Status: *Point in time view as at 07/03/2016. This version of this Order contains provisions that are prospective.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Solicitors (Northern Ireland) Order 1976. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

STATUTORY INSTRUMENTS

1976 No. 582 (N.I. 12)

Solicitors (Northern Ireland) Order 1976

- - - - - - *[12th April 1976]*

PART I

INTRODUCTORY

Title

1. This Order may be cited as the Solicitors (Northern Ireland) Order 1976.

Art.2—Commencement

Interpretation

3.—(1) The Interpretation Act (Northern Ireland) 1954 shall apply to Article 2 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order—

[[F1]"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;**]**

"client", in relation to non-contentious business, includes any person who, as a principal or on behalf of another or as a trustee or executor or in any other capacity, has power, express or implied, to retain or employ, and retains or employs or is about to retain or employ, a solicitor, and any person liable to pay to a solicitor any costs for his services**[**[F1] 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**]**;

"contentious business" means business done, whether as solicitor or advocate, in or for the purposes of proceedings begun before a court (including the Lands Tribunal) or before an arbitrator[F2]. . . , not being business which falls within the definition of [[F3] non-contentious probate business contained in Article 2(2) of the Administration of Estates (Northern Ireland) Order 1979] ;

[[F1]"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;**]**

"the Council" means the Council of the Society;

Definition rep. by 1989 NI 14

[[F1]"employee" includes an apprentice or clerk**]**

"enactment" includes any statutory provision within the meaning of section 1(*f*) of the Interpretation Act (Northern Ireland) 1954 ;

"indemnity regulations" means regulations under Article 63;

"instrument" includes anything which is a statutory instrument or a statutory document within the meaning of paragraph (*d*) or paragraph (*e*) respectively of section 1 of the Interpretation Act (Northern Ireland) 1954;

"local authority" means a district council, a joint committee appointed by two or more such councils, **[**[F4]the Education Authority**]**[F5], the Regional Health and Social Care Board, the Regional Business Services Organisation, the Regional Agency for Public Health and Social Well-being**]** or the Northern Ireland Housing Executive established under section 1 of the Housing Executive Act (Northern Ireland) 1971 ;

"non-contentious business" means any business done as a solicitor which is not contentious business as defined by this paragraph;

"notice" means notice in writing;

[[F6]"officer", in relation to a limited liability partnership, means a member of the limited liability partnership;**]**

"practising certificate" has the meaning assigned to it by Article 4;

"prescribed" means prescribed by regulations;

"public officer" means an officer whose remuneration is appropriated by Measure or is defrayed out of money provided by Parliament;

"the register" means the register of practising solicitors kept by the registrar under Article 10(2);

"the registrar" means the person appointed under Article 7 to act as registrar of solicitors;

"regulations", except in Article 61, means regulations made by the Society;

"reward" includes consideration of any kind whether monetary or not;

"the roll" means the roll of solicitors kept by the Society under Article 8;

"secretary" means the secretary of the Society;

"securities" includes documents constituting or evidencing the title to any property;

"the Society" means the Incorporated Law Society of Northern Ireland;

[[F1]"sole solicitor" means a solicitor who is the sole principal in a practice;**]**

"solicitor" means solicitor of the**[**[F7]Court of Judicature**]**;

Definition rep. by 1989 NI 14

"statutory undertakers" means any person authorised by or under an enactment to construct, work or carry on any railway, airport, canal, inland navigation, dock, harbour, gas, electricity, water or other public undertaking;

[[F1]"the Tribunal" means the Solicitors Disciplinary Tribunal appointed under Article 43(1);**]**

"trust" and "trustee" extend to implied and constructive trusts and to cases where a trustee has a beneficial interest in the trust property and to the duties incident to the office of a personal representative, and "trustee" includes a personal representative;

[[F8]"trustee investments" means investments in which trustees may invest under—

(i) the general power of investment in section 3 of the Trustee Act (Northern Ireland) 2001 (as restricted by sections 4 and 5 of that Act); or

(ii) section 8(1)(a) of that Act (land).**]**

"unqualified person" means a person not qualified under Article 4 to act as a solicitor.

[[F9](2A) In this Order—

(a) references to civil legal services funded by the Department of Justice shall be construed in accordance with Article 10 of the Access to Justice (Northern Ireland) Order 2003;

(b) references to criminal defence services funded by the Department of Justice shall be construed—

(i) in relation to any time after the coming into operation of Article 21 of the Access to Justice (Northern Ireland) Order 2003, in accordance with that Article; and

(ii) in relation to any time before the coming into operation of that Article, as references to free legal aid under Part 3 of the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981**]**

(3) A reference in this Order to**[**[F1] an employee**]** of a solicitor or of a partner of his is a reference to**[**[F1] an employee**]** employed by that solicitor or partner (wholly or mainly) for the purposes of his practice as such solicitor or partner and references in Parts III and IV to**[**[F1] an employee**]** of a solicitor include references to any person who is**[**[F1] the employee**]** of a partner of that solicitor.

[[F1](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.**]**

(4) References in any enactment which came into force before 1st January 1899 to an attorney shall be construed as references to a solicitor.

F1 1989 NI 14
F2 1996 c. 23
F3 1979 NI 14
F4 Words in art. 3(2) substituted (1.4.2015) by Education Act (Northern Ireland) 2014 (c. 12), **Sch. 3 para. 6** (with Sch. 2 para. 4(3)); S.R. 2015/35, art. 2(b)
F5 Art. 3(2): words in definition of "local authority" substituted (1.4.2009) by Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1), ss. 32, 34(3), **Sch. 6 para. 5**; S.R. 2009/114, **art. 2**
F6 SR 2004/307
F7 Art. 3(2): words in definition of "solicitor" substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 59(5), 148(1), Sch. 11 para. 6; S.I. 2009/1604, **art. 2(d)**
F8 2001 c. 14 (NI)
F9 Art. 3(2A) inserted (1.4.2015) by Access to Justice (Northern Ireland) Order 2003 (S.I. 2003/435), art. 1(2), **Sch. 4 para. 2(2)** (as amended (18.11.2014) by Legal Aid and Coroners' Courts Act (Northern Ireland) 2014 (c. 11), Sch. 2 para 6(44)(a)); S.R. 2015/194, art. 2, Sch. (with art. 3)

PART II

QUALIFICATION, ADMISSION, PRACTISING CERTIFICATES, ETC.

Qualifications and admission

Qualifications for practising as solicitor

4. A person shall not be qualified to act as a solicitor unless—

(a) he has been admitted as a solicitor; and

(b) his name is on the roll; and

(c) he has in force a certificate issued by the registrar in accordance with the provisions of this Part authorising him to practise as a solicitor (in this Order referred to as a "practising certificate");

F10 . . . .

F10 1989 NI 14

Admission of solicitors

5.—(1) Subject to paragraph (5), a person shall not, after the commencement of this Article, be admitted as a solicitor unless he has obtained a certificate from the Society that they are satisfied—

(a) that he has complied with the requirements applicable to him by virtue of regulations made under Article 6, and

(b) as to his character and his fitness to be a solicitor.

(2) A person who has been refused a certificate under paragraph (1) may, within one month from the date on which notice of such refusal is served on him, appeal, upon notice to the Society, to the Lord Chief Justice against such refusal; and for the purposes of this paragraph a person who has not received a certificate within three weeks after applying for it shall be deemed to have received notice at the expiration of that period that the certificate has been refused.

(3) On such appeal—

(a) the Society may appear and be heard; and

(b) the Lord Chief Justice may make such order as he thinks proper, including an order directing the Society to issue the certificate and an order for the payment of costs.

(4) On production of a certificate required by paragraph (1), the Lord Chief Justice shall, unless cause to the contrary is shown to his satisfaction, by writing under his hand and in such form as he thinks fit, admit the person to whom the certificate relates to be a solicitor, and may do so at any time whether or not during a term or sittings of the High Court.

(5) F11 . . . . . .

F11 Art. 5(5) repealed (1.2.2006) by Law Reform (Miscellaneous Provisions) (Northern Ireland) Order 2005 (S.I. 2005/1452 (N.I. 7)), arts. 1(2), 19(3), 24, **Sch. 2**; S.R. 2005/494, **art. 2(2)(a)** (with art. 3)

[F12Regulations as to the education, training, etc., of persons seeking admission or having been admitted as solicitors

6.—(1) The Society may make regulations with respect to the education and training of persons seeking admission or who have been admitted as solicitors and (without prejudice to the generality of the foregoing) such regulations may prescribe—

(a) the education and training, whether by service under apprenticeship or otherwise, to be undergone by persons seeking admission as solicitors;

(b) the examinations or other tests to be undergone by persons seeking admission as solicitors;

(c) the qualications, experience, conduct, duties and responsibilities of persons seeking admission as solicitors or solicitors providing apprenticeships (including the remuneration payable under such apprenticeships) under the regulations;

(d) the circumstances in which apprenticeships may be transferred or discharged or education or training of persons seeking admission as solicitors may be abridged, extended or terminated;

(e) the control and discipline of persons seeking admission as solicitors, including requirements to be imposed in consequence of contraventions of the regulations;

(f) the circumstances in which a person seeking admission as a solicitor may apply to the Society to waive the application of any provision of the regulations in his case or to review any decision taken by the Society in respect of him for the purposes of the regulations and the procedure for such applications;

(g) the education, training and examinations or other tests to be undergone by persons who have been admitted as solicitors;

(h) the charging and application by the Society of fees to be paid by persons undergoing education and training for the purposes of the regulations;

(i) such transitional and incidental matters as the society think necessary.

