CHAPTER 21

An Act to repeal the enactments requiring certain legal practitioners in Great Britain to take out stamped practising certificates, and to make consequential provision as to their right to practise and other matters.

[23rd March 1949.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Abolition of stamp duty and consequential amendments. 54 & 55 Vict. c. 39.

1.—(1) The following enactments shall cease to have effect, namely:—

(*a*) in the Stamp Act, 1891, sections forty-three and forty-five to forty-eight and the heading in the First Schedule relating to the practising certificates of solicitors and others;

(*b*) any other enactment in so far as it either—

(i) requires a solicitor's practising certificate to be stamped; or

(ii) confers any right, privilege or exemption by reference to a person's being a conveyancer, special pleader or draftsman in equity.

22 & 23 Geo. 5. c. 37.

(2) Every practising certificate issued under the Solicitors Act, 1932, after the commencement of this Act shall have effect from the beginning of the day of which it bears the date, and that date shall be entered by the registrar on the roll, and any such certificate in force on the fifteenth day of November in any year shall expire at the end of that day.

(3) A reference in any enactment to a duly certificated notary public shall, as respects things done after the commencement of this Act, be taken as a reference to a notary public who either—

(*a*) has in force a practising certificate as a solicitor issued under the Solicitors Act, 1932, and duly entered in the court of faculties of the Archbishop of Canterbury in accordance with rules made by the master of faculties; or

(*b*) has in force a practising certificate as a public notary issued by the said court of faculties in accordance with rules made as aforesaid

(4) In the enactments specified in the First Schedule to this Act, there shall be made the amendments specified in the second

column of Part I of the Schedule, being amendments consequential on the foregoing provisions of this section; and those enactments (as amended by subsequent enactments) shall accordingly have effect as set out in Part II of that Schedule.

(5) The enactments specified in the Second Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule.

Short title, commencement and extent.

2.—(1) This Act may be cited as the Solicitors, Public Notaries, &c., Act, 1949.

(2) This Act shall come into force on the first day of November, 1949:

Provided that it shall not affect the law relating to Scottish solicitors unless or until they are required to take out practising certificates by some Act other than the Stamp Act, 1891.

(3) This Act shall not extend to Northern Ireland.

SCHEDULES

Section 1.

FIRST SCHEDULE

CONSEQUENTIAL AMENDMENTS

PART I

ENACTMENTS AMENDED AND AMENDMENTS

Enactment	*Amendment*
The Revenue (No. 1) Act, 1861,—	
Section thirteen ...	For the words " attorney, solicitor, proctor, writer to the signet, agent or procurator admitted in any court of law, or any conveyancer, who shall as such have taken out his annual certificate " there shall be substituted the words " duly certificated solicitor ".
The Solicitors Act, 1932,—	
Subsection (1) of section forty-two.	For the words " Commissioners of Inland Revenue " there shall be substituted the word " Society ", and the words " and conveyancers " and the word " stamped " shall be omitted.
Subsection (1) of section forty-seven.	For the words " law agent, writer to the signet, notary public, conveyancer, special pleader, or draftsman in equity " in the subsection as originally enacted there shall be substituted the words " solicitor in Scotland, or notary public ".
Section forty-eight ...	For the words " notary public or conveyancer " there shall be substituted the words " or notary public ".

1ST SCH. —*cont.*

Section forty-nine	...	For the words " notary public, conveyancer, special pleader, or draftsman in equity " there shall be substituted the words " or notary public ".
The Solicitors Act, 1936,—		
Section fifteen	...	In paragraph (*b*) for the words " Comptroller of Stamps and Taxes at Edinburgh" there shall be substituted the words " Registrar of Solicitors in Scotland ", and for the words " no stamped certificate covering any part of that period was issued in Scotland to that person under section forty-seven of the Stamp Act, 1891," there shall be substituted the words " that person did not at any time during that period have in force a practising certificate as a solicitor in Scotland".

PART II

ENACTMENTS REPRINTED AS AMENDED

A: THE REVENUE (NO. 1) ACT, 1861

Section 13

Provided always, that this Act shall not extend to require any agent employed in the management of landed estates, or any duly certificated solicitor, or any auctioneer or appraiser, having in force a licence as such, to take out a licence under this Act as a house agent.

B: THE SOLICITORS ACT, 1932

Section 42 (1)

Any list purporting to be published by authority of the Society and to contain the names of solicitors who have obtained practising certificates for the current year before the second day of January in that year shall, until the contrary is proved, be evidence that the persons named therein as solicitors holding such certificates as aforesaid for the current year are solicitors holding such certificates.

