Session and Chapter.	Title or Short Title.	Extent of Repeal.
13 & 14 Geo. 5. c. 10.	The Agricultural Holdings (Scotland) Act, 1923.	Subsection (4) of section sixteen.
19 & 20 Geo. 5. c. 23.	The Companies Act, 1929.	Section three hundred and sixty-three.
19 & 20 Geo. 5. c. 29.	The Government Annuities Act, 1929.	Subsection (4) of section thirty-two, subsections (3) and (4) of section sixty-two.

CHAPTER 21.

An Act to consolidate and amend the law relating to Solicitors and Notaries Public in Scotland.

[28th June 1933.]

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:—

PART I.

CONSTITUTION OF GENERAL COUNCIL.

Constitution of General Council.

1. For the purpose of regulating the admission and enrolment of solicitors a council to be known as "the General Council of Solicitors in Scotland" shall be elected in accordance with the provisions of this Act.

Method of election of members of General Council.

2.—(1) The General Council shall be elected in accordance with the provisions contained in the First Schedule to this Act by the societies or groups of societies mentioned in the Second Schedule to this Act, and shall consist of persons each of whom is a member of the society or of one of the societies forming the group by whom he is elected.

(2) Subject to the provisions of this Act, the General Council shall have power from time to time by resolution passed by a majority of not less than two-thirds of the members present at a meeting of which due notice specifying the intention to propose the resolution has been given or at any adjournment thereof (*a*) to rescind, add to, or amend any of the provisions contained in the

PART I. —*cont.*

First Schedule to this Act; and (*b*) to alter, amend, or rearrange the division into separate societies or groups of societies as set forth in the Second Schedule to this Act. A copy of every such resolution as foresaid shall within seven days be transmitted to the Lord President and such resolution shall not come into force until approved by him.

(3) Any society, not mentioned in the Second Schedule to this Act, may make application to the General Council for inclusion amongst the societies entitled to take part in the election of members of the General Council, and the General Council, after consideration of such application, may admit the society making application either separately or by grouping it with one or more societies or may refuse the application. Provided that the society so making application, or any society or societies included in the group to which the society making the application is added, shall have a right of appeal to the Lord President against the decision of the General Council. The decision of the Lord President shall be final.

Appointment of chairman and clerk.

3. The General Council shall appoint a chairman and vice-chairman from their number and also a clerk. The clerk shall not be a member of the General Council. The General Council shall regulate the place at which the business of the General Council shall be conducted.

Power to make regulations.

4. Subject to the provisions of this Act the General Council may regulate their procedure in such way as they may from time to time think fit, and such regulations shall remain in force until altered by the General Council, notwithstanding any new election of members of the General Council. A copy of regulations made under this section or under section twelve of this Act and from time to time in force shall be forwarded by the clerk to the General Council to any solicitor at his request on payment of one shilling or such less sum as the General Council may fix.

Application of moneys paid to General Council.

5. All moneys paid to the General Council in pursuance of this Act shall be applied by the General Council in payment of the expenses and outlays from time to time incurred by them.

Authentication of regulations and other documents.

6. All rules, regulations, certificates, notices and other documents of the General Council may be signed on behalf of the General Council by the clerk or other officer approved by the General Council, and the production of

PART I. —*cont.*

a copy of any such rules, regulations, certificates, notices or other documents purporting to be signed by the clerk or such other officer shall be primâ facie evidence of the due making thereof.

PART II.

ADMISSION OF SOLICITORS.

Admission, enrolment and powers of solicitors. 63 & 64 Vict. c. 14.

7. No person shall be admitted as a solicitor in Scotland except in accordance with the provisions of this Act or of an Order in Council made in pursuance of the Colonial Solicitors Act, 1900.

Every person who has been enrolled as a law agent shall be deemed to be admitted as a solicitor and, subject to the provisions of this Act with respect to stamp duty and subscribing the lists of solicitors directed to be kept by section twenty of this Act, every solicitor shall be entitled to practise in any court of law in Scotland.

Commissioners of Inland Revenue not to issue certificates except to qualified persons. 54 & 55 Vict. c. 39.

8. The Commissioners of Inland Revenue and their officers shall, before issuing any stamped certificate under and in terms of the Stamp Act, 1891, to any person applying for the same who has not previously had issued to him a like certificate, require evidence that such person has been admitted as a solicitor.

Provisions as to the qualification of applicants for admission as solicitors.

9. With respect to the qualifications for admission as solicitors under this Act the following provisions shall have effect:—

(i) An applicant for admission must be at least twenty-one years of age, and must, except in the cases aftermentioned, have bonâ fide served an apprenticeship of five years with a practising solicitor.

(ii) An apprenticeship must be served under indenture, which shall be recorded in the register of probative writs of the county in which the same is entered into, and shall be intimated to the registrar by the master within six months after the date fixed for the commencement of the apprenticeship, and any assignation of such indenture shall be intimated to the registrar within six months after its date.

(iii) When from necessary or reasonable cause the whole period of apprenticeship under an indenture is not completed with the master

PART II. —*cont.*

therein named, the remainder of the period may be completed with another qualified master. On the death of the master before the completion of an apprenticeship the apprentice may enter into a second indenture with another master and serve with him the period required to complete the apprenticeship.

(iv) A master may permit his apprentice to serve any part of his term, not exceeding two years, with another qualified master.

