

SCHEDULE 1

AMENDMENTS TO PRIMARY LEGISLATION

PART 2

20.—(1) Schedule 2 (legal services practices: supplementary provisions) is amended as follows.

(2) In paragraph 1(1)—

(a) in sub-paragraphs (1) and (2)—

(i) after “recognised body” (in each place) insert “or a recognised sole solicitor’s practice”; and

(ii) after “to a body” (in each place) insert “or sole solicitor’s practice”;

(b) in sub-paragraph (2A), after “recognised body,” insert “or to an employee in a recognised sole solicitor’s practice,”;

(c) after sub-paragraph (2A), insert—

“(2B) In this Schedule references to employment in a recognised sole solicitor’s practice have the same meaning as in section 9.”; and

(d) in sub-paragraph (4)—

(i) after “shall apply” insert “for the purposes of this Schedule; and”;

(ii) in paragraph (a), for “this Schedule” substitute “any provision of this Schedule in so far as it has effect in relation to a recognised body”; and

(iii) before “as if” insert “they shall apply”.

(3) In paragraph 2(2)—

(a) after sub-paragraph (1), insert—

“(1A) A sole solicitor may appeal to the High Court against—

(a) a decision to refuse an application for recognition of the solicitor’s practice under section 9;

(b) a decision to impose a condition under subsection (2F) of that section on the recognition of the solicitor’s practice under that section; and

(c) a decision to impose a condition under subsection (2G) of that section on the recognition of the solicitor’s practice under that section.”;

(b) after sub-paragraph (2), insert—

“(2A) Where the recognition of a recognised sole solicitor’s practice is subject to a condition within section 9(2H)(b), the sole solicitor may appeal to the High Court against any decision by the Society to refuse to approve the taking of any step for the purposes of that condition.”;

(c) in sub-paragraph (4)—

(i) after “(1)(a) or (b)” insert “or (1A)(a) or (b)”;

(ii) after “the body” (in each place) insert “or sole solicitor’s practice”;

(d) in sub-paragraph (5)—

(1) Paragraph 1 was amended, in so far as relevant, by paragraphs 80 and 86(a), (b), (c) and (e) of Schedule 16 to the Legal Services Act 2007.

(2) Paragraph 2 was substituted by paragraphs 80 and 87 of Schedule 16 to the Legal Services Act 2007.

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- (i) after “sub-paragraph (1)(c)” insert “or (1A)(c)”; and
 - (ii) omit “body’s”; and
 - (e) in sub-paragraph (6), after “sub-paragraph (2)” insert “or (2A)”.
- (4) After paragraph 14(3), insert—

“**14ZA.**—(1) The Society may give a notice under this paragraph if it is satisfied that it is necessary to do so for the purpose of investigating whether a recognised sole solicitor’s practice continues to be suitable to be recognised under section 9.

(2) A notice under this paragraph is a notice which requires a person within sub-paragraph (3)—

- (a) to provide information, or information of a description, specified in the notice, or
- (b) to produce documents, or documents of a description, specified in the notice.

(3) The persons are—

- (a) the sole solicitor; and
- (b) an employee in the recognised sole solicitor’s practice.

(4) For the purposes of this paragraph, section 44B(4) to (7) of the 1974 Act applies—

- (a) in relation to a notice under this paragraph as if it were a notice under section 44B of that Act, and
- (b) in relation to a person given a notice under this paragraph as if that person were a person given a notice under that section,

and references in subsections (6) and (7) of that section to powers conferred by that section are to be read as references to powers conferred by this paragraph.

(5) Where powers conferred by Part 2 of Schedule 1 to the 1974 Act are exercisable in relation to a person within paragraph (a) or (b) of sub-paragraph (3), they continue to be so exercisable after the person has ceased to be a person within the paragraph in question.

(6) Section 44BA of the 1974 Act (power to require explanation of document or information) applies in relation to a notice under this paragraph and the person to whom such a notice is given as it applies in relation to a notice under section 44B of the 1974 Act and the person to whom such a notice is given.