(2) Regulations under paragraph (1) may make the opinion, consent or approval of the Lord Chief Justice, or of any examining or other body or authority named in the regulations, or of the Society or the Council or any committee of the Council material for the purposes of any provision of the regulations.

(3) Subject to regulations made under paragraph (1)(f), on an application by a person seeking to be admitted as a solicitor, the Society may—

(a) waive the application of any provision of regulations under paragraph (1) to that person; or

(b) review any decision taken by the Society with respect to that person under those regulations.

(4) An applicant aggrieved by a decision of the Society under paragraph (3) may, after giving notice to the Society, appeal to the Lord Chief Justice; and on such appeal—

(a) the Society may appear and be heard; and

(b) the Lord Chief Justice may make such order (including an order for the payment of costs) as he thinks proper.**]**

F12 1989 NI 14

Registrar

7. The Society shall appoint a person to act as registrar of solicitors and section 18(2) of the Interpretation Act (Northern Ireland) 1954 shall apply to such appointment.

[F13 Keeping and custody of the roll

8.—(1) The registrar shall continue to keep the roll in the form of an alphabetical list of all solicitors.

(2) The Society shall have the custody of the roll and of all documents relating thereto.

(3) The roll shall be kept in accordance with the provisions of this Order and of regulations and may be kept by means of a computer.

(4) If the roll is kept by means of a computer, the Society shall make any entry available for inspection in legible form during office hours, without payment, by any person who applies to inspect it.

(5) If the roll is not kept by means of a computer, any person may inspect it during office hours without payment.

(6) The Society, on the application of a solicitor, may cause his name to be removed from the roll.

(7) Regulations under paragraph (3) may—

(a) provide for the Society, at such intervals as may be specified in the regulations, to enquire of solicitors of any class so specified whether they wish to have their names retained on the roll;

(b) require solicitors of any such class, at such intervals as aforesaid, to pay to the Society a fee in respect of the retention of their names on the roll of such amount as may be prescribed;

(c) authorise the Society to remove from the roll the name of any solicitor who—

(i) fails to reply to any enquiry made in pursuance of sub#paragraph (a) or to pay any fee payable by virtue of sub#paragraph (b); or

(ii) replies to any such enquiry by indicating that he does not wish to have his name retained on the roll; and

(d) authorise the Society to remove from the roll the name of any solicitor who has died.

F13 1989 NI 14

Entry of name on roll

9.—(1) On production—

(a) of an admission of any person as a solicitor signed by the Lord Chief Justice; or

(b) of an order for the replacement on the roll of the name of a person whose name has been struck off it,

and on payment to the Society of such fee as may be prescribed, the registrar shall enter the name of that person on the roll.

(2) The Society, on the application of a former solicitor whose name is not on the roll because it has been removed from it, may cause his name to be entered on the roll on payment by him to the Society of such fee as may be prescribed.**]**

F13 1989 NI 14

PROSPECTIVE

[F14 Authorisation of Society conferring additional rights of audience

9A.—(1) A person who is qualified to act as a solicitor may apply to the Society for an authorisation under this Article.

(2) An application under paragraph (1)—

(a) shall be made in such manner as may be prescribed;

(b) shall be accompanied by such information as the Society may reasonably require for the purpose of determining the application; and

(c) shall be accompanied by such fee (if any) as may be prescribed.

(3) At any time after receiving the application and before determining it the Society may require the applicant to provide it with further information.

(4) The Society shall grant an authorisation under this Article if it appears to the Society, from the information furnished by the applicant and any other information it may have, that the applicant has complied with the requirements applicable to him by virtue of regulations under Article 6(1A).

(5) An authorisation granted to a person under this Article ceases to have effect if, and for so long as, that person is not qualified to act as a solicitor.

(6) The Society may by regulations provide that any person who has completed such education, training or experience as may be prescribed, before such date as may be prescribed shall be taken to hold an authorisation granted under this Article.**]**

F14 Art. 9A inserted (prosp.) by Justice Act (Northern Ireland) 2011 (c. 24), **ss. 88(3)**, 111(3) (with s. 106(4))

Practising certificates

Application for practising certificate and register of practising solicitors

10.—(1) Application by a solicitor for a practising certificate shall be made to the registrar in such form and in accordance with such requirements and shall be accompanied by a fee of such amount as may be prescribed.

(2) Where, on an application duly made to him under paragraph (1), the registrar is satisfied as to the matters specified in Article 11(1)(*a*), (*b*) and (*c*) and that no grounds exist under any other provision of this Order for refusing to issue a practising certificate, he shall cause to be entered in a register kept for that purpose the applicant's full name, his place or places of business and the date of his admission,[F15]. . . .

[[F15](2A) The register may be kept by means of a computer.

(2B) If the register is kept by means of a computer, the Society shall make any entry available for inspection in legible form during office hours, without payment, by any person who applies to inspect it.

(2C) If the register is not kept by means of a computer, any person may inspect it during office hours without payment.**]**

(3) If in, or in relation to, an application under this Article any person makes any false statement material to the application, a complaint in respect of that statement may be made by or on behalf of the Society to the**[**[F15] Tribunal**]**.

(4) Nothing in this Part shall affect the operation of any restriction in force under or by virtue of this Order whereby a solicitor is restricted from engaging in practice on his own account, whether in partnership or otherwise, for a specified period.

(5) While such a restriction as is mentioned in paragraph (4) is in force, the entry in the register relating to the solicitor who is subject to that restriction and every practising certificate issued under Article 11 to that solicitor shall bear a stamp marked "Restricted from practice on his own account until " (being the date on which the relevant restriction ends).

F15 1989 NI 14

Issue, date and expiry of practising certificate

11.—(1) Subject to the provisions of Articles 12 and 13, the registrar on being satisfied that—

(a) the name of the applicant is on the roll;

(b) he is not for the time being suspended from practice; and

(c) the application referred to in Article 10 complies with the provisions of that Article and of regulations;

shall within three weeks of the receipt of such application, issue to the applicant a practising certificate in accordance with regulations, and in such form as may be prescribed.

(2) Every practising certificate issued after 5th January in any year and before 6th February next following shall bear the date of 6th January in that year, and every other practising certificate shall bear the date of the day on which it is issued.

(3) Every practising certificate shall have effect from the beginning of the day of which it bears the date, and that date shall be entered by the Society on the register.

(4) Every practising certificate shall expire at the end of 5th January next after it is issued except that, where the name of a solicitor is removed from or struck off the roll, the practising certificate (if any) of that solicitor shall expire forthwith and the date of such expiration shall be entered on the register.

Absence of solicitor from Northern Ireland

12.—(1) If a solicitor—

(a) has been absent from Northern Ireland for a period of, or periods exceeding in the aggregate, six months in any period of twelve consecutive months; and

(b) without reasonable excuse, has been so absent without the consent of the Society or without complying with such terms and conditions as may be fixed by the Society in relation to such absence;

the Society may direct the registrar to refuse to issue a practising certificate to the solicitor, or, where such a certificate has been issued to the solicitor, the Society may apply to the Lord Chief Justice to recall that certificate.

(2) Where a direction is given, or an application is made, under this Article then in the former case the registrar shall refuse to issue the practising certificate and in the latter case the Lord Chief Justice may recall a practising certificate which has been issued.

(3) Where the registrar, by direction of the Society under the provisions of this Article, refuses to issue to a solicitor a practising certificate, the solicitor may on serving ten days' notice on the

Society, apply for a certificate to the Lord Chief Justice who may make such order in the matter as he thinks fit.

(4) This Article shall not apply in the case of a solicitor who has been absent from Northern Ireland for any such period or periods as are specified in paragraph (1), if that solicitor during the said period or periods was resident in the Republic of Ireland.

Discretion of registrar to refuse certificate in special cases

13.—(1) This Article shall have effect in relation to a solicitor's application for a practising certificate in any of the following circumstances:—

(a) where he applies for a first practising certificate after the expiration of five years from the passing of his final examination; or

(b) where he applies for a practising certificate, having neglected so to do for twelve months after the expiration of the last practising certificate issued to him; or

(c) where he applies for a practising certificate while he is an undischarged bankrupt; or

[[F16](cc) where he applies for a practising certificate after a finding by the Tribunal on a complaint under Article 10(3) that he made a false statement material to an application for a previous practising certificate; or**]**

(d) where, having been suspended from practice or having had his name struck off the roll, he first applies for a practising certificate after the expiration**[**[F16] or termination of his suspension or the replacement of his name on**]** the roll, as the case may be; or

[[F16](dd) where, having had a practising certificate suspended under Article 15(2), he first applies for a practising certificate after the expiration of the suspended practising certificate; or**]**

(e) where he applies for a practising certificate while any fine, penalty or costs imposed upon or ordered to be paid by him under this Order remain unpaid; or

(f) where he applies for a practising certificate while—

[[F17](i) any power is being exercised in relation to his property or affairs under Part VIII of the Mental Health (Northern Ireland) Order 1986; or

(ii) he is a patient for the time being detained in hospital for treatment or subject to guardianship under Part II of that Order; or**]**

(g) where, having more than one office or place of business at any one time (disregarding, where he has a Belfast agent, the office or place of business of such agent), he has been invited by the Society to satisfy them that he exercises adequate personal supervision over each such office or place of business and, having failed so to satisfy the Society, has been notified in writing by the Society that he has so failed; or

[[F16](gg) where he has been invited by the Society to satisfy them that he has complied with any regulations made under Article 6 in relation to education or training, and, having failed so to satisfy the Society, has been notified in writing by the Society that he has so failed;**]**

(h) where, having been invited by the Society to give an explanation in respect of any matter**[**[F16] relating to**]** his conduct and having failed to give the Society such an explanation as appears to them to be satisfactory, he has been notified in writing by the Society that he has so failed; or

[[F16](hh) where, having been required by Article 35(1) to deliver an accountant's report to the Society—

(a) he has not delivered that report within the period allowed by Article 35(2); or

(b) he has been invited by the Society to satisfy them that, in relation to any report delivered to the Society, he has complied with regulations made under Article 35,

and, having failed so to satisfy the Society, has been notified in writing by the Society that he has so failed;**]**

(i) where he has had an order of attachment made against him which has not been discharged; or

(j) where he has had a judgment or decree made against him which—

(i) involves the payment by him of a sum of money other than costs; and

(ii) is not a judgment or decree in relation to which he is entitled, as respects the whole effect of the judgment or decree upon him, to indemnity or relief from any other person;

and has not produced to the registrar evidence of the satisfaction of such judgment or decree or of his intention to appeal against such judgment or decree; or

(k) where he has been**[**[F18] adjudged a bankrupt and discharged**]** or has entered into a composition with his creditors or a deed of arrangement for their benefit.