(v) In the following cases, an applicant for admission shall be qualified if he shall have served an apprenticeship as aforesaid for three years only, that is to say—

(*a*) if he be a person who for at least five years prior to the commencement of his apprenticeship was employed as a clerk to, and was engaged under the superintendence of, a practising solicitor, in such business as is usually transacted by a solicitor, and submits to the General Council a certificate from such solicitor to that effect; or

(*b*) if at the date of the signing of his indenture of apprenticeship he was a person who held a degree in law or in arts granted after examination at an University in Great Britain or elsewhere recognised by the General Council, or if during the course of his apprenticeship he obtains a degree in law recognised for the purpose by the General Council; or

(*c*) if he be a member of the Faculty of Advocates; or

(*d*) if he be a person who has been called to the degree of Utter Barrister in England; or

(*e*) if he be a person who has been admitted and enrolled as a solicitor in England.

Apprentices before admission to make affidavit of having served.

10. Every applicant for admission shall, before he is admitted as a solicitor according to this Act, make affidavit that he has bonâ fide served an apprenticeship to a qualified master or masters during the whole time required by this Act, and that he did not during any

PART II. —*cont.*

part of that time serve any master or masters other than those specified in the affidavit. The affidavit shall specify the time served with each master where there is more than one, and shall be produced to the General Council before they grant the certificate mentioned in the immediately succeeding section.

Certificate of General Council requisite for admission as a solicitor.

11. Subject to the provisions of sections fourteen and fifteen of this Act and to the exemptions allowed by this Act, or by regulations made under the authority thereof, an applicant for admission shall not be admitted as a solicitor unless, on the occasion of his application, he has obtained from the General Council a certificate to the effect that he has fulfilled all the conditions anent admission as a solicitor in terms of this Act, and that he is to the best of their knowledge and belief a fit and proper person to be admitted as a solicitor.

Examinations to be held under management of General Council.

12.—(1) In order to test the suitability and qualifications of applicants for admission, the General Council shall from time to time nominate and appoint fit and proper persons to be examiners, and shall hold examinations all in accordance with regulations to be made in virtue of this section. The General Council shall, subject to what is herein provided, have the entire management and control of all such examinations, shall decide when the same shall be taken by applicants for admission whether prior to or after their entering into an indenture, and without prejudice to this general power of management and control shall have power by regulation to make provisions with respect to all or any of the following matters, that is to say:—

(*a*) The courses of study to be followed by candidates prior to examination;

(*b*) The subjects for and the mode of conducting the examination of candidates and the standard of efficiency to be obtained;

(*c*) The times and places of examinations and the notices of examinations;

(*d*) The certificates to be given to persons of their having passed any examination, and as to the suitability of applicants;

(*e*) The appointment and removal of examiners, and the remuneration by fees or otherwise of the examiners so appointed;

PART II. —*cont.*

(*f*) The exemption of persons from examinations in whole or in part, having regard to special qualifications on their part or to special circumstances;

(*g*) Fees to be paid to the General Council by a person proposing to submit himself to an examination to be held by the General Council and

(*h*) Any other matter or thing as to which the General Council think it expedient to make regulations for the purpose of carrying this section into execution.

(2) Any regulation made in virtue of this section may be altered or revoked by a subsequent regulation.

(3) Copies of all regulations made shall forthwith be transmitted to the Lord President, and shall not come into force until twenty-one days thereafter. If within the said period of twenty-one days the Lord President signifies by writing addressed to the clerk of the General Council the dissent of the Court from such regulation or any part thereof the same shall be of no force or effect.

(4) If after any such regulations or any part thereof shall have come into force the Lord President shall signify in manner foresaid the dissent of the Court from such regulations or any part thereof, such regulations or the part thereof dissented from shall, at the expiration of two months, cease to have effect, without prejudice to the validity of anything which may have been done or omitted to be done in accordance with such regulations or any part thereof while the same were still in force.

(5) The Clerk of the Examiners of Law Agents appointed by the Court for the purposes of the Law Agents (Scotland) Act, 1873, and the Acts amending the same, shall be the first Clerk of the Examiners appointed by the General Council under this section, and all funds, documents and property in his possession as Clerk to the said Examiners or under the control of the said Examiners shall, after the commencement of this part of the Act, belong to and be at the disposal of the General Council subject to regulations to be made in virtue of subsection (1) of this section. In the event of a vacancy in the office of Clerk of the Examiners the General Council may appoint the clerk appointed in

36 & 37 Vict. c. 63.

PART II. —*cont.*

accordance with the provisions of section three of this Act or other fit person, to be Clerk of the Examiners.

(6) The regulations contained in the Acts of Sederunt passed in pursuance of the Law Agents (Scotland) Act, 1873, and the Acts amending the same so far as in force and applicable at the commencement of this part of the Act shall be the regulations under this section until altered or revoked by subsequent regulations.

Fees payable to General Council in respect of examinations.

13. Any person who proposes to submit himself to an examination to be held by the General Council in accordance with the regulations made under the authority of section twelve of this Act shall pay to the General Council such fees in respect of such examinations (and in such proportions and at such times) as may be from time to time determined by the General Council in the said regulations.

Admission and enrolment of applicants as solicitors.

14. An applicant for admission who is qualified under section nine of this Act may present to the Court a petition praying to be admitted as a solicitor. If the applicant produces with his application a certificate granted to him in terms of section eleven of this Act, the Court shall admit him as a solicitor, and cause his name to be enrolled as such. If the applicant does not produce such a certificate the Court may, if they think fit and after such enquiry as they may think proper, on being satisfied as to the fitness and competence of the applicant, admit him as a solicitor and cause his name to be enrolled as such. The certificate of admission of a solicitor shall be in writing and signed by a judge of the Court, and shall be stamped with the stamps required by law to be impressed on the admission of solicitors.

Exceptions to rules as to examinations.

