

SCHEDULES

SCHEDULE 2

Article 27(1).

AMENDMENTS TO THE SOLICITORS ORDER

In the following provisions for “Disciplinary Committee” or “Committee” wherever they occur substitute “Tribunal”—

- (a) Article 10(3);
- (b) Article 26(3);
- (c) Article 29(4);
- (d) Article 31(1), (2) and (5);
- (e) Article 33(2);
- (f) Article 35(6);
- (g) Article 48(1), (2) and (3);
- (h) Article 49(1), (2) and (3);
- (i) Article 50;
- (j) Article 52(3), (4), (5), (6) and (8);
- (k) Article 54(3);
- (l) Article 63(4).

In Article 3(2)—

- (a) the definitions of “the Disciplinary Committee” and “solicitor-trustee” shall cease to have effect;
- (b) at the end of the definition of “client” there shall be added the words “and, in relation to contentious business, includes any person who as a principal or on behalf of another person retains or employs, or is about to retain or employ, a solicitor, and any person who is or may be liable to pay a solicitor’s costs”;
- (c) the following definitions shall be inserted at the appropriate places in alphabetical order—
 - ““building society” means a building society within the meaning of the Building Societies Act 1986; and a reference to an account with a building society is a reference to a deposit account;
 - “contentious business agreement” means an agreement made in pursuance of Article 64;
 - “controlled trust”, in relation to a solicitor, means a trust of which he is a sole trustee or co-trustee only with one or more of his partners or employees;
 - “employee” includes an apprentice or clerk;
 - “sole solicitor” means a solicitor who is the sole principal in a practice;
 - “the Tribunal” means the Solicitors Disciplinary Tribunal appointed under Article 43(1).”.

In Article 3(3) for “a clerk, employee or servant” (twice) substitute “an employee”, for “an apprentice” substitute “an employee” and for “the apprentice” substitute “the employee”.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

In Article 3 after paragraph (3) insert—

“(3A) In this Order—

- (a) references to the removal of a solicitor’s name from the roll are references to its removal at his own request or in pursuance of regulations under Article 8(3);
- (b) references to striking a solicitor’s name off the roll are references to striking it off as a disciplinary sanction; and
- (c) references to removal or striking off include references to deleting an entry made by means of a computer by whatever means are appropriate.”.

Article 5(5)(b) and the word “or” immediately before it shall cease to have effect.

In Article 21 for “Article 16(3) or (4) or, if the suspension was terminated subject to terms and conditions” substitute “Article 16(4) or (7) or, if his practising certificate has effect subject to terms and conditions by virtue of a direction under Article 16(4)(c) or (7)”.

In Article 25(1) for “not qualified so to act” substitute “an unqualified person”.

In Article 27(1) for “£100” substitute “£1,000”.

In Article 28(1) after “who” insert “knowingly”.

In Article 29(4) for “contravenes” substitute “knowingly contravenes this Article or”.

In Article 31(2) for “made by them with the approval of the Lord Chief Justice under this Order” substitute “made under Article 43(8)”.

In Article 31(5) for “contravenes” substitute “knowingly contravenes any order under this Article or”.

In Article 33(1)(a) for head (ii) substitute—

“(ii) for money comprised in controlled trusts;”.

In Article 34(1) after “Regulations” insert “under Article 33”.

In Article 36(1)(a) for “or his clerk, apprentice or servant” substitute “or an employee of his”.

In Article 36(1) for sub-paragraph (b) substitute—

- “(b) in consequence of the act or default of a solicitor or of any of his employees—
 - (i) there has been undue delay in connection with any matter in which that solicitor or his firm has been instructed on behalf of a client or any matter which relates to the administration of a controlled trust; or
 - (ii) any sum of money due from the solicitor or his firm to, or held by him or his firm on behalf of, his clients or subject to a controlled trust is in jeopardy while in the control or possession of the solicitor or his firm.”.

In Article 36(2) for the words from “either in his own name” to “firm” substitute “as a sole solicitor”.

In Article 37(1)(a) for the words from “trust” to the end substitute “controlled trust; and”.

In Article 39(1)(a)(ii) for the words from “solicitor in his own name” to “firm name” substitute “sole solicitor”.

In Article 41(4)(c) for the words from “trust” to the end substitute “controlled trust, or”.

In Article 52(6) for “Article 53(4)” substitute “Article 53(5)”.

In Article 54(1) for the words from the beginning to “Disciplinary Committee” substitute

“A copy of every order made—

- (a) by the Lord Chief Justice under Article 20(1) or 27(1);
- (b) by the Tribunal;
- (c) on an appeal under Article 53;

(d) in the exercise of the jurisdiction referred to in Article 81(a),”

In Article 56 for “apprentice, or of a clerk or servant” substitute “employee”.

In Article 58(1)(a) for “apprentice's, clerk's or servant's” substitute “employee's”.

In Article 58(1)(b) for “apprentice or the clerk or servant” substitute “employee”.

In Article 58(1)(c) and (2) for “apprentice, clerk or servant” substitute “or employee”.

In Article 59 for “partner of that solicitor, or of any apprentice, or of any clerk or servant of that solicitor” substitute “of his partners or employees”.

In Article 62 for “apprentice's, clerk's or servant's” substitute “employee's”.

In Article 63(1)(b) for “apprentice, clerk or servant or former apprentice, clerk or servant” substitute “employee or former employee” and for “apprentice, clerk or servant” substitute “employee”.

In Schedule 1 at the end of paragraph 8(1) add “, but the Society may, before appointing any person under paragraph 2(1), require from that person such undertakings (including undertakings as to the payment of money) as will, in the opinion of the Society, ensure that a solicitor or other person who is deprived of any such lien or right in consequence of anything done under this Schedule does not suffer any financial loss as a result of being so deprived.”.