[[F19](l) where he has been the subject of a bankruptcy restrictions order; or**]**

[[F20](m) where a debt relief order has been made in respect of him and at the end of the moratorium period applicable to the order he has been discharged from all the qualifying debts specified in the order; or

(n) where he has been the subject of a debt relief restrictions order.**]**

(2) The solicitor shall, unless the registrar or the Lord Chief Justice otherwise orders, give to the registrar, at least three weeks before the application for a practising certificate is made, notice of his intention to make the application.

(3) Subject to paragraph (4), the registrar may in his discretion refuse the application.

(4) Where a solicitor applies for a practising certificate in a case in which paragraph (1) has effect by virtue only of an order, judgment or decree such as is mentioned in sub-paragraph (*i*) or (*j*) of that paragraph and an appeal has been made to the appropriate court against that order, judgment or decree, the registrar shall not refuse the application before the determination of that appeal unless he is of the opinion that the proceedings on that appeal have been unduly protracted by the appellant or are unlikely to be successful.

F16 1989 NI 14
F17 1986 NI 4
F18 1989 NI 19
F19 Art. 13(1)(l) inserted (21.4.2015) by The Insolvency (Northern Ireland) Order 2005 (Consequential Amendments) Order (Northern Ireland) 2015 (S.R. 2015/159), art. 1, **Sch. para. 5(2)**
F20 Art. 13(1)(m)(n) inserted (7.3.2016) by The Debt Relief Act (Northern Ireland) 2010 (Consequential Amendments) Order (Northern Ireland) 2016 (S.R. 2016/108), art. 1, **Sch. para. 7(2)**

[[F21]**Appeals in connection with issue of practising certificates**

14.—(1) A solicitor who has been refused a practising certificate under Article 13(3) may, within one month from the date on which notice of such refusal is served on him, apply to the Council to review the refusal; and on such application the Council may in their discretion direct the registrar—

(a) to grant or refuse the application;

(b) to issue—

(i) the certificate; or

(ii) the certificate and any subsequent practising certificate issued to the solicitor,

subject to such terms and conditions as the Council think fit.

(2) A solicitor aggrieved by a decision of the Council under paragraph (1) may, within one month from the date on which notice of that decision is served on him, appeal to the Lord Chief Justice who may—

(a) affirm the decision; or

(b) give to the registrar any direction which could have been given to him by the Council under paragraph (1).

(3) For the purposes of this Article a solicitor who has not received a practising certificate within three weeks after he applied to the registrar for it or, as the case may be, applied to the Council to review the refusal of a practising certificate, shall be deemed to have received notice at the expiration of that period that the certificate has been refused.

F21 1989 NI 14

Imposition of terms and conditions on current and subsequent practising certificates

14A.—(1) Subject to the provisions of this Article, the Council may in the case of any solicitor direct that—

(a) his practising certificate for the time being in force (his "current certificate"); or

(b) his current certificate and any subsequent practising certificate issued by the registrar to the solicitor,

shall have effect subject to such terms and conditions as the Council think fit.

(2) The power to give a direction under this Article in the case of any solicitor shall be exercisable by the Society at any time during the period for which his current certificate is in force if—

(a) in the event of an application for a practising certificate being made by him at that time, Article 13 would have effect in relation to him by reason of any such circumstances as are mentioned in subparagraph (e), (g), (h), (hh), (i) or (j) of paragraph (1) of that Article;

(b) he has entered into a composition with his creditors or a deed of arrangement for their benefit; or

(c) Schedule 1 applies in relation to him, by virtue of any provision of this Order.

(3) Subject to paragraph (4), the terms and conditions specified in a direction under this Article shall have effect as from the time when the solicitor concerned is notified of the Council's decision to give the direction.

(4) The Council may, if they think fit, provide in a direction under this Article that the terms and conditions specified in the direction shall not have effect pending the hearing and determination of any appeal under paragraph (6).

(5) Where there is pending against any judgment, order or decree an appeal by a solicitor which, if successful, would result in paragraph (2) no longer being applicable to him, the Council shall not give a direction under this Article in his case so long as the appeal is pending, unless in the opinion of the Council the proceedings on that appeal have been unduly protracted by him or are unlikely to be successful.

(6) A solicitor aggrieved by a decision of the Council under paragraph (1) may, within one month from the date on which notice of that decision is served on him, appeal to the Lord Chief Justice who may—

(a) affirm or revoke the decision;

(b) give any direction which could have been given by the Council under paragraph (1).

F21 1989 NI 14

Suspension of practising certificate

15.—(1) The making of an order suspending a solicitor from practice and the adjudication of bankruptcy of a solicitor **[**[F22]or his becoming the subject of a bankruptcy restrictions order**][**[F23]or the making of a debt relief order in respect of him or his becoming the subject of a debt relief restrictions order,**]** shall operate to suspend any practising certificate of that solicitor for the time being in force.

(2) Where, under any provision of this Order, Schedule 1 applies in relation to a solicitor, the Council may in their discretion suspend any practising certificate of that solicitor for the time being in force.

(3) For the purposes of this Order a practising certificate shall be deemed not to be in force at any time while it is suspended.

(4) A solicitor aggrieved by a decision of the Council under paragraph (2) suspending his practising certificate may, within one month from the date on which notice of that decision is served on him, appeal to the Lord Chief Justice who may—

(a) affirm or revoke the decision;

(b) direct that—

(i) the certificate; or

(ii) the certificate and any subsequent certificate issued by the registrar to the solicitor,

shall have effect subject to such terms and conditions as the Lord Chief Justice thinks fit.

(5) The registrar shall be entitled without payment of any fee to inspect the file of proceedings in bankruptcy relating to any solicitor against whom proceedings in bankruptcy have been taken and to be supplied with office copies of those proceedings on payment of the usual charges for the copies.

F21 1989 NI 14
F22 Words in art. 15(1) inserted (21.4.2015) by The Insolvency (Northern Ireland) Order 2005 (Consequential Amendments) Order (Northern Ireland) 2015 (S.R. 2015/159), art. 1, **Sch. para. 5(3)**
F23 Words in art. 15(1) inserted (7.3.2016) by The Debt Relief Act (Northern Ireland) 2010 (Consequential Amendments) Order (Northern Ireland) 2016 (S.R. 2016/108), art. 1, **Sch. para. 7(3)**

Duration of suspension of practising certificate

16.—(1) Subject to the provisions of this Article, the suspension of a practising certificate by virtue of Article 15 shall continue until the certificate expires.

(2) The suspension of a practising certificate by virtue of Article 15(1) by reason of an adjudication in bankruptcy shall terminate if—

(a) the adjudication is annulled; and

(b) an office copy of the order annulling the adjudication has been served on the Society.

[
[F24](2A) The suspension of a practising certificate by virtue of Article 15(1) by reason of the making of a debt relief order shall terminate —

(a) where the debt relief order is revoked on the grounds mentioned in Article 208L(2)(c) or (d) of the Insolvency (Northern Ireland) Order 1989 and a copy of the notice provided to the debtor under Rule 5A.20 of the Insolvency Rules (Northern Ireland) 1991 is served on

the Society or the debt relief order is revoked by the High Court under Article 208M(6)(e) of that Order and a copy of the Court order is served on the Society;

(b) the debt relief order is revoked and a period of one year has elapsed beginning with the effective date of that order.**]**

(3) Where a solicitor's practising certificate is suspended—

(a) by virtue of Article 15(1) by reason of his adjudication in bankruptcy **[**[F25]or his becoming the subject of a bankruptcy restrictions order**][**[F26]or the making of a debt relief restrictions order**]**;

(b) by virtue of Article 15(1) by reason of his suspension from practice and the period of his suspension from practice expires or is terminated under Article 51(1)(f) before the date of expiry of the certificate; or

(c) under Article 15(2),

the solicitor may at any time before the certificate expires (and, in the case of adjudication in bankruptcy **[**[F25]or his becoming the subject of a bankruptcy restrictions order**][**[F26]or the making of a debt relief restrictions order**]**, while the adjudication remains unannulled) apply to the Council to terminate the suspension.

(4) On an application under paragraph (3) the Council may in their discretion—

(a) refuse the application;

(b) by order terminate the suspension; or

(c) by order terminate the suspension and direct that—

(i) the practising certificate of the solicitor; or

(ii) the practising certificate of the solicitor and any subsequent practising certificate issued by the registrar to the solicitor,

shall have effect subject to such terms and conditions as the Council think fit.

(5) Subject to paragraph (6), the terms and conditions specified in a direction under paragraph (4)(c) shall have effect as from the time when the solicitor concerned is notified of the Council's decision to give the direction.

