



## 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?

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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?**

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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?**

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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

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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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### **Further help**

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