15. The Court may admit an applicant who presents a petition praying to be admitted as a solicitor, although he has not complied with the provisions of this Act with respect to qualifications for admission, provided he shall establish to the satisfaction of the Court that at the date of the passing of this Act he was entitled to be admitted an enrolled law agent according to the regulations for admission then in force under the Law Agents (Scotland) Act, 1873, and the Acts amending the same.

Provision as to petitions.

16. A petition to the Court under sections fourteen or fifteen of this Act may be presented to any judge of the Court officiating as a lord ordinary, and the proceedings

under such petition may take place and be conducted before the same or any other judge according to the judicial arrangements in the Court for the time being, and a single judge shall be entitled to act as the Court with reference to all petitions for admission as a solicitor under this Act.

PART II. —*cont.*

PART III.

ADMISSION OF NOTARIES PUBLIC.

Enrolled solicitors may be admitted as notaries public.

17.—(1) No person shall be admitted as a notary public in Scotland until he shall have been admitted and enrolled as a solicitor.

(2) Any solicitor may apply to the Court to be admitted a notary public, and it shall be lawful for the Court to admit him and grant warrant to the keeper of the roll or register of notaries public to enrol him as a notary public on his paying the stamp duty for the time exigible by law from a notary public on admission, and it shall not be necessary for any person to find caution on his admission as a notary public.

(3) The Court by Act of Sederunt may make and from time to time alter and revoke rules for regulating the procedure to be followed and the fees to be paid on any application by a solicitor to be admitted a notary public.

(4) The clerk to the admission of notaries public in Scotland shall be remunerated by fees to be paid by applicants for admission.

PART IV.

REGISTRATION AND ENROLMENT OF SOLICITORS.

Appointment and duties of registrar.

18.—(1) The Registrar of Law Agents under the Law Agents (Scotland) Act, 1873, and the Acts amending the same, shall be the first registrar of Solicitors under this Act, and on the occurrence of a vacancy in the office of registrar the General Council shall be the registrar, and the books containing the register of law agents kept under the Law Agents (Scotland) Act, 1873, and any other documents relating thereto, shall be transferred to and kept in the custody of the General Council as registrar of solicitors under this Act. After such transfer it shall be the duty of the General Council to keep at the office of their clerk an alphabetical roll of all enrolled solicitors. Enrolment in the said register of law agents

PART IV. —*cont.*

or the said roll of solicitors shall be deemed to be enrolment under this Act. Every solicitor shall on enrolment deliver to the registrar a note specifying his place of business, and shall deliver a similar note so often as he shall change the same; and the registrar shall on the application of any enrolled solicitor grant to such solicitor a certificate of his enrolment. The registrar shall, in keeping the roll, and generally in the discharge of his duties, act upon such directions as he may from time to time receive from the Lord President, and shall strike any solicitor off the roll on an order by the Court to that effect, and shall remove from the roll the name of any solicitor on his application in pursuance of section nineteen of this Act.

(2) The roll of solicitors shall during office hours be open to the inspection of any person without payment of any fee.

(3) It shall be competent for the Court, by Act of Sederunt, to fix from time to time such fees as they may think reasonable to be payable to the registrar for and in respect of the statutory duties as such registrar.

Removal of name from roll on application by solicitors.

19. A solicitor who desires his name to be removed from the roll of solicitors may present an application to that effect to the registrar, and the registrar, in any case where the application is made with the consent of the discipline committee, shall forthwith remove the name of such solicitor from the roll, and in any other case shall remove the name from the roll on the expiry of six months from the date of the application.

Lists to be kept of practising solicitors.

20.—(1) A list of the solicitors practising before the Court of Session shall be kept by the clerk of the Lord President in such form as the Lord President may direct, and every enrolled solicitor who has paid the stamp duty exigible by law on admission to practise as a solicitor before the Court of Session shall be entitled to subscribe the said list, and the said clerk shall be paid a fee of five shillings for each subscription, and every solicitor shall, on subscribing the said list, deliver to the said clerk a note specifying his place of business, and shall deliver a similar note so often as he shall change the same.

(2) A list of solicitors practising in any sheriffdom shall be kept in such form and in such place or places as

PART IV. —*cont.*

the Lord President may direct, and every enrolled solicitor who has paid the stamp duty exigible by law on admission to practise as a solicitor before a sheriff court shall be entitled to subscribe the said list, and the sheriff clerk shall be paid a fee of five shillings for each subscription and every solicitor shall, on subscribing the said list, deliver to the sheriff clerk a note specifying his place of business, and shall deliver a similar note so often as he shall change the same.

(3) A solicitor who has subscribed the roll kept by the clerk to the Lord President under section twelve of the Law Agents (Scotland) Act, 1873, or by a sheriff clerk under section thirteen of that Act, shall be deemed to have subscribed the corresponding list kept under the provisions of this Act.

Lord President may make rules for keeping and subscribing lists.

21. It shall be lawful for the Lord President from time to time to issue rules and directions with respect to the keeping and subscription of the lists directed to be kept by the preceding section and with respect to alterations in such lists, and such rules and directions shall be observed and obeyed by the several keepers of the said lists.

The name of any solicitor entered on the said lists shall be removed therefrom—

(1) upon his own written application; or

(2) upon his being struck off the roll of solicitors or suspended from practice in accordance with the provisions of section twenty-five of this Act.

No one to practise before a Court unless he has subscribed the list of solicitors.

22. No person shall be allowed to practise as a solicitor in the Court of Session or in any sheriff court until he shall have subscribed the appropriate list of solicitors directed to be kept by section twenty of this Act, or after his name shall have been removed from such list unless the same shall have been subsequently restored thereto.

Provision as to sheriff court practitioner qualifying for enrolling as solicitor in the Court of Session.

