

SCHEDULE 1

AMENDMENTS TO PRIMARY LEGISLATION

PART 2

16. The 1985 Act is amended in accordance with this Part.

17. For the cross-heading before section 9 (“Incorporated practices”) substitute “Legal services bodies and sole solicitors’ practices”.

18.—(1) Section 9 (incorporated practices) is amended as follows.

(2) For the heading (“Incorporated practices”) substitute “Recognition of legal services bodies and of sole solicitors’ practices”.

(3) In subsection (1)—

(a) for paragraph (b) substitute —

“(b) prescribing the circumstances in which—

(i) legal services bodies may be recognised by the Society as being suitable bodies to undertake the provision of any solicitor services or other relevant legal services; and

(ii) sole solicitors’ practices may be recognised by the Society as being suitable to undertake the provision of any such services;”;

(b) in paragraph (c), after “bodies” insert “and sole solicitors’ practices”; and

(c) in paragraph (d), after “bodies” insert “and sole solicitors’ practices”.

(4) In subsection (1A), after “recognised bodies” insert “and recognised sole solicitors’ practices”.

(5) In subsection (1B)(b), after “a recognised body,” insert “or are employees in a recognised sole solicitor’s practice,”.

(6) In subsection (2)—

(a) in paragraph (ab), for “or descriptions of recognised body” substitute “recognised sole solicitors’ practices, or descriptions of such bodies or practices”;

(b) in paragraph (b), after “recognised bodies” insert “or recognised sole solicitors’ practices”;

(c) in paragraph (e), after “another body” insert “, or a sole solicitor’s practice,”;

(d) before paragraph (ea), insert—

“(eza) about the effect on the recognition of a sole solicitor’s practice where the sole solicitor ceases to practise as a sole principal and—

(i) another sole solicitor succeeds that sole solicitor as sole principal in the practice; or

(ii) a body or another sole solicitor succeeds to the whole or substantially the whole of the practice’s business;”;

(e) in paragraph (ea)—

(i) after “bodies” insert “and sole solicitors’ practices”; and

(ii) for “those bodies” substitute “them”;

(f) in paragraph (f), after “recognised bodies” insert “or recognised sole solicitors’ practices”;

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- (g) in paragraphs (fa) and (fb), after “recognised bodies” (in each place) insert “or employees in recognised sole solicitors’ practices”;
- (h) after paragraph (fc), insert—
 - “(fd) requiring the sole solicitor in a recognised sole solicitor’s practice to appoint a person or persons to monitor compliance, by the sole solicitor and the employees in the practice, with requirements imposed on them by or by virtue of this Act, the 1974 Act or any rules applicable to them by virtue of this section or the 1974 Act;”; and
- (i) in paragraph (h)—
 - (i) after “recognised bodies” insert “, or on sole solicitors in relation to recognised sole solicitors’ practices,”; and
 - (ii) omit “on such bodies”.
- (7) After subsection (2), insert—

“(2ZA) Rules under subsection (2)(fd) may provide that the person appointed under that paragraph may be the sole solicitor.”.
- (8) In subsection (2B)(a), after “body” insert “or sole solicitor’s practice”.
- (9) In subsection (2F), after “a body” insert “or a sole solicitor’s practice”.
- (10) In subsection (2G)—
 - (a) after “a body” insert “or a sole solicitor’s practice”; and
 - (b) in paragraphs (a) and (b), omit “body’s” (in each place).
- (11) In subsection (2H)—
 - (a) in paragraph (a)—
 - (i) after “conditions requiring the body” insert “, or the sole solicitor,”; and
 - (ii) omit “by the body”; and
 - (b) in paragraph (b), after “the body” insert “, or the sole solicitor,”.
- (12) In subsection (5)—
 - (a) after “any body” insert “or sole solicitor’s practice”; and
 - (b) for “a recognised body” substitute “recognised under this section”.
- (13) In subsection (6)—
 - (a) for “recognised bodies and” substitute “recognised bodies,”; and
 - (b) after “such bodies” insert “, and with respect to matters relating to recognised sole solicitors’ practices”.
- (14) In subsection (8)—
 - (a) after the definition of “authorised person” insert—

“references to employment in a recognised sole solicitor’s practice are references to employment by a sole solicitor for the purposes of a practice recognised under this section;”
 - (b) after the definition of “recognised body” insert —

““recognised sole solicitor’s practice” means a sole solicitor’s practice for the time being recognised under this section;”; and
 - (c) after the definition of “registered European lawyer” insert —

““sole solicitor” has the meaning given by section 87(1) of the 1974 Act;”.

19. After section 10 (penalty for pretending to be a body recognised under section 9)(1), insert—

“Penalty for sole solicitor pretending that practice is recognised

10A.—(1) A sole solicitor shall not describe or hold out the sole solicitor’s practice as a practice for the time being recognised under section 9 unless it is so recognised.

(2) Any person who contravenes subsection (1) is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(3) In this section “sole solicitor” has the same meaning as in section 9.”.

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

(2) In paragraph 1(2)—

(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(3)—

(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)—

(1) Section 10 was amended by the Statute Law (Repeals) Act 1993 (c. 61) and by paragraphs 80 and 83 of Schedule 16 to the Legal Services Act 2007.

(2) 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.

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

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- (i) after “(1)(a) or (b)” insert “or (1A)(a) or (b)”; and
 - (ii) after “the body” (in each place) insert “or sole solicitor’s practice”;
 - (d) in sub-paragraph (5)—
 - (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(4), 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(5)—

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

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

- (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
 - (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)(6), 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)(7), 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(8), 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(9)—
 - (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(10)—
 - (a) in sub-paragraph (1)—
 - (i) after “under paragraph 16(1A)” insert “or (1B)”;

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

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

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

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

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

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- (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)”;
 - (iv) in paragraph (c), at the beginning insert “(in the case of a manager or employee of a recognised body)”;
- (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)(11), 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(12)—
- (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)(13)—

(11) 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).

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

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

(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

(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(~~14~~)—

(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;”.

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