(7) Subsection (1) of section 44BC of that Act (falsification of documents etc) applies in relation to an investigation of the kind mentioned in sub-paragraph (1) as it applies in relation to the investigations mentioned in that subsection, and subsections (2), (4) and (5) of that section apply accordingly.

(8) Subsection (3) of that section (provision of false information etc) applies in relation to a requirement imposed under this paragraph as it applies in relation to a requirement imposed by section 44B of that Act, and subsections (4) and (5) of that section apply accordingly.”

(5) In paragraph 14A(4)—

- (a) in sub-paragraph (1) after “discipline investigation” insert “or by the sole solicitor in a recognised sole solicitor’s practice which is subject to a discipline investigation”;
- (b) in sub-paragraph (2)—
 - (i) after “recognised body” insert “, or by a sole solicitor, or any employee, in a recognised sole solicitor’s practice,”; and

(3) Paragraph 14 was substituted by paragraphs 80 and 101 of Schedule 16 to the Legal Services Act 2007.

(4) Paragraph 14A was substituted by paragraphs 80 and 102 of Schedule 16 to the Legal Services Act 2007.

- (ii) for “any rules applicable to it” substitute “any rules applicable to them”; and
- (c) in sub-paragraph (4)—
 - (i) after “which a recognised body” insert “or a sole solicitor”; and
 - (ii) after “from the recognised body” insert “or from that sole solicitor”.
- (6) For paragraph 14B(1)(5), substitute—
 - “(1) This paragraph applies where the Society is satisfied that—
 - (a) a recognised body, or a manager or employee of a recognised body, or
 - (b) a sole solicitor, or any employee, in a recognised sole solicitor’s practice,has failed to comply with a requirement imposed by or by virtue of this Act or any rules applicable to that person by virtue of section 9 of this Act.”.
 - (7) In paragraph 14C(4)(e)(6), after “recognised body,” insert “or in the case of a sole solicitor, or an employee, in a recognised sole solicitor’s practice.”.
 - (8) In the heading before paragraph 16, at the end insert “and recognised sole solicitors’ practices”.
 - (9) In paragraph 16(7), after sub-paragraph (1A) insert—
 - “(1B) The Tribunal has jurisdiction to hear and determine any of the following complaints made to it under this paragraph with respect to the sole solicitor, or an employee, in a recognised sole solicitor’s practice (“the relevant person”)—
 - (a) a complaint that the relevant person has been convicted by any court of a criminal offence which renders that person unsuitable to be the sole solicitor, or an employee, in a recognised sole solicitor’s practice (or both);
 - (b) a complaint that the relevant person has failed to comply with any requirement imposed by or by virtue of this Act or any rules applicable to the relevant person by virtue of section 9 of this Act.”.
 - (10) In paragraph 17(8)—
 - (a) in paragraph (a), for “or (1A)” substitute “, (1A) or (1B)”;
 - (b) in paragraph (c)—
 - (i) after “16(1A)” insert “or (1B)”;
 - (ii) after “such a body” insert “or (as the case may be) to an employee in a recognised sole solicitor’s practice”.
 - (11) In paragraph 18A(9)—
 - (a) in sub-paragraph (1)—
 - (i) after “under paragraph 16(1A)” insert “or (1B)”;
 - (ii) after “the Tribunal is satisfied that a manager or employee of a recognised body” insert “, or the sole solicitor, or an employee, in a recognised sole solicitor’s practice”;
 - (iii) in paragraph (a), after “as mentioned in paragraph (a) of paragraph 16(1A)” insert “or (as the case may be) paragraph (a) of paragraph 16(1B)”;

(5) Paragraph 14B was inserted by paragraphs 80 and 103 of Schedule 16 to the Legal Services Act 2007.

(6) Paragraph 14C was inserted by paragraphs 80 and 103 of Schedule 16 to the Legal Services Act 2007.

(7) Paragraph 16(1A) was inserted by paragraphs 80 and 104(d) of Schedule 16 to the Legal Services Act 2007.