23. A solicitor who has paid the stamp duty exigible by law on admission to practise as a solicitor in a sheriff court shall be qualified to sign the list of solicitors practising in the Court of Session on paying the difference between such duty and the duty chargeable on admission to practise in the Court of Session.

PART V.

DISCIPLINE AND OFFENCES.

Constitution of Discipline Committee.

24.—(1) For the purposes of this part of the Act, a committee to be known as "the Solicitors' Discipline (Scotland) Committee," and consisting of not less than five and not more than seven solicitors recommended by the General Council as representative of the profession throughout Scotland, shall be appointed by the Lord President who may from time to time remove any member from the committee or fill any vacancy in the committee by the appointment of a solicitor recommended by the General Council.

(2) Each member of the Discipline Committee shall retire from office on the expiry of five years from the date of his appointment, but on the recommendation of the General Council shall be eligible for reappointment.

(3) The Discipline Committee may appoint a chairman from their number and also a clerk, who shall not be a member of the committee, and subject to the provisions of this Act, may regulate their procedure in such way as they may think fit.

(4) Four members of the Discipline Committee shall form a quorum.

The Court may cause solicitor to be struck off roll.

25. The Court in the case of professional misconduct of a solicitor may cause such solicitor to be struck off the roll of solicitors or may suspend him from practice for such time as the Court may determine or may fine him or censure him and may also find him liable in any expenses which may be involved in the proceedings before the Court, or in the investigation of his conduct by the Discipline Committee. There shall be no appeal to the House of Lords against a decision of the Court under this section.

Procedure for striking solicitor off roll.

26.—(1) An order causing a solicitor to be struck off the roll of solicitors or otherwise dealing with him in accordance with the immediately preceding section of this Act may be made by the Court after hearing parties or giving them an opportunity of being heard on—

(*a*) an application by summary petition presented to the Court by the Discipline Committee or by any person or society entitled by virtue of section twenty-seven of this Act to apply to the

PART V. —*cont.*

Court to require a solicitor to answer a complaint with regard to professional misconduct; or

(*b*) a report to the Court by the Discipline Committee under section twenty-seven of this Act; or

(*c*) an appeal to the Court from a decision of the Discipline Committee under section twenty-eight of this Act.

(2) If a solicitor shall have been convicted by any Court of any act involving fraud or the dishonest appropriation of property or shall have been sentenced to outlawry or to penal servitude, the clerk to the Court where such conviction has taken place or such sentence has been pronounced shall within seven days of the date of such conviction or sentence send intimation thereof to the clerk of the Discipline Committee, and the Discipline Committee, on receiving such intimation or on becoming aware of the conviction or sentence, may if they shall consider the circumstances are of sufficient gravity report the fact of such conviction or sentence to the Court, and the Court with or without further enquiry may if it shall think proper thereupon cause such solicitor to be struck off the roll of solicitors.

Complaints against solicitors to be made to Discipline Committee.

27.—(1) Any complaint against a solicitor for professional misconduct shall be made to the Discipline Committee, and subject to the provisions of section twenty-nine of this Act shall be heard by the Discipline Committee in accordance with rules to be made under this Act. If the Discipline Committee are of opinion that there is no prima facie case of professional misconduct, they need not take further proceedings. If the Discipline Committee are of opinion that there is a prima facie case they shall make enquiry into the case as hereinafter provided, and embody their finding in the form of a report to the Court specifying therein the nature of the complaint and the evidence before them, and if answers are lodged in any such application to the Court, the evidence produced to and heard by the Discipline Committee shall also be lodged as an appendix to the report of the Discipline Committee. Provided that—

(i) any person who but for this Act would have been entitled to apply to the Court to require a solicitor to answer any complaint with regard to professional misconduct against him shall be

PART V. —*cont.*

entitled so to apply although the Discipline Committee be of opinion that there is no prima facie case of professional misconduct against such solicitor, and such person shall also be entitled to be heard if and when the Discipline Committee bring any report before the Court;

(ii) if the Discipline Committee are of opinion that the case is of a nature that can be dealt with under section twenty-eight of this Act, the Discipline Committee may deal with the case in accordance with that section;

(iii) the making of any application or report to the Court by the Discipline Committee or of any report in pursuance of section thirty-four of this Act shall confer absolute privilege. The making of any complaint to the Discipline Committee or the giving of any information in connection therewith shall confer qualified privilege.

(2) Any report by the Discipline Committee in terms of this section shall have the same effect and shall be treated by the Court in the same manner as the report by a reporter in a remit by the Court, and the Court may order thereon such further procedure as it may see fit, and may on special cause being shown remit to any person to make further enquiry into the case or to take further evidence and to report to the Court.

Power of Discipline Committee to censure or fine.

28.—(1) Notwithstanding the provisions of section twenty-seven of this Act, if the Discipline Committee, after investigating any complaint against a solicitor for professional misconduct, are of opinion that the solicitor has been guilty of professional misconduct, but that such misconduct is not of sufficient gravity to warrant a finding in favour of striking the solicitor off the roll or of suspending him, they shall be entitled, instead of reporting such complaint to the Court, to censure such solicitor, and if they think fit in addition to impose a fine on him not exceeding one hundred pounds, and in either case to find him liable (if the committee shall so determine) in the expenses incurred by the complainer and by the Discipline Committee in investigating the complaint: Provided always that—

(i) appeal to the Court from any order of the committee under this section shall be competent to

PART V. —*cont.*

the complainer or to such solicitor within twenty-one days after the date when the finding of the committee shall have been signed and intimated to the complainer or to such solicitor;

(ii) where an appeal is made to the Court from any order of the Discipline Committee, the committee shall embody their finding in the form of a report to the Court, and the provisions of the immediately preceding section as to the form of the report and the procedure following thereon shall apply in the case of an appeal under this section as if such appeal was in the form of answers to a report by the Discipline Committee under the immediately preceding section;

(iii) intimation of the finding of the committee may be made to the complainer or to such solicitor by sending to him a copy thereof certified by the clerk of the committee as correct by post in a registered letter. Where intimation is given to a solicitor, it may be given to him at the address appearing in the roll of solicitors kept in accordance with the provisions of this Act. A certificate by the clerk of the committee of the due posting of such copy accompanied by the post-office receipt therefor shall be sufficient evidence that such intimation was duly given to the complainer or to such solicitor at the address and on the date contained in such receipt.