(6) The Council may, if they think fit, provide in a direction under paragraph (4)(c) that the terms and conditions specified in the direction shall not have effect pending the hearing and determination of any appeal under paragraph (7).

(7) A solicitor aggrieved by a decision of the Council under paragraph (4) may, within one month from the date on which notice of that decision is served on him, appeal to the Lord Chief Justice who may—

(a) affirm the decision; or

(b) make any order and give any direction which could have been made or given by the Council under paragraph (4).

(8) For the purposes of paragraph (7) a solicitor who has not received notification of the termination of the suspension of his practising certificate within three weeks after he made application for such termination shall be deemed to have received notice at the expiration of that period that the application has been refused.

(9) Where a solicitor's practising certificate is suspended by virtue of Article 15(1) by reason of his suspension from practice and the suspension of his practising certificate is terminated under paragraph (4) or (7) without any direction mentioned in paragraph (4)(c) being made, then, notwithstanding Article 13(1)(d), that Article shall not thereafter have effect in relation to that solicitor by virtue of that suspension from practice.

F21 1989 NI 14
F24 Art. 16(2A) inserted (7.3.2016) by The Debt Relief Act (Northern Ireland) 2010 (Consequential Amendments) Order (Northern Ireland) 2016 (S.R. 2016/108), art. 1, **Sch. para. 7(4)(a)**
F25 Words in art. 16(3) inserted (21.4.2015) by The Insolvency (Northern Ireland) Order 2005 (Consequential Amendments) Order (Northern Ireland) 2015 (S.R. 2015/159), art. 1, **Sch. para. 5(4)(a)**
F26 Words in art. 16(3) inserted (7.3.2016) by The Debt Relief Act (Northern Ireland) 2010 (Consequential Amendments) Order (Northern Ireland) 2016 (S.R. 2016/108), art. 1, **Sch. para. 7(4)(b)**

Publication of suspension or termination of suspension of practising certificate

17.—(1) Where a solicitor's practising certificate is suspended the Society shall forthwith cause—

(a) notice of that suspension to be published in the Belfast Gazette;

(b) a note thereof to be entered against the name of the solicitor in the roll.

(2) Where the suspension of a practising certificate is terminated the Society shall forthwith—

(a) cause a note of that termination to be entered against the name of the solicitor in the roll; and

(b) if so requested in writing by the solicitor, cause notice thereof to be published in the Belfast Gazette.

F21 1989 NI 14

Application for issue of practising certificate freed from terms and conditions

17A.—(1) Where, in accordance with a direction given under Article 14, 14A, 15, 16 or this Article, a subsequent practising certificate is issued to a solicitor subject to any terms and conditions, the solicitor may, within one month from the date on which the certificate is issued, apply to the Council for the issue of the certificate free from those terms and conditions; and on such an application the Council may in their discretion—

(a) grant or refuse the application;

(b) direct the registrar to issue—

(i) the certificate; or

(ii) the certificate and any subsequent practising certificate issued to the solicitor,

subject to such other terms and conditions as the Council may think fit.

(2) A solicitor aggrieved by a decision of the Council under paragraph (1) may, within one month from the date on which notice of that decision is served on him, appeal to the Lord Chief Justice who may—

(a) affirm the decision; or

(b) give to the registrar any direction which could have been given to him by the Council under paragraph (1).

(3) For the purposes of this Article a solicitor who has not received a practising certificate free from terms and conditions within three weeks after he applied to the Council for it shall be deemed to have received notice at the expiration of that period that the application has been refused.

F21 1989 NI 14

Terms and conditions in practising certificates

17B.—(1) Any power of the Council or the Lord Chief Justice under Article 14, 14A, 15, 16 or 17A to direct that a practising certificate shall have effect or shall be issued subject to terms and conditions, includes (without prejudice to the generality of that power) power to direct that the certificate shall have effect or shall be issued subject to terms and conditions—

(a) requiring the solicitor to take any specified steps that will in the opinion of the Council or the Lord Chief Justice (as the case may be) be conducive to his carrying on an efficient practice as a solicitor; and

(b) notwithstanding that they may result in expenditure being incurred by the solicitor.

(2) If a solicitor contravenes any of the terms and conditions subject to which a practising certificate has effect or is issued in accordance with a direction under Article 14, 14A, 15, 16 or 17A any person may make a complaint in respect of the contravention to the Tribunal.**]**

F21 1989 NI 14

Evidence of holding or not holding practising certificate

18.—(1) Any list purporting to be published by the authority of the Society and to contain the names of solicitors who have obtained practising certificates for the year referred to in the list shall, unless the contrary is proved, be evidence that the persons named in that list are solicitors holding those certificates.

(2) The absence from such list of the name of any person shall, unless the contrary is proved, be evidence that that person is not qualified to practise as a solicitor during the year referred to in the list, and, as respects any such person, an extract from the roll, certified as correct by the registrar, shall be evidence of the facts appearing in the extract.

Provisions with respect to unqualified persons acting as solicitors

Unqualified person not to act as solicitor

19.—[F27](1) Subject to Article 81(*b*), an unqualified person shall not act as a solicitor, or as such sue out any writ or process, or commence, carry on or defend any action, suit or other proceeding, in the name of any other person or in his own name, in any court of civil or criminal jurisdiction, or act as a solicitor in any cause or matter, civil or criminal, to be heard or determined before any court or tribunal.

(2) If any person contravenes paragraph (1) he shall—

(a) be guilty of contempt of the court in which the action, suit, cause, matter or proceeding in relation to which he so acts is brought or taken, and may be punished accordingly;

(b) be incapable of maintaining any action for any costs in respect of anything done by him in the course of so acting; and

(c) in addition to any other penalty, liability or disability to which he may be subject, be guilty of an offence and be liable on summary conviction to a fine not exceeding**[**[F28] level 4 on the standard scale**]**.

F27 mod. (EEC lawyers),by SI 1978/1910
F28 1984 NI 3

Practising without certificate

20.—(1) Where—

(a) complaint is made to the Lord Chief Justice that a solicitor who has not in force a practising certificate entitling him to practise as a solicitor has wilfully and knowingly appeared, acted, or practised in any respect as a solicitor in any action, suit, matter or transaction; and

(b) the matter of the complaint is proved to the satisfaction of the Lord Chief Justice;

the Lord Chief Justice may impose upon the solicitor a fine not exceeding £100 and, in addition to or instead of imposing a fine, may suspend the solicitor from practising as such during such period as to the Lord Chief Justice may seem fit, or may order the name of the solicitor to be struck off the roll.

(2) Any penalties which may be imposed under paragraph (1) shall be in addition to and not in substitution for any penalty, liability or disability incurred under any other provision of this Order or any other enactment by a solicitor acting or practising as such while he is an unqualified person.

Solicitor practising while bankrupt

21. If a solicitor who has been adjudicated bankrupt continues to practise as a solicitor—

(a) while undischarged from bankruptcy; and

(b) without having had the suspension of his practising certificate terminated under**[**[F29] 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)**]**, without complying with those terms or conditions, he shall be guilty of an offence and shall be liable, on conviction on indictment, to imprisonment for a term not exceeding two years.

F29 1989 NI 14

[[F30]Solicitor practising whilst subject to a bankruptcy restrictions order [[F31]or subject to a debt relief restrictions order]

21A. If a solicitor continues to practise as a solicitor while subject to a bankruptcy restrictions order **[**[F32]or a debt relief restrictions order**]** and without having had the suspension of his practising certificate terminated under 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), without complying with those terms or conditions,

he shall be guilty of an offence and shall be liable, on conviction on indictment, to imprisonment for a term not exceeding two years [F33]....**]**

F30 Art. 21A inserted (21.4.2015) by The Insolvency (Northern Ireland) Order 2005 (Consequential Amendments) Order (Northern Ireland) 2015 (S.R. 2015/159), art. 1, **Sch. para. 5(5)**

F31 Words in art. 21A inserted (7.3.2016) by The Debt Relief Act (Northern Ireland) 2010 (Consequential Amendments) Order (Northern Ireland) 2016 (S.R. 2016/108), art. 1, **Sch. para. 7(5)**

F32 Words in art. 21A inserted (7.3.2016) by The Debt Relief Act (Northern Ireland) 2010 (Consequential Amendments) Order (Northern Ireland) 2016 (S.R. 2016/108), art. 1, **Sch. para. 7(6)(a)**

F33 Words in art. 21A omitted (7.3.2016) by virtue of The Debt Relief Act (Northern Ireland) 2010 (Consequential Amendments) Order (Northern Ireland) 2016 (S.R. 2016/108), art. 1, **Sch. para. 7(6)(b)**

[F34Solicitor practising within the moratorium period which follows the making of a debt relief order

21B. If a solicitor continues to practise as a solicitor while a moratorium period under a debt relief order applies to him and without having had the suspension of his practising certificate terminated under 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), without complying with those terms or conditions,

he shall be guilty of an offence and shall be liable, on conviction on indictment, to imprisonment for a term not exceeding two years**]**

F34 Art. 21B inserted (7.3.2016) by The Debt Relief Act (Northern Ireland) 2010 (Consequential Amendments) Order (Northern Ireland) 2016 (S.R. 2016/108), art. 1, **Sch. para. 7(7)**

Penalty for pretending to be a solicitor

22. F35 Any unqualified person who wilfully pretends to be, or takes or uses any name, title, addition or description implying that he is, qualified or recognised by law as qualified to act as a solicitor shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding**[**F36 level 4 on the standard scale**]**.

F35 1977 c.37
F36 1984 NI 3

Unqualified person not to prepare certain instruments, etc.