Section 47 (1)

Any person, not being a barrister, or a duly certificated solicitor, solicitor in Scotland, or notary public, who, unless he proves that the act was not done for or in expectation of any fee, gain or reward, either directly or indirectly, draws or prepares any instrument relating to real or personal estate or any legal proceeding, shall be liable on summary conviction to a fine not exceeding fifty pounds.

Section 48

Any person, not being a barrister or a duly certificated solicitor or notary public, who, unless he proves that the act was not done for or in expectation of any fee, gain or reward, either directly or indirectly, draws or prepares any instrument of transfer or charge for the purposes of the Land Registration Act, 1925, or any statutory modification or

1ST SCH. —*cont.*

re-enactment thereof, or makes any application or lodges any document for registration under that Act at the registry, shall on summary conviction be liable to a fine not exceeding fifty pounds:

Provided that this section shall not extend to—

(*a*) any public officer drawing or preparing instruments and applications in the course of his duty; or

(*b*) any person employed merely to engross any instrument or application.

Section 49

Any person, not being a barrister or a duly certificated solicitor or notary public, who, unless he proves that the act was not done for or in expectation of any fee, gain or reward, either directly or as an agent of any other person, whether a person qualified as above mentioned or not, takes instructions for or draws or prepares any papers on which to found or oppose a grant of probate or of letters of administration shall, without prejudice to any liability or disability to which he may be subject under any other section of this Act or under any other Act, be liable on summary conviction to a penalty not exceeding ten pounds for each such offence.

C: THE SOLICITORS ACT, 1936

Section 15

For the purposes of the principal Act—

(*a*) a letter purporting to be signed by or on behalf of the Registrar of Solicitors in Scotland stating that a person specified therein is or is not a solicitor in Scotland shall be evidence that that person is or, as the case may be, is not a solicitor in Scotland; and

(*b*) a letter purporting to be signed by or on behalf of the Registrar of Solicitors in Scotland stating with respect to a person and a period specified in the letter that that person did not at any time during that period have in force a practising certificate as a solicitor in Scotland shall be evidence that that person was not during any part of that period a duly certificated solicitor in Scotland.

Section 1

SECOND SCHEDULE

REPEALS

Session and Chapter	Short Title	Extent of Repeal
23 & 24 Vict. c. 127.	The Solicitors Act, 1860.	Sections twenty-two and thirty-four.
33 & 34 Vict. c. 77.	The Juries Act, 1870.	In the Schedule, the words "certificated conveyancers and special pleaders".
54 & 55 Vict. c. 39.	The Stamp Act, 1891.	Sections forty-three and forty-five to forty-eight; in the First Schedule the heading which begins with the words "Certificate to be taken out yearly".

2ND SCH. —*cont.*

Session and Chapter	Short Title	Extent of Repeal
15 & 16 Geo. 5. c. 21.	The Land Registration Act, 1925.	In paragraph (vi) of subsection (1) of section one hundred and forty-four, the words " or certificated conveyancers ".
22 & 23 Geo. 5. c. 37.	The Solicitors Act, 1932.	In paragraph (*b*) of section twenty, the words " or a practising certificated special pleader in England "; in section thirty-six, the words " subject to their certificates being duly stamped "; sections thirty-nine and forty; in section forty-one, subsections (2) to (4); in section forty-two, the words " and conveyancers " and the word " stamped "; in section forty-three, the words " duly stamped ".
23 & 24 Geo. 5. c. 21.	The Solicitors (Scotland) Act, 1933.	Sections eight and forty-seven.
26 Geo. 5. and 1 Edw. 8. c. 35.	The Solicitors Act, 1936.	The Schedule so far as it amends section forty-seven of the Solicitors Act, 1932.
4 & 5 Geo. 6. c. 46.	The Solicitors Act, 1941.	In section five, in the new subsection (1) of section thirty-seven of the Solicitors Act, 1932, the words from " and (ii) at " to " signed " where next occurring and the words " and a duplicate "; in section ten, in the new section thirty-eight of the Solicitors Act, 1932, the words " duly stamped and " in paragraphs (*a*) and (*d*) of subsection (1); section thirteen; subsection (3) of section twenty-three; in Form B in the Second Schedule, the words " on this certificate being duly stamped as required by law " and the words from " Produced " to " duty "; so much of the Third Schedule as reproduces the following provisions of the Solicitors Act, 1932, namely, subsection (4) of section forty-one, subsection (1) of section forty-seven, section forty-eight and section forty-nine.
10 & 11 Geo. 6. c. 35.	The Finance Act, 1947.	Subsection (3) of section fifty-six.