(2) Every finding made by the committee under this section shall be in writing and shall be signed by the clerk of the committee and on production thereof with a certificate by such clerk either to the effect that the days of appeal to the Court have expired, or that an appeal to the Court if made has been dismissed, the Court shall grant a warrant authorising the Discipline Committee to recover from such solicitor the fine and expenses if any imposed on or found due by him, and the expenses of any procedure before the Court, and such warrant shall have the effect for execution and for all other purposes as if it were an extracted decree of court awarded against such solicitor. Any fines imposed under this section shall form part of the funds of the Discipline Committee.

PART V. —*cont.*

Procedure on complaints.

29. The Discipline Committee shall give notice to the solicitor affected by any complaint, and shall make enquiry into the case giving the person affected reasonable opportunity of making his defence. The Discipline Committee may administer and take oaths and affirmations for the purpose of any complaint made to them under this Act, and the complainer and the solicitor to whom the complaint relates shall respectively be entitled to require the evidence of parties, witnesses and others interested, and to call for and recover such evidence and documents, and examine such witnesses as to them may seem proper, but no person shall be compelled to produce any document which he could not be compelled to produce on the trial of an action. The Court of Session or the sheriff court having jurisdiction in any place in which the solicitor to whom any such complaint relates carries on business, may on the recommendation of the Discipline Committee and on the petition of the complainer or the solicitor to whom the same relates (1) grant warrant for the citation of witnesses and havers to give evidence or to produce documents before the Discipline Committee, and for the issue of letters of second diligence against any witness or haver failing to appear after due citation; (2) appoint commissions to take the evidence of witnesses; and (3) grant warrants for the recovery of documents and also grant commissions to persons to examine havers and receive their exhibits and productions.

Procedure regarding orders to strike off roll.

30.—(1) In the case of every order made by the Court whereby any solicitor is ordered to be struck off the roll of solicitors, or is suspended from practice, the registrar shall forthwith intimate such order to the several keepers of the lists directed to be kept by section twenty of this Act, and shall cause a notice stating the effect of the operative part of such order, to be published in the Edinburgh Gazette or in such other way as the Court by Act of Sederunt may direct, and shall give effect to the order on the roll.

(2) Where such solicitor is also a notary public, if the Court have deprived him of his office of notary public, the registrar shall also intimate such order to the keeper of the roll or register of notaries public, and the keeper shall strike such solicitor off the roll or register kept by him.

PART V. —*cont.*

(3) The file of orders made under the Act shall be open to the inspection of any person without payment of any fee.

Restoration to roll of solicitors.

31. A person who has been struck off the roll of solicitors or whose name has been removed from the said roll in pursuance of section nineteen of this Act shall not be entitled to have his name restored thereto except in pursuance of an order of the Court made on petition by such person. Any such petition shall be intimated to the Discipline Committee, who shall be entitled to appear and be heard thereon.

Acts of Sederunt.

32. The Court by Act of Sederunt may make and from time to time alter and revoke rules for regulating the submission to them of reports by the Discipline Committee, and generally as to procedure under this Act.

Power to make rules.

33. The Discipline Committee, with the concurrence of the Lord President, may make and from time to time alter and revoke rules for regulating the making, hearing and determining of complaints made to them under this Act, and generally as to procedure, including provision for hearings taking place in public or wholly or in part in private, subject always to the provisions of this Act, and of any Act of Sederunt made thereunder by the Court.

Judges and auditors may report solicitors to Discipline Committee.

34. It shall be competent for all judges and sheriffs and for the auditor of the Court of Session and for the auditor of any sheriff court to report to the Discipline Committee any solicitor where it appears that such solicitor is prima facie guilty of professional misconduct (including cases where a solicitor is seeking to make extraordinary and apparently unjustified claims against his client). Any such report shall be treated by the Discipline Committee as a complaint against a solicitor under section twenty-seven of this Act.

Proviso as to existing disciplinary powers.

35. Except in so far as relates to striking any person off the roll of solicitors, nothing in this Act shall be held to affect the existing powers of the Court or of inferior courts or the judges thereof over solicitors practising before such courts, so far as these powers may be necessary for supporting the jurisdiction and maintaining the authority of their several courts. Nothing

PART V. —*cont.*

in this Act contained shall prejudice, diminish or affect the control which any society is at present entitled to exercise over its members.

Practising by unqualified persons to be an offence.

36. Any person being neither a solicitor nor a notary public who, either by himself or in conjunction with others, wilfully and falsely pretends to be, or takes or uses any name, title, addition or description implying that he is duly qualified to act as a solicitor or as a notary public or that he is recognised by law as so qualified, shall be guilty of an offence under this Act.

Acting for profit of unqualified persons to be an offence.

37. Any solicitor (not being a duly certificated solicitor in the full-time employment on a fixed salary of any corporation or public company) who acts as agent in any action or proceedings in any court of law, or who permits or suffers his name in any way to be made use of in such action or proceedings, or any such solicitor or any notary public who draws or prepares any writ to which section thirty-nine of this Act applies, or who permits or suffers his name in any way to be made use of in the drawing or preparation of such writ upon the account or for the profit of any unqualified person, or who does any other act to enable an unqualified person to appear, act, or practise in any respect as a solicitor or notary public knowing such person not to be a qualified solicitor or notary public, shall be guilty of an offence under this Act.