23.—F37(1) Subject to**[**F38 paragraphs (2) and (2A)**]**, any unqualified person who either directly or indirectly—

(a) draws or prepares any instrument of transfer or charge or any other document for the purposes of the Land Registration Act (Northern Ireland) 1970 or any enactment repealed or proposed to be repealed by that Act;

(b) draws or prepares any instrument relating to real or personal estate, or any legal proceeding; or

(c) lodges any instrument or other document or causes it to be lodged for registration in the Land Registry or the Registry of Deeds, or makes any application (other than an application to search in, or to receive copies of or extracts from, a register) to the Registrar of Titles,

shall, unless he proves that the act was not done for or in expectation of any fee, gain or reward, be guilty of an offence and shall be liable on summary conviction to a fine not exceeding**[**F39 level 4 on the standard scale**]**.

(2) Paragraph (1) shall not apply to—

(a) a barrister-at-law or duly certificated notary public;

(b) any public or local authority officer drawing or preparing instruments or applications in the course of his duty;

(c) any person employed merely to engross any instrument, application or proceeding;

F40(d) a patent agent within the meaning of the Patents Act 1977 preparing for use in proceedings under that Act or the Patents Act 1949 before the comptroller (as defined in the former Act) or on appeal under either of those Acts to the Patents Court from the comptroller, any document other than a deed;]

(e) an agent on behalf of**[**[F38] any person**]**, or an employee of such agent, who draws or prepares—
Head (i) rep. by 1989 NI 14

(ii) a notice to quit or deliver up possession of property;

(iii) an advertisement relating to the sale or letting of property; or

(iv) any notice served under or for the purposes of any enactment for the time being in force with respect to the extension or enlargement of leasehold interests in land.

[[F38](2A) Paragraph (1) also shall not apply to any act done by a person at the direction and under the supervision of another person if—

(a) that other person was at the time his employer, a partner of his employer or a fellow employee; and

(b) the act could have been done by that other person for or in expectation of any fee, gain or reward without committing an offence under this Article.**]**

(3) For the purposes of paragraphs (1) and (2), the expression "instrument"**[**[F38] includes a contract for the sale or other disposal of land within the meaning of paragraphs (a) to (f) of section 45(3) of the Interpretation Act (Northern Ireland) 1954, other than a contract to grant only—

(i) a tenancy not exceeding 3 years; or

(ii) a right to use land for cropping or grazing;

but**]** does not include—

(a) a will or other testamentary instrument;

(b) an agreement under hand only**[**[F38] other than a contract that is included under the preceding provisions of this pargaraph**]**;

(c) a letter or power of attorney; or

(d) a transfer of stock containing no trust or limitation thereof.

[[F38](4) The Department of Economic Development may institute proceedings for an offence under this Article.**]**

F37 1977 c.37 s.85(2)(3) Mod. (EEC lawyers) by SI 1978/1910
F38 1989 NI 14
F39 1984 NI 3
F40 1977 s.37

Preparation of papers for probate, etc.

24.—(1) **[**[F41]Subject to paragraph (1A), any unqualified person, not being a barrister-at-law or a duly certificated notary public, who, directly or indirectly, draws or prepares any papers on which to found or oppose—

(a) a grant of probate, or

(b) a grant of letters of administration,**]**

shall, unless he proves that the act was not done for or in expectation of any fee, gain or reward, be guilty of an offence and shall be liable on summary conviction to a fine not exceeding**[**[F42] level 4 on the standard scale**]**.

[[F41](1A) Paragraph (1) shall not apply to any act done by a person at the direction and under the supervision of another person if—

(a) that other person was at the time his employer, a partner of his employer or a fellow employee; and

(b) the act could have been done by that other person for or in expectation of any fee, gain or reward without committing an offence under this Article.**]**

(2) Any penalty which may be imposed under paragraph (1) shall be in addition to and not in substitution for any penalty, liability or disability to which the unqualified person may be subject under any other provision of this Order or any other enactment.

F41 1989 NI 14
F42 1984 NI 3

Costs not recoverable where unqualified person acts as solicitor

25.—(1) [F43] Costs in respect of anything done by a person who acts or purports to act as a solicitor while he is**[**[F44] an unqualified person**]** shall not be recoverable in any action, suit or matter by that person or any person claiming through or under him.

(2) Nothing in paragraph (1) shall affect any indemnity which a client of such a person as is referred to in that paragraph has under an order of any court in respect of costs awarded under the order, to the extent (if any) to which the client may have paid such costs to that person at the date of the order.

(3) Nothing in paragraph (1) or in Article 19(2)(*b*) shall prevent the recovery of money paid or to be paid by a solicitor on behalf of a client in respect of anything done by the solicitor while acting for the client without holding a practising certificate in force, where the money would have been recoverable if the solicitor had held such a certificate in force when so acting.

F43 SI 1978/1910
F44 1989 NI 14

PART III

PROFESSIONAL PRACTICE, CONDUCT AND DISCIPLINE

General power to make regulations

General power to make regulations as to professional practice, conduct and discipline of solicitors

26.—(1) Without prejudice to any other provision of this Part, the Society may make regulations as to the professional practice, conduct and discipline of solicitors.

(2) Without prejudice to the generality of paragraph (1), regulations may provide for restricting a solicitor from—

(a) engaging in practice on his own account whether in partnership or otherwise for such period,[F45]. . . , as may be specified in the regulations;

(b) acting in any transaction for more than one party.

(3) If a solicitor contravenes any regulation made under this Article, any person may make a complaint in respect of the contravention to the**[**[F45] Tribunal**]**.

F45 1989 NI 14

[F46 Incorporated practices

F46 1989 NI 14

Incorporated practices

26A.—(1) The Society may make regulations—

(a) making provision as to the management and control by solicitors of bodies corporate carrying on businesses consisting of the provision of professional services such as are provided by individuals practising as solicitors;

(b) prescribing the circumstances in which such bodies may be recognised by the Council as being suitable bodies to undertake the provision of any such services;

(c) prescribing the conditions which (subject to any exceptions provided by the regulations) must at all times be satisfied by bodies corporate so recognised if they are to remain so recognised; and

(d) regulating the conduct of the affairs of such bodies.

(2) Regulations made by the Society may also make provision—

(a) for the manner and form in which applications for recognition under this Article are to be made, and for the payment of fees in connection with such applications;

(b) for regulating the names that may be used by recognised bodies;

(c) as to the period for which any recognition granted under this Article shall (subject to the provisions of this Part) remain in force;

(d) for the revocation of any such recognition on the grounds that it was granted as a result of any error or fraud;

(e) for the keeping by the registrar of a list containing the names and places of business of all bodies corporate which are for the time being recognised under this Article, and for the information contained in any such list to be available for inspection;

(f) for regulations made under any other provision of this Order to have effect in relation to recognised bodies with such additions, omissions or other modifications as appear to the Society to be necessary or expedient;

(g) for empowering the Council to take such steps as they consider necessary or expedient to ascertain whether or not any regulations applicable to recognised bodies by virtue of this Article are being complied with;

(h) for the manner of service on recognised bodies of documents authorised or required to be served on such bodies under this Part.

(3) Articles 19, 23(1) and 24(1) shall not apply to a recognised body.

(4) Article 23(1) or, as the case may be, Article 24(1) shall not apply to any act done by an officer or employee of a recognised body if—

(a) it was done by him at the direction and under the supervision of another person who was at the time an officer or employee of the body; and

(b) it could have been done by that other person for or in expectation of any fee, gain or reward without committing an offence under Article 23 or, as the case may be, under Article 24.

(5) References in Articles 25, 27 and 28 to an unqualified person shall not include references to a recognised body.

(6) A certificate signed by an officer of the Society and stating that any body corporate is or is not, or was or was not at any time, a recognised body shall, unless the contrary is proved, be evidence of the facts stated in the certificate; and a certificate purporting to be so signed shall be taken to have been so signed unless the contrary is proved.

(7) Schedule 1A (which makes provision with respect to the application of provisions of this Order to recognised bodies and with respect to other matters relating to such bodies) shall have effect.

(8) Subject to the provisions of Schedule 1A, the Department of Finance and Personnel may by order, made subject to negative resolution, provide for any enactment or instrument passed or made before the coming into operation of Article 10(1) of the Solicitors (Amendment) (Northern Ireland) Order 1989 and having effect in relation to solicitors to have effect in relation to recognised bodies with such additions, omissions or other modifications as appear to that Department to be necessary or expedient.

(9) In this Article "recognised body" means a body corporate for the time being recognised under this Article**[**[F47] and "officer", in relation to a limited liability partnership, means a member of the limited liability partnership**]** .

F47 SR 2004/307

Penalty for pretending to be a body recognised under Article 26A

26B.—(1) A body corporate shall not describe itself or hold itself out as a body corporate for the time being recognised under Article 26A unless it is so recognised.

(2) Any body corporate which contravenes paragraph (1) shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.**]**

Restrictions on conduct of practice

Acting as agent for unqualified person

27.—[F48](1) Where—

(a) a complaint is made to the Lord Chief Justice that a solicitor has wilfully and knowingly—

(i) acted as agent in any action, suit, matter or transaction for any unqualified person; or

(ii) permitted his name to be in any way made use of in any action, suit, matter or transaction upon the account, or for the profit, of any unqualified person; or

(iii) sent any process to an unqualified person; or

(iv) done any other act so as to enable an unqualified person to appear, act or practise in any respect, as a solicitor in any action, suit, matter or transaction; and

(b) the matter of the complaint is proved to the satisfaction of the Lord Chief Justice;

then the Lord Chief Justice may impose upon the solicitor a fine not exceeding**[**[F49] £1,000**]** and, in addition to or instead of imposing a fine, may suspend the solicitor from practising as such during such time as to the Lord Chief Justice may seem fit, or may order the name of the solicitor to be struck off the roll.

