

Guidance

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When do I need a practising certificate?

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Status

This guidance is to help you understand your obligations and how to comply with them. We will have regard to it when exercising our regulatory functions.

Who is this guidance for?

All solicitors on the roll who want to know when they need to have a practising certificate. This guidance may also be helpful for SRA authorised bodies, Non-SRA authorised bodies and all employers of solicitors including those that are not authorised by an approved regulator under the Legal Services Act 2007.

Purpose of this guidance

To help you to understand the circumstances in which you must have a practising certificate.

Are you carrying on any reserved legal activities as defined in section 12 of the Legal Services Act 2007 or supervising an unqualified person carrying on such activities?

Yes No

Reserved legal activities are the following activities which are set out in section 12 of the Legal Services Act 2007 and Schedule 2 to that Act:

- a. the exercise of a right of audience before certain (higher) courts
- b. the conduct of litigation (which can be described as the taking of formal steps in proceedings, such as issuing a claim or filing documents or forms)
- c. reserved instrument activities (which covers certain conveyancing transactions - for example preparing and lodging transfers or



- charges with the Land Registry - and preparing instruments relating to court proceedings, such as pleadings)
- d. probate activities, namely preparing papers on which to seek or challenge grant of probate or letters of administration
 - e. notarial activities (for which you are authorised by the Master of the Faculties)
 - f. the administration of oaths.

Are you exempt from holding a practising certificate?

Yes No

Section 88 of the Solicitors Act 1974 exempts the solicitor to the Treasury, any other public department, the Church Commissioners and the Duchy of Cornwall from the requirement to have a practising certificate. There is no definition of 'public department' in the Act so in our view it includes the following:

- any department of central government in the UK
- executive agencies
- the National Assembly of Wales, and
- any other non-ministerial department

but does not include non-departmental public bodies.

Are you employed in connection with the provision of legal services by a person falling within section 1A of the Solicitors Act 1974?

Yes No

Section 1A of the Solicitors Act 1974 states that even if you are not 'acting as a solicitor', you will be taken to be acting as such (and therefore required to hold a practising certificate) if you are employed in connection with the provision of legal services by any of the following:

- a person who is qualified to act as a solicitor
- a partnership where at least one member is qualified to act as a solicitor
- a recognised body (a body recognised under section 9 of the Administration of Justice Act 1985)
- any other authorised person entitled to provide reserved legal services, this would include a licensed body, or a body authorised by another approved regulator.



If you come within section 1A, even if your job title has nothing in it to suggest you are a solicitor, your role does not involve dealing directly with clients, it is a role an unqualified person could do, or you are employed on a temporary or voluntary basis, you will still need to consider whether you require a practising certificate. The determining factor is whether you are employed in connection with the provision of legal services; if so, you are deemed to be practising as a solicitor and must therefore hold a practising certificate, regardless of whether you are held out as a solicitor.

Your answer

You need a practising certificate.

Your answer

You do not need a practising certificate.

Are you held out as a solicitor?

Yes No

Section 1 of the Solicitors Act 1974 states that you will not be "qualified to act as a solicitor" unless:

- you have been admitted as a solicitor
- your name is on the roll
- you have a valid practising certificate issued by the SRA.

It is a criminal offence under section 21 of that Act for an unqualified person to wilfully pretend to be qualified to act as a solicitor or to take or use any name, title or description implying that the person is qualified to act as a solicitor.

If you are described as a 'solicitor' or 'attorney' you must have a practising certificate unless:

- you are entitled to use the term 'solicitor' as a practising solicitor of another jurisdiction and you make clear the jurisdiction of your qualification
- in the case of an 'attorney', you hold another qualification that allows you to describe yourself as an attorney and you are only practising in that capacity, or
- you make it clear that you are not "qualified" to act as a solicitor (within the meaning of the Solicitors Act) as you do not have a valid practising certificate.



Even if you do not describe yourself as a solicitor or attorney in express terms, your conduct and/or use of certain names, titles or descriptions may result in you implicitly holding yourself out. This will depend on the circumstances and the extent to which they present a risk of confusion to consumers and third parties as to whether you are qualified to act as a solicitor. You can avoid any risk of this by making it clear that you are not qualified to act as a solicitor, as above.

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- executive agencies
- the National Assembly of Wales, and
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but does not include non-departmental public bodies.

Further help

If you require further assistance, please contact the [Professional Ethics helpline \[https://www.sra.org.uk/contactus\]](https://www.sra.org.uk/contactus).