Sharing fees with unqualified person to be an offence.

38. Any solicitor who shall share with any unqualified person any profits or fees or fee derived from any solicitor's business transacted by him shall be guilty of an offence under this Act: Provided always that the provisions of this section shall not apply to the sharing of profits or fees where—

(i) a person who has ceased to practise as a solicitor shall receive from any solicitor a share of the profits or fees of the latter, as a price or value of the business which he has transferred to the latter or shall receive a share of such profits as a voluntary or other allowance out of the profits or fees of a business in which he had been a partner; or

(ii) the widow, heirs, executors, representatives, next of kin or dependants of any deceased

PART V. —*cont.*

solicitor receive from any solicitor who has purchased or succeeded to the business of such deceased solicitor or from any firm of solicitors of which such deceased solicitor was a partner at his death any share of the profits of such business; or

(iii) the salary of any clerk or assistant of a solicitor who is wholly employed by such solicitor is partly or wholly paid in the form of a percentage on the profits of such solicitor's business or any part thereof; or

(iv) such profits or fees are received by any public officer in respect of work done in the course of his duty; or

(v) an agreement for sharing fees is made between a solicitor in Scotland and a solicitor in some other part of the United Kingdom or the British Dominions.

Preparation of writs by unqualified persons to be an offence.

39. Any person who, not being a member of the Faculty of Advocates, a duly certificated solicitor, or a notary public either directly or indirectly for or in expectation of any fee, gain, or reward draws or prepares any writ relating to heritable or moveable estate, or relating to any legal proceeding, shall be guilty of an offence under this Act: Provided that—

(i) This section shall not extend to—

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

(*b*) any person employed merely to engross any writ;

(ii) the expression "writ" in this section 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.

Prosecution of offences.

40.—(1) Any offence under this Act may be prosecuted summarily in the sheriff court within whose jurisdiction the offence was committed or within whose

PART V. —*cont.*

jurisdiction the accused person resides, and any person convicted of such an offence shall be liable on conviction to a fine not exceeding fifty pounds or to imprisonment with or without hard labour for a term not exceeding one month.

8 Edw. 7. c. 65.

(2) Notwithstanding anything contained in the Summary Jurisdiction (Scotland) Act, 1908, any offence under this Act may be prosecuted at any time within the period of two years next after the commission of the offence or the period of six months next after the first discovery thereof by the prosecutor, whichever period is the shorter.

PART VI.

REMUNERATION.

Agreements between solicitors as to sharing fees.

41. Agreements between solicitors acting for the same client to share fees or profits shall be lawful, and a solicitor authorised and acting for a client whom he discloses shall incur no liability to any other solicitor employed by him, except such as he shall expressly undertake in writing.

Unqualified persons not entitled to recover costs.

42. No costs, fee, reward, or disbursement on account of or in relation to any act or proceeding done or taken by any person who acts as a solicitor or as a notary public without being duly qualified so to act, or who, not being so qualified gives legal advice, or frames or draws any writ to which section thirty-nine of this Act applies, shall be recoverable in any action, suit or matter by any person or persons whomsoever.

Payment of solicitors' costs out of property recovered or preserved.

43. In every case in which a solicitor shall be employed to pursue or defend any action or proceeding in any court, it shall be lawful for the court or judge before whom any such action or proceeding has been heard or shall be depending to declare such solicitor entitled to a charge upon and against, and a right to payment out of the property, of whatsoever nature, tenure or kind the same may be, which shall have been recovered or preserved on behalf of his client by such solicitor in such action or proceeding, for the taxed expenses of or in reference to such action or proceeding, and it shall be lawful for such court or judge to make such order or

orders for taxation of, and for raising and payment of, such expenses out of the said property as to such court or judge shall appear just and proper; and all acts done or deeds granted by the client after the date of the declaration, except acts or deeds in favour of a bona fide purchaser or lender, shall be absolutely void and of no effect as against such charge or right.

PART VI. —*cont.*

PART VII.

MISCELLANEOUS.

44. Any society may admit any solicitor to be a member of it on such terms as it may see fit.

Societies may admit solicitors to membership.

45. It shall be lawful for any society to accept of an apprenticeship served under the provisions of this Act with a solicitor, although not a member of such society, as a qualification for admission to such society.

Admission to membership of societies.

46. A solicitor shall not be entitled to borrow a process depending before any supreme court sitting in Edinburgh unless he has a place of business in Edinburgh; and a solicitor shall not be entitled to borrow a process depending before an inferior court, unless he is entitled to practise within the jurisdiction of such court.

Borrowing process.

47. Nothing in this Act contained shall interfere with the obligation of any solicitor to obtain a stamped certificate.

Act not to interfere with law as to certificate.

48. Nothing in this Act shall affect any enactment empowering any person, not being a duly certificated solicitor, to conduct, defend or otherwise act in relation to any legal proceedings.

Statutory powers to conduct legal proceedings not to be affected.

49. A reference to law agents in any public general or local Act or in any order or regulation made thereunder or in any Act of Sederunt shall be deemed to mean and include solicitors, who shall have all the rights and privileges formerly enjoyed by law agents in Scotland, and a reference in such Act, order, regulation or Act of Sederunt to the register of law agents kept in pursuance of the Law Agents (Scotland) Act, 1873, shall

Law agents to include solicitors.

PART VII. —*cont.*

be deemed to mean and include the roll of solicitors kept in pursuance of this Act.

Interpretation of terms.