(2) Upon complaint and proof being made under paragraph (1) the Lord Chief Justice may commit an unqualified person so appearing, acting or practising as aforesaid to prison, for any term not exceeding one year.

(3) This Article shall not apply where the solicitor is acting by virtue of an appointment made pursuant to Article 32.

F48 SI 1978/1910
F49 1989 NI 14

Sharing of profits or fees with unqualified persons

28.—(1) Subject to paragraph (2), any solicitor who**[**[F50] knowingly**]** shares any of his professional profits or fees with an unqualified person shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding**[**[F51] level 4 on the standard scale**]**.

(2) Paragraph (1) shall not apply in any of the following cases, namely—

(a) where a person who has ceased to practise as a solicitor receives from any solicitor a share of the profits or fees of the latter as a price or value of the practice which he has transferred to the latter, or receives a share of such profits as a voluntary or other allowance out of the profits or fees of a practice in which he has been a partner; or

(b) where the widow, children or personal representatives of any deceased solicitor receive from any solicitor who has purchased or succeeded to the practice of the deceased solicitor, or from any firm of solicitors of which the deceased solicitor was a partner at his death, or from any solicitor acting by virtue of an appointment made pursuant to Article 32, any share of the profits of the practice of the deceased solicitor or such firm; or

(c) where professional profits or fees are received by a solicitor employed by a government department (including a department of the government of the United Kingdom), local authority, bank or trade union or statutory undertakers in respect of work done in the course of his duty, if the solicitor is in the whole time or exclusive employment of the government department, local authority, bank or trade union or statutory undertakers and does not engage in private practice as a solicitor; or

(d) where an agreement for sharing fees is made between a solicitor in Northern Ireland and a person carrying on the practice or profession of the law in some other part of the United Kingdom or the Commonwealth or in the Republic of Ireland or in a foreign country; or

(e) where, for the purposes of making legal aid and advice more readily available to persons in need, the Council have directed in writing that paragraph (1) shall not apply in relation to a non-profit making organisation specified in the direction.

F50 1989 NI 14
F51 1984 NI 3

Employment by solicitor of persons whose names have been struck off the roll, etc.

29.—(1) A solicitor shall not, in connection with his practice as a solicitor, without the written consent of the Council, which may be given for such period and subject to such terms and conditions (if any) as the Council think fit, employ or remunerate any person who to his knowledge is disqualified from practising as a solicitor by reason of the fact that his name has been struck off the roll, or that he is suspended from practising as a solicitor or that he has been refused a practising certificate or that his practising certificate is suspended while he is an undischarged bankrupt **[**[F52]or the subject of a bankruptcy restrictions order**][**[F53]or a moratorium period under a debt relief order applies to him or he is the subject of a debt relief restrictions order**]**.

(2) A solicitor aggrieved by a decision of the Council under paragraph (1) refusing to grant any such consent as aforesaid, or as to any terms and conditions attached by the Council to the consent

may, within one month from the date on which notice of that decision is served on him, appeal to the Lord Chief Justice who may affirm the decision or may direct the Council to grant the consent for such period and subject to such terms and conditions (if any) as the Lord Chief Justice thinks fit.

(3) For the purposes of paragraph (2) a solicitor who has not received the Council's consent within three weeks after he applied for it, shall be deemed to have received notice at the expiration of that period that the consent has been refused.

(4) If a solicitor**[**[F54] knowingly contravenes this Article or**]** any of the terms and conditions subject to which any consent has been given under this Article, any person may make a complaint in respect of the contravention to the**[**[F54] Tribunal**]**.

F52 Words in art. 29(1) inserted (21.4.2015) by The Insolvency (Northern Ireland) Order 2005 (Consequential Amendments) Order (Northern Ireland) 2015 (S.R. 2015/159), art. 1, **Sch. para. 5(6)**
F53 Words in art. 29(1) inserted (7.3.2016) by The Debt Relief Act (Northern Ireland) 2010 (Consequential Amendments) Order (Northern Ireland) 2016 (S.R. 2016/108), art. 1, **Sch. para. 7(8)**
F54 1989 NI 14

Failure to disclose fact of name having being struck off the roll, etc.

30. Any person who, while he is disqualified from practising as a solicitor by reason of the fact that his name has been struck off the roll or that he is suspended from practising as a solicitor or that he has been refused a practising certificate or that his practising certificate is suspended while he is an undischarged bankrupt **[**[F55]or is the subject of a bankruptcy restrictions order**][**[F56]or a moratorium period under a debt relief order applies to him or he is the subject of a debt relief restrictions order**]**, seeks or accepts employment by a solicitor in connection with that solicitor's practice, without previously informing that solicitor that he is so disqualified as aforesaid, shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding**[**[F57] level 3 on the standard scale**]**.

F55 Words in art. 30 inserted (21.4.2015) by The Insolvency (Northern Ireland) Order 2005 (Consequential Amendments) Order (Northern Ireland) 2015 (S.R. 2015/159), art. 1, **Sch. para. 5(7)**
F56 Words in art. 30 inserted (7.3.2016) by The Debt Relief Act (Northern Ireland) 2010 (Consequential Amendments) Order (Northern Ireland) 2016 (S.R. 2016/108), art. 1, **Sch. para. 7(9)**
F57 1984 NI 3

Provisions as to clerk or apprentice found guilty of offences or party to misconduct of solicitor

31.—(1) Where—

(a) a person has been convicted of any offence under the Theft Act (Northern Ireland) 1969 or has been convicted, in Northern Ireland or elsewhere, of any offence involving dishonesty; or

[[F58](b) it appears to the Society, in the course or as a result of any proceedings before the Tribunal, that a person who is or was an employee of a solicitor, but is not himself a solicitor, has been a party to any act or default of such solicitor which involved conduct on that person's part of such a nature that in the opinion of the Society it would be undesirable for him to be employed by a solicitor in connection with his practice; or

(c) a person has had his name struck off a roll of solicitors in Great Britain or the Republic of Ireland or has been suspended from practice in Great Britain or the Republic of Ireland and his name remains so struck off or he remains so suspended,**]**

an application may be made by or on behalf of the Society to the[F58 Tribunal] that an order be made directing that, as from a date to be specified therein, no solicitor shall, in connection with his practice as a solicitor, take or retain the said person into or in his employment or remunerate the said person without the written consent of the Society, which may be given for such period and subject to such terms and conditions (if any) as the Society think fit.

(2) Such application shall be made to and heard by the[F58 Tribunal] in accordance with rules[F58 made under Article 43(8)] and, on the hearing of the application, the[F58 Tribunal] shall have power to make such an order as is mentioned in paragraph (1) and an order as to the payment of costs by any party.

(3) The provisions of Articles 48 to 54 shall have effect for the purposes of this Article, so however that, in the application of Article 52 for the purposes of this Article, references to an order directing that a solicitor is to be suspended from practice shall be construed as including references to an order made as mentioned in paragraph (1) with respect to any person.

(4) Any person who, while an order under this Article is in force in respect of him, seeks or accepts employment by or remuneration from a solicitor in connection with his practice as a solicitor without previously informing him of such order, shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding[F59 level 3 on the standard scale].

(5) If a solicitor[F58 knowingly contravenes any order under this Article or] any of the terms and conditions subject to which any consent has been given under this Article, any person may make a complaint in respect of the contravention to the[F58 Tribunal].
Para. (6) rep. by 1989 NI 14

F58 1989 NI 14
F59 1984 NI 3

Winding-up practice of a deceased solicitor

32. On the death of a solicitor his personal representatives may, notwithstanding anything to the contrary in any enactment, appoint a duly qualified solicitor to carry on the practice of the deceased solicitor for the purpose of the beneficial winding-up thereof for such reasonable period and on such terms[F60, including terms as to remuneration, as may be fixed or approved by the Society].

F60 1989 NI 14

Accounts, etc.

Regulations as to keeping of accounts by solicitors

33.—(1) The Society shall as soon as practicable make regulations—

(a) as to the opening and keeping by solicitors of accounts at banks[F61 or with building societies]

(i) for clients' money;

[F61(ii) for money comprised in controlled trusts;]

(b) as to the keeping by solicitors of accounts containing particulars and information as to money received, held or paid by them—

(i) for or on account of their clients;

(ii) for or on account of any such trust as is mentioned in sub-paragraph (*a*);

(c) as to the investment in trustee[F62 investments] of the money of any such trust as is mentioned in sub-paragraph (*a*);

(d) empowering the Society to take such action and collect such evidence as may be necessary to enable them to ascertain whether or not the regulations are being complied with.

(2) If a solicitor contravenes any regulation made under this Article any person may make a complaint in respect of that contravention to the[F61 Tribunal].

(3) Regulations made under paragraph (1)(*a*) to (*c*) shall not apply to—

(a) a solicitor acting in the course of his employment as a public officer; or

(b) a solicitor who holds an office under any local authority or statutory undertakers and who does not engage in private practice as a solicitor;

and such regulations shall not apply to a solicitor who holds an office to which sub-paragraph (*b*) applies and who is engaged in private practice as a solicitor, except so far as regards money received, held or paid by him in the course of that private practice.

F61 1989 NI 14
F62 2001 c. 14 (NI)

Interest on clients' money

34.—(1) Regulations[F63 under Article 33] may make provision—

(a) for requiring a solicitor, in such cases as the regulations may prescribe, either—

(i) to keep on deposit in a separate account at a bank[F63 or with a building society] for the benefit of the client money received for or on account of a client; or

(ii) to make good to the client out of the solicitor's own money a sum equivalent to the interest which would have accrued if the money so received had been so kept on deposit;

(b) for defining the cases in which a solicitor may be required to act in accordance with the regulations by reference to the amount of any sum received or to the period for which it is or is likely to be retained or both; and

(c) for enabling a client (without prejudice to any other remedy) to require that any question arising under the regulations in relation to the client's money shall be referred to and determined by the Society.