(8) Paragraph 17 was amended by paragraphs 80 and 105 of Schedule 16 to the Legal Services Act 2007.

(9) Paragraph 18A was inserted by paragraphs 80 and 107 of Schedule 16 to the Legal Services Act 2007.

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- (iv) in paragraph (c), at the beginning insert “(in the case of a manager or employee of a recognised body)”; and
- (b) in sub-paragraph (2), before paragraph (a) insert—
 - “(za) in the case of a complaint relating to a sole solicitor, or an employee, in a recognised sole solicitor’s practice, an order revoking the recognition under section 9 of this Act of the sole solicitor’s practice;”.
- (12) After paragraph 20(1)(10), insert—
 - “(1A) Where the Tribunal makes any such order as is referred to in section 47(2A) of the 1974 Act in the case of a solicitor who is an employee in a recognised sole solicitor’s practice, the Tribunal may, if it thinks fit, order that any solicitor who is for the time being the sole solicitor in that practice shall be excluded (either permanently or for a specified period) from criminal legal aid work (as defined in that section).”.
- (13) In paragraph 21(11)—
 - (a) in sub-paragraph (1)—
 - (i) in paragraph (a), after “recognised body” insert “or of the sole solicitor in a recognised sole solicitor’s practice”;
 - (ii) in paragraph (b)—
 - (aa) after “recognised body” insert “, or of the sole solicitor in a recognised sole solicitor’s practice,”; and
 - (bb) after “that such a manager” insert “or sole solicitor”;
 - (iii) at the end of paragraph (c), insert—
 - “or
 - (d) any such order as is mentioned in paragraph (a) or (b) is made in the case of a person employed in a recognised sole solicitor’s practice and the act or omission constituting the ground on which the order was made was instigated or connived at by the sole solicitor, or, if the act or omission was a continuing act or omission, the sole solicitor had or reasonably ought to have had knowledge of its continuance,”; and
 - (iv) after “an application made with respect to the recognised body” insert “or the recognised sole solicitor’s practice”;
 - (b) in sub-paragraph (3)—
 - (i) after “recognised body” insert “, or to a sole solicitor in a recognised sole solicitor’s practice,”; and
 - (ii) after “of the body” insert “, or the sole solicitor in the practice,”; and
 - (c) in sub-paragraph (4), after “recognised body” insert “, or in a sole solicitor’s practice,”.
- (14) In paragraph 32(1)(12)—
 - (a) after paragraph (d), insert—
 - “(da) the Society considers that there has been undue delay on the part of the personal representatives of a deceased solicitor who immediately before death was practising as the sole principal of a recognised body in connection with the recognised body’s business or in connection with any trust; or

(10) Paragraph 20 was amended by paragraphs 80 and 108 of Schedule 16 to the Legal Services Act 2007 and by paragraphs 27 and 32 of Schedule 5 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10).

(11) Paragraph 21 was amended by paragraphs 80 and 109 of Schedule 16 to the Legal Services Act 2007.

(12) Paragraph 32 was amended by paragraphs 80 and 119 of Schedule 16 to the Legal Services Act 2007 and by S.I. 2003/2096.

(db) the Society is satisfied that a solicitor practising as the sole principal of a recognised body is incapacitated by illness, injury or accident to such an extent as to be unable to attend to the solicitor's practice or to the recognised body's business; or".

(15) After paragraph 32, insert—

“**32A.** On the death of a solicitor practising as the sole principal of a recognised body, paragraphs 6 to 8 of Schedule 1 to the 1974 Act shall apply to the client accounts of the recognised body.”.

(16) In paragraph 35(**13**)—

(a) in paragraph (a), after “paragraph 32,” insert “32A.”; and

(b) after paragraph (b), insert—

“(ba) any reference to paragraph 2 of that Schedule shall be construed as including a reference to paragraph 32A of this Schedule;”.

(13) Paragraph 35 was amended by paragraphs 80 and 122 of Schedule 16 to the Legal Services Act 2007.