50. The following words and expressions shall have the meanings hereby assigned to them unless there be something in the subject or context repugnant to such construction; that is to say—

"The Court" shall mean the Court of Session.

"Lord President" shall mean the Lord President of the Court.

"Solicitor" shall mean and include every person enrolled or deemed to have been enrolled as a solicitor in pursuance of this Act.

"Notary public" shall mean any notary public duly admitted in Scotland.

"The registrar" shall mean the registrar of solicitors under this Act.

"General Council" shall mean "the General Council of Solicitors in Scotland" constituted in terms of this Act.

"Discipline Committee" shall mean "the Solicitors' Discipline (Scotland) Committee" constituted in terms of this Act.

"Society" shall mean a faculty or society of solicitors in Scotland, incorporated by Royal Charter, or otherwise formed in accordance with law.

Repeals.

51. The enactments specified in the Third Schedule to this Act are hereby repealed, to the extent mentioned in the third column of that Schedule.

Short title and commencement.

52. This Act shall extend to Scotland only and may be cited as the Solicitors (Scotland) Act, 1933. Part I of this Act shall come into operation on the passing of this Act and the remainder of this Act shall come into operation on the first day of March nineteen hundred and thirty-four.

SCHEDULES.

FIRST SCHEDULE.

Section 2.

REGULATIONS GOVERNING THE APPOINTMENT OF MEMBERS OF THE GENERAL COUNCIL.

1. Each of the societies specified separately in the Second Schedule to this Act against which the letter A appears, and each of the groups of societies specified in the said schedule against which the letter B appears shall be entitled to elect—

(*a*) one member of the General Council, where the total number of the members of such separate society, or of the societies forming such group, as the case may be, contained in the roll made up in pursuance of this schedule, does not exceed eighty;

(*b*) two members, where the aforesaid total number exceeds eighty but does not exceed two hundred;

(*c*) three members, where the aforesaid total number exceeds two hundred but does not exceed four hundred; and

(*d*) four members, where the aforesaid total number exceeds four hundred.

2. On each occasion on which an election of members of the General Council requires to be held the registrar shall make up in pursuance of this schedule and certify, as at the first day of December—

(*a*) a roll of members of each society specified separately in the Second Schedule to this Act;

(*b*) a roll of the members of the societies forming each of the groups specified in the said schedule.

On the first occasion on which an election of members of the General Council requires to be held, the registrar of law agents under the Law Agents (Scotland) Act, 1873, and the Acts amending the same shall be the registrar for the purposes of this schedule, and his expenses in connection with his duties under these regulations shall be defrayed by the General Council. On subsequent occasions the registrar within the meaning of this Act shall be the registrar for the purposes of this schedule.

3. No solicitor shall be entitled to vote in accordance with the provisions hereinafter contained in an election of a member of the General Council by a separate society or group of societies

1ST SCH. —*cont.*

unless his name is included in the roll prepared in pursuance of the immediately preceding paragraph, of members of that society, or of members of the societies forming that group, and any reference in the following provisions of this schedule to a member of a society shall be construed as a reference to a member whose name is included in the appropriate roll prepared as aforesaid.

4. Every solicitor desiring to be included in the aforesaid rolls shall, prior to the first day of December on the first occasion on which, after the passing of this Act, an election requires to be held, and every third year thereafter, deliver to the registrar a note in writing stating his full name and the place where he carries on business and the society of which he is or is deemed to be a member and in respect of which he desires to vote.

5. Within fourteen days after the first day of December next after the passing of this Act, and within the like period in every third year thereafter, the Comptroller of Stamps and Taxes, Edinburgh, shall transmit to the registrar a certified list of solicitors to whom a certificate has been issued as at the said first day of December in pursuance of section forty-seven of the Stamp Act, 1891, and the registrar shall not include in the aforesaid rolls the name of any solicitor who does not comply with the requirements of the preceding paragraph or whose name does not appear in such certified list. The name of a solicitor shall not be included in more than one of the aforesaid rolls.

6. The registrar shall, not later than the thirty-first day of December next after the passing of this Act, and in every third year thereafter, transmit to the clerk or secretary of each society specified separately in the Second Schedule to this Act a copy of the roll of members of that society prepared in pursuance of this schedule, and to the clerk or secretary of the society first named in each group of societies specified in the said schedule, a copy of the roll prepared as aforesaid of the members of those societies, and such clerk shall be the clerk of the society or group as the case may be for the purposes of the election (hereinafter referred to as the "election clerk"). Each election clerk for a group of societies shall, within seven days of the receipt by him as aforesaid of the roll, transmit a copy thereof, so far as consisting of names of members of other societies included in the group to the respective clerks or secretaries of such other societies. The registrar shall be the election clerk of the society last named in the Second Schedule to this Act.

7. Prior to the fifteenth day of January, following the passing of this Act, and in every third year thereafter, a candidate for election to the General Council by a separate society or a group of societies shall send, or cause to be sent, to the election clerk a nomination paper signed by the proposer and seconder of such candidate. A candidate for election by any separate society or

1ST SCH. —*cont.*

by any group of societies, and his proposer and seconder, must be members of such separate society or of one or other of the societies included in such group, as the case may be. Nomination papers shall be prepared by the election clerk, and an election clerk for a group of societies shall transmit to the clerk of any other society included in the group such nomination papers to such number as may be requested.

8. Should the number of candidates nominated for election by any separate society or group of societies be no more than the number of members of the General Council that society or group is entitled to elect, the election clerk shall forthwith transmit to the returning officer appointed under the provisions of paragraph ten of this schedule the names of the members nominated.