(2) Except as provided by regulations, a solicitor shall not be liable by virtue of the relation between solicitor and client to account to any client for interest received by the solicitor on money deposited at a bank[F63 or with a building society], being money received or held for or on account of his clients generally.

(3) Nothing in this Article or in regulations made thereunder shall—

(a) affect any arrangement in writing, whenever made, between a solicitor and his client as to the application of the client's money or interest thereon; or

(b) apply to money received by a solicitor being money subject to a trust of which the solicitor is a trustee.

F63 1989 NI 14

Accountants' reports

35.—(1) Every solicitor shall once in each period of twelve months ending on 5th January, unless he satisfies the Council that owing to the circumstances of his case it is unnecessary so to do, deliver to the Society a report signed by an accountant (in this Article referred to as "an accountant's report") and containing such information as may be prescribed.

(2) An accountant's report shall be delivered to the Society not more than six months (or such other period as may be prescribed) after the end of the accounting period**[**[F64] for the purposes of**]** that report.

(3) Subject to regulations, the accounting period for the purposes of an accountant's report shall—

(a) begin at the expiry of the last preceding accounting period for which an accountant's report has been delivered;

(b) cover not less than twelve months; and

(c) where possible, consistently with sub-paragraphs (*a*) and (*b*), correspond to a period or consecutive periods for which the accounts of the solicitor or his firm are ordinarily made up.

(4) The Society shall make regulations to give effect to the provisions of this Article, and those regulations shall prescribe—

(a) what qualification shall be held by an accountant by whom an accountant's report may be given;

(b) the information to be contained in an accountant's report in accordance with paragraph (1);

(c) the nature and extent of the examination to be made by the accountant of the books and accounts of a solicitor or his firm and of any other relevant documents with a view to the signing of a report to be delivered by the solicitor under this Article;

(d) the form of the accountant's report; and

(e) the evidence (if any) which shall satisfy the Council that the delivery of an accountant's report is unnecessary and the cases in which such evidence is or is not required.

(5) Regulations may include provision—

(a) permitting in such special circumstances as may be defined in the regulations a different accounting period from that specified in paragraph (3); and

(b) regulating any matters of procedure or matters incidental, ancillary or supplemental to the provisions of this Article.

[[F64](5A) Without prejudice to the generality of paragraph (5)(b), regulations under this Article may make provision requiring a solicitor in advance of delivering an accountant's report to notify the Society of the period which is to be the accounting period for the purposes of that report in accordance with the preceding provisions of this Article.**]**

(6) If any solicitor fails to comply with the provisions of this Article or of any regulations made thereunder, a complaint in respect of that failure may be made by or on behalf of the Society to the**[**[F64] Tribunal**]**.

(7) A certificate under the hand of the secretary shall, until the contrary is proved, be evidence that a solicitor has or, as the case may be, has not delivered to the Society an accountant's report or supplied any evidence required under this Article or regulations.

(8) This Article shall not apply to any solicitor to whom regulations under Article 33(1)(*a*) to (*c*) do not apply by virtue of paragraph (3) of that Article; and in relation to a solicitor to whom those regulations apply by virtue of that paragraph only as regards money received, held or paid in the course of a private practice, this Article shall have effect only in relation to such money.

F64 1989 NI 14

Control of solicitors' property in certain cases

Powers of Council to deal with property in control of certain solicitors and other persons

36.—(1) Where the Council have reasonable cause to believe and have passed a resolution stating that they have reasonable cause to believe, that—

(a) a solicitor,[F65 or an employee of his], has been guilty of dishonesty in connection with his practice as a solicitor or in connection with any trust of which the solicitor is a trustee; or

[F65(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,]

the provisions of Schedule 1 shall apply in relation to that solicitor and the other persons mentioned in that Schedule.

(2) The provisions of Schedule 1 shall apply to every solicitor who practises[F65 as a sole solicitor] and—

(a) who is adjudicated bankrupt [F66or becomes the subject of a bankruptcy restrictions order][F67or has a debt relief order made in respect of him or becomes the subject of a debt relief restrictions order] or has entered into any voluntary or other arrangement or composition with his creditors; or

(b) who has had any order of committal or attachment, or judgment or decree of the kind mentioned in Article 13(1)(*j*) made against him which has not been discharged; or

[F68(c) in relation to whose property or affairs any power is being exercised under Part VIII of the Mental Health (Northern Ireland) Order 1986 or who is a patient for the time being detained in hospital for treatment or subject to guardianship under Part II of that Order; or]

(d) who by reason of bodily illness, infirmity or weakness not amounting to mental disorder has become permanently or for a period of more than[F65 one month] incapable of carrying on practice as a solicitor and has not in the opinion of the Council made adequate arrangements for professional assistance in or supervision of his practice during such incapacity.

(3) Where the Council have passed a resolution to the effect that they are satisfied that a solicitor[F65]. . .

[F65(a) has failed to comply with—

(i) any provision respecting the keeping of accounts contained in regulations made under Article 33 or with any requirements made in pursuance of any such regulations for the production of books of account or other documents; or

(ii) the provisions of Article 35 or of any regulations made thereunder; and]

(b) has been informed that such failure will have the consequence that the provisions of Schedule 1 shall apply in relation to him and the other persons mentioned in that Schedule,

the provisions of Schedule 1 shall apply in relation to that solicitor or[F65]. . . and the other persons mentioned in that Schedule.

[[F65](4) Where, at any time, the Council are satisfied that the circumstances mentioned in Article 13(1)(g) or (h) have effect in relation to any solicitor, the Council may direct that the provisions of Schedule 1 shall apply in relation to that solicitor and the other persons mentioned in that Schedule.

(5) Where the Tribunal have made a recommendation to the Council under Article 51C in respect of any solicitor, the Council may direct that the provisions of Schedule 1 shall apply in relation to that solicitor and the other persons mentioned in that Schedule.**]**

F65 1989 NI 14
F66 Words in art. 36(2)(a) inserted (21.4.2015) by The Insolvency (Northern Ireland) Order 2005 (Consequential Amendments) Order (Northern Ireland) 2015 (S.R. 2015/159), art. 1, **Sch. para. 5(8)**
F67 Words in art. 36(2)(a) inserted (7.3.2016) by The Debt Relief Act (Northern Ireland) 2010 (Consequential Amendments) Order (Northern Ireland) 2016 (S.R. 2016/108), art. 1, **Sch. para. 7(10)**
F68 1986 NI 4

Power of Council to deal with property of solicitors removed from or struck off the roll

37.—(1) Where the name of a solicitor is removed from or struck off the roll or a solicitor is suspended from practice, that solicitor shall within three weeks from the material date satisfy the Council that he has made suitable arrangements for making available to his clients or to some other solicitor or solicitors instructed by his clients or with the approval of the Council instructed by himself—

(a) all deeds, wills, documents constituting or evidencing title to any property, papers, books of account, records, vouchers and other documents in his or his firm's possession or control, or relating to any**[**[F69] controlled trust; and**]**

(b) all sums of money due from him or his firm to, or held by him or his firm on behalf of, his clients or subject to any such trust as aforesaid,

and if he fails so to satisfy the Council, Schedule 1 shall apply in relation to him and the other persons mentioned in that Schedule.

(2) In this Article, the expression "the material date" means whichever is the latest of the following dates, that is to say—

(a) the date when the order[F69]. . . . . .[F70], by or in pursuance of which the solicitor's name is removed from or struck off the roll, or the solicitor is suspended from practice, is to take effect;

(b) the last date on which an appeal against that order may be lodged;

(c) the date on which any such appeal is dismissed or abandoned.

F69 1989 NI 14
F70 1978 c.23

Solicitors guilty of undue delay in certain matters

38. Where—

(a) a complaint is made to the Council that there has been undue delay on the part of a solicitor in connection with any matter in which he or his firm has been instructed on behalf of a client[F71]. . .

or any matter which relates to the administration of**[**[F71] a controlled trust or in complying with an order of the Tribunal under Article 51(1)(j), (k) or (l) or (3) or Article 51A; and**]**

(b) the Council have by notice invited the solicitor to give an explanation in respect of that matter; and

(c) the solicitor has, within a period of not less than fourteen days specified in the said notice or such longer period as the Council may determine, failed to give an explanation in respect of that matter which the Council regard as sufficient and satisfactory; and

(d) the solicitor has been notified in writing by the Society that he has so failed;

the provisions of Schedule 1 shall apply in relation to that solicitor and the other persons mentioned in that Schedule, but as regards the documents specified in paragraph 2, and the sums of money specified in paragraph 10, of Part I of that Schedule, only in so far as they relate to the matter in the complaint.

F71 1989 NI 14

Control of deceased solicitor's practice in certain circumstances

39.—(1) Where—

(a) the Council have reasonable cause to believe and have passed a resolution stating that they have reasonable cause to believe that—

(i) a solicitor who has died, or his clerk, apprentice or servant, has been guilty of dishonesty or undue delay in connection with his practice as a solicitor or in connection with any trust of which the solicitor was a trustee; or

(ii) the personal representatives of a deceased solicitor who immediately before his death was practising as a**[**[F72] sole solicitor**]**, have been guilty of dishonesty or undue delay in administering the affairs of that solicitor's practice or in connection with any trust of which that solicitor was a trustee; or

(b) a solicitor dies and immediately before his death the provisions of Schedule 1 applied to him;

the provisions of Schedule 1 shall with necessary modifications apply or, in the case of a solicitor referred to in sub-paragraph (*b*), continue to apply, to the personal representatives of that solicitor as they apply in relation to a solicitor in respect of whom the Council have passed a resolution under Article 36(1)(*a*).

