High Court or a county court and are not reserved family proceedings.
- (3) No person shall have a right of audience as a barrister by virtue of subsection (2)(a) above unless he has been called to the Bar by one of the Inns of Court and has not been disbarred or temporarily suspended from practice by order of an Inn of Court.
- (4) Nothing in this section affects the power of any court in any proceedings to refuse to hear a person (for reasons which apply to him as an individual) who would otherwise have a right of audience before the court in relation to those proceedings.
- (5) Where a court refuses to hear a person as mentioned in subsection (4) it shall give its reasons for refusing.
- (6) Nothing in this section affects any provision made by or under any enactment which prevents a person from exercising a right of audience which he would otherwise be entitled to exercise.
- (7) Where, immediately before the commencement of this section, no restriction was placed on the persons entitled to exercise any right of audience in relation to any particular court or in relation to particular proceedings, nothing in this section shall be taken to place any such restriction on any person.
- (8) Where—
- (a) immediately before the commencement of this section; or
  - (b) by virtue of any provision made by or under an enactment passed subsequently,
- a court does not permit the appearance of advocates, or permits the appearance of advocates only with leave, no person shall have a right of audience before that court, in relation to any proceedings, solely by virtue of the provisions of this section.
- (9) In this section—
- “advocate”, in relation to any proceedings, means any person exercising a right of audience as a representative of, or on behalf of, any party to the proceedings;
- “authorised body” means—
- (a) the General Council of the Bar;
  - (b) the Law Society; and
  - (c) any professional or other body which has been designated by Order in Council as an authorised body for the purposes of this section;
- “appropriate authorised body”, in relation to any person claiming to be entitled to any right of audience by virtue of subsection (2)(a), means the authorised body—
- (a) granting that right; and
  - (b) of which that person is a member;
- “family proceedings” has the same meaning as in the Matrimonial and Family Proceedings Act 1984 and also includes any other proceedings which are family proceedings for the purposes of the Children Act 1989;
- “qualification regulations”, in relation to an authorised body, means regulations (however they may be described) as to the education and training which members of that body must receive in order to be entitled to any right of audience granted by it;
- “qualified litigator” means—

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- (i) any practising solicitor ( “practising” having the same meaning as in section 19(8)(b));
- (ii) any recognised body; and
- (iii) any person who is exempt from the requirement to hold a practising certificate by virtue of section 88 of the Solicitors Act 1974 (saving for solicitors to public departments and the City of London);

“recognised body” means any body recognised under section 9 of the Administration of Justice Act 1985 (incorporated practices);

“reserved family proceedings” means such category of family proceedings as the Lord Chancellor may, after consulting the President of the Law Society and with the concurrence of the President of the Family Division, by order prescribe; and

“rules of conduct”, in relation to an authorised body, means rules (however they may be described) as to the conduct required of members of that body in exercising any right of audience granted by it.

- (10) Section 20 of the Solicitors Act 1974 (unqualified person not to act as a solicitor) section 22 of that Act (unqualified person not to prepare certain documents etc) and section 25 of that Act (costs where an unqualified person acts as a solicitor), shall not apply in relation to any act done in the exercise of a right of audience.