9. Should the number of candidates nominated for election by any separate society or group of societies exceed the number of members of the General Council that society or group is entitled to elect, the election clerk shall prior to the twenty-fifth day of January in the year of election send a ballot paper containing the names and addresses of the candidates, along with the names and addresses of their respective proposers and seconders, to each member of his own society and a sufficient number of ballot papers to the respective clerks or secretaries of other societies (if any) included in the group of the election clerk which shall be forwarded to the members of such other societies by the respective clerks or secretaries thereof. Ballot papers must be signed by the persons voting and returned to the election clerk on or before the tenth day of February following.

10. The president, dean or other titular head (or his deputy) of a society separately specified in the Second Schedule to this Act, or of the society first named of a group of societies specified in the said schedule, shall act as returning officer, and in the event of an equality of votes for any candidates he shall have a casting vote. If the president, dean or other titular head of a separate society or of the society first named of a group is himself nominated as a candidate the election clerk for such society or group of societies shall act as returning officer. The Deputy Keeper of the Signet or a person to be appointed by him shall act as returning officer for the society last named in the Second Schedule to this Act. The returning officer shall declare the result of the election of members of the General Council by the separate society or group of societies for which he acts and on his instructions the election clerk shall intimate to the registrar the names of the members elected.

11. The first members of the General Council shall hold office until the last day of February nineteen hundred and thirty-seven. Thereafter members of the General Council, except such

1ST SCH. —*cont.*

as are appointed to fill a casual vacancy, shall hold office for three years from the first day of March following the date of their appointment. Should a casual vacancy occur by the resignation or death of a member of the General Council, or otherwise, such vacancy shall be filled by the remaining members of the General Council by the appointment of a member of the separate society or of one of the societies included in the group by which the member causing the vacancy was elected. Such new member shall hold office during the unexpired period of office of the member so causing the vacancy. Any person ceasing to be a member of the General Council shall be eligible for re-election. The powers of the Council may be exercised notwithstanding any vacancies in their number.

12. The Deputy Keeper of His Majesty's Signet shall fix the date, hour and place of the first meeting of the General Council, which shall be held in the month of March following the appointment of the first members thereof, and shall instruct the registrar to give notice of said meeting to all members of the General Council. The Deputy Keeper or a person to be appointed by him shall take the chair at said meeting, and conduct the business thereof until a chairman is appointed in terms of section three of the Act.

Section 2.

SECOND SCHEDULE.

SEPARATE SOCIETIES AND GROUPS OF SOCIETIES REFERRED TO IN THE FIRST SCHEDULE.

B	The Faculty of Solicitors of Inverness-shire. The Society of Solicitors and Procurators of Caithness. The Faculty of Solicitors of Ross and Cromarty.
B	The Society of Solicitors of Banffshire. The Society of Solicitors in Peterhead. The Society of Solicitors of Elginshire.
A	The Society of Advocates in Aberdeen.
B	The Society of Procurators and Solicitors in the City and County of Perth. The Society of Procurators and Solicitors of Forfarshire (Forfar District). The Society of Solicitors of Western District of Perthshire.

2ND SCH. —*cont.*

A	The Faculty of Procurators and Solicitors in Dundee.
B	The Society of Law Agents of Dunfermline District of Fife. The Society of Procurators of the Central District of Fife-shire. The Society of Solicitors and Procurators of the Eastern District of Fife.
B	The Society of Solicitors and Procurators of Stirling. The Faculty of Procurators of Dumbartonshire. The Society of Solicitors of Eastern District of Stirlingshire. Oban Faculty of Procurators.
A	The Scottish Law Agents' Society.
A	The Faculty of Procurators in Glasgow.
B	The Faculty of Procurators in Paisley. The Faculty of Procurators of Greenock.
B	The Society of Solicitors of Hamilton. The Society of Solicitors of Airdrie.
A	The Society of Writers to His Majesty's Signet.
A	The Society of Solicitors in the Supreme Courts of Scotland.
B	The Society of Procurators of Mid-Lothian. The Society of Procurators of the County of East Lothian. The Faculty of Procurators of the County of Linlithgow (West Lothian).
B	The Faculty of Solicitors of Ayr. Kilmarnock Faculty of Procurators.
B	The Faculty of Procurators of Dumfriesshire. The Faculty of Procurators of the Stewartry of Kirkcudbright.
A	A society which shall be deemed to have been formed in accordance with law, and which shall comprise all duly certificated solicitors who are not members of any of the other societies entitled to take part in the election of members of the General Council.

Section 51.

THIRD SCHEDULE.

ENACTMENTS REPEALED.

Session and Chapter.	Short Title.	Extent of Repeal.
36 & 37 Vict. c. 63.	Law Agents (Scotland) Act, 1873 -	The whole Act.
54 & 55 Vict. c. 30.	Law Agents and Notaries Public (Scotland), Act, 1891.	The whole Act.
54 & 55 Vict. c. 39.	Stamp Act, 1891 - - -	Section forty-four.
59 & 60 Vict. c. 49.	Law Agents (Scotland) Act Amendment Act, 1896.	The whole Act.
11 & 12 Geo. 5. c. 32.	Finance Act, 1921 - - -	Section 60.

CHAPTER 22.

An Act to amend section eleven of the Teachers (Superannuation) Act, 1925, and paragraph (*d*) of subsection (1) of section four of the Education (Scotland) (Superannuation) Act, 1925.

[28th June 1933.]

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:—

Amendment of 15 & 16 Geo. 5. c. 59. s. 11.

1. The maximum period which may under section eleven of the Teachers (Superannuation) Act, 1925, be treated, subject to the provisions of that section, as being a period during which a teacher was employed in contributory service notwithstanding that his employment in such service was discontinued for that period, shall, in the case of a teacher in any school outside His Majesty's dominions to which this section applies, be four years instead of one year.