[[F72](1A) Where a solicitor dies and—

(a) immediately before his death—

(i) he was practising as a sole solicitor; and

(ii) the provisions of Schedule 1 did not apply to him; and

(b) no appointment is made under Article 32 within three months from the date of his death,

the provisions of Schedule 1 shall, if the Council so resolve, apply with the necessary modifications to the personal representatives of that solicitor as they apply in relation to a solicitor in respect of whom the Council have passed a resolution under Article 36(1)(a).**]**

(2) Where no grant of representation has been issued in the estate of any solicitor to whom paragraph (1)(*a*)(i) or (*b*) applies the High Court shall, notwithstanding any enactment or rule of law to the contrary, have power to grant letters of administration (with or without will annexed) to the Society and, where such a grant is issued to them the Society may act accordingly as administrator

and shall have the same rights and be subject to the same liabilities and be accountable in like manner as if the Society were the personal representatives of the deceased.

(3) On a grant being made to the Society under paragraph (2) in respect of the estate of a deceased solicitor a person shall not, without a grant being made to him, be or become entitled to administer any estate of which that deceased solicitor was an executor.

F72 1989 NI 14

On death of solicitor practising on his own account Society may deal with banking accounts of practice

40.—(1) At any time after the death of a solicitor who immediately before his death was practising as a sole solicitor[F73]. . . the Council may, if they think fit, by notice inform the personal representatives of such solicitor and any bank**[**[F73] or building society**]** with whom**[**[F73] an**]** account in the name of the solicitor or his firm (being an account in the title of which the word "client" is required by regulations made under Article 33, to appear) is kept, that the provisions of this Article shall apply to such[F73]. . . account and on the date of the service of such notices (or if the notices are served on different dates, on the date of the service of the last notice) the right to operate on or otherwise deal with such[F73]. . . account shall, notwithstanding any enactment or rule of law to the contrary, vest in the Society to the exclusion of any personal representatives of such solicitor and shall be exercisable as from such date as aforesaid.

(2) For the purpose of this Article a certificate signed by the secretary and certifying that**[**[F73] an**]** account is an account in the title of which the word "client" is required by such regulations as aforesaid to appear shall be evidence of the matter certified.

F73 1989 NI 14

PROSPECTIVE

[[F74]**Duty to advise client as to representation in court**

40A.—(1) Paragraph (2) applies where—

(a) it appears to a solicitor that a client requires, or is likely to require, legal representation in any proceedings in the High Court or the Court of Appeal;

(b) either—

(i) that solicitor is minded to arrange for another solicitor who is an authorised solicitor to provide that representation; or

(ii) that solicitor is an authorised solicitor and is minded to provide that representation; and

(c) in representing that client in the High Court or Court of Appeal, a solicitor would need to exercise the right of audience conferred by section 106(3A) of the Judicature (Northern Ireland) Act 1978.

(2) The solicitor must advise the client in writing—

(a) of the advantages and disadvantages of representation by an authorised solicitor and by counsel, respectively; and

(b) that the decision as to whether an authorised solicitor or counsel is to represent the client is entirely that of the client.

(3) The Society shall make regulations with respect to the giving of advice under paragraph (2).

(4) A solicitor shall—

(a) in advising a client under paragraph (2), act in the best interest of the client; and

(b) give effect to any decision of the client referred to in paragraph (2)(b).

(5) For the purposes of this Article compliance with paragraph (2) in relation to any proceedings in a court in any cause or matter is to be taken to be compliance with that paragraph in relation to any other proceedings in that court in the same cause or matter.

(6) If a solicitor contravenes this Article, any person may make a complaint in respect of the contravention to the Tribunal.

(7) In this Article and Article 40B "authorised solicitor" means a solicitor who holds an authorisation under Article 9A.

F74 Arts. 40A, 40B inserted (prosp.) by Justice Act (Northern Ireland) 2011 (c. 24), **ss. 89(2)**, 111(3) (with s. 106(4))

PROSPECTIVE

Duty to inform court as to compliance with Article 40A(2)

40B.—(1) Where—

(a) a solicitor has complied with Article 40A(2) in relation to the representation of a client in any proceedings in the High Court or Court of Appeal;

(b) that client is to be represented in those proceedings by an authorised solicitor; and

(c) in representing that client in those proceedings the authorised solicitor would need to exercise the right of audience conferred by section 106(3A) of the Judicature (Northern Ireland) Act 1978,

the solicitor shall inform the High Court or (as the case may be) the Court of Appeal of the fact mentioned in sub-paragraph (a) in such manner and before such time as rules of court may require.

(2) For the purposes of this Article compliance with paragraph (1) in relation to any proceedings in a court in any cause or matter is to be taken to be compliance with that paragraph in relation to any other proceedings in that court in the same cause or matter.

(3) If a solicitor contravenes paragraph (1), any person may make a complaint in respect of the contravention to the Tribunal.**]**

F74 Arts. 40A, 40B inserted (prosp.) by Justice Act (Northern Ireland) 2011 (c. 24), **ss. 89(2)**, 111(3) (with s. 106(4))

Extension of Bankruptcy Acts, etc.

Para. (1) rep. by 1980 NI 4

Para. (2) rep. by 1989 NI 19

(3) Where—

(a) a solicitor is adjudicated a bankrupt **[**[F75]or is the subject of a bankruptcy restrictions order**]**[F76]or a debt relief order has been made in respect of him or he is the subject of a debt relief restrictions order**]** or enters[F77]. . . into a deed of arrangement for the benefit of his creditors or dies insolvent, and

(b) the sum at the credit of the client account kept by the solicitor at a bank**[**[F78] or building society**]** in accordance with regulations made under Article 33, or, where two or more such accounts are kept by the solicitor, the total of the sums at the credit of those accounts, is less than the total of the sums received by the solicitor in the course of his practice on behalf of his clients and remaining due by him to them,

then, notwithstanding any rule of law to the contrary, the sum at the credit of the client account, or where the solicitor has kept two or more client accounts the total of the sums at the credit of those accounts, shall be divisible proportionately amongst the clients of the solicitor according to the respective sums received by the solicitor in the course of his practice on behalf of his clients and remaining due by him to them.

(4) For the purposes of this Article no account shall be taken—

(a) of any account at a bank**[**[F78] or building society**]** kept by the solicitor in his own name for a specified client,

(b) of sums received by the solicitor in the course of his practice on behalf of that client and remaining due by him to the client so far as represented by the sum in the[F78]. . . account in the name of the solicitor for the client,

(c) of any account at a bank**[**[F78] or building society**]** kept by the solicitor in his own name for money of any**[**[F78] controlled trust, or**]**

(d) of sums received by the solicitor in the course of his practice on behalf of that trust and remaining due by him to the trust so far as represented by the sum in the[F78]. . . account in the name of the solicitor for the trust.

Para. (5) rep. by 1989 NI 19

(6) For the purposes of this Article any reference to an account at a bank shall include a reference to a deposit receipt at a bank.

F75 Words in art. 41(3)(a) inserted (21.4.2015) by The Insolvency (Northern Ireland) Order 2005 (Consequential Amendments) Order (Northern Ireland) 2015 (S.R. 2015/159), art. 1, **Sch. para. 5(9)**
F76 Words in art. 41(3)(a) inserted (7.3.2016) by The Debt Relief Act (Northern Ireland) 2010 (Consequential Amendments) Order (Northern Ireland) 2016 (S.R. 2016/108), art. 1, **Sch. para. 7(11)**
F77 1989 NI 19
F78 1989 NI 14

***[**[F79]*Imposition by Council of disciplinary sanctions for inadequate professional services*

F79 1989 NI 14

Power of Council to impose sanctions for inadequate professional services

41A.—(1) Where it appears to the Council that the professional services provided by a solicitor in connection with any matter in which he or his firm had been instructed by a client were in any respect not of the quality that could reasonably have been expected of him as a solicitor, then (subject to paragraph (3)), the Council may, if they think fit, do one or more of the following things, namely—

(a) determine that the costs to which the solicitor shall be entitled in respect of those services shall be limited to such amount as may be specified in their determination and direct the solicitor to comply, or to secure compliance, with such one or more requirements falling within paragraph (2) as appear to them to be necessary in order to give effect to their determination;

(b) direct the solicitor to take such steps for the completion of the said matter within such reasonable time as they may specify;

(c) direct the solicitor to secure the rectification, at the expense of the solicitor or his firm, of any such error, omission or other deficiency arising in connection with the said matter as they may specify;

(d) direct the solicitor to take, at the expense of the solicitor or his firm, such other action in the interests of the client as they may specify.

(2) The requirements referred to in paragraph (1)(a) are—

(a) a requirement to refund the whole or part of any amount already paid by or on behalf of the client in respect of the solicitor's costs in respect of his services in connection with the said matter;

(b) a requirement to remit the whole or part of those costs;

(c) a requirement to waive, whether wholly or to any specified extent, the right to recover those costs.

(3) The Council shall not exercise any of their powers under paragraph (1) unless they are satisfied that it would in all the circumstances be appropriate to do so; and in determining whether in any case it would be appropriate to exercise any of those powers the Council may have regard—

(a) to the existence of any remedy that could reasonably be expected to be available to the client in civil proceedings; and

(b) where proceedings seeking any such remedy have not been commenced by him, to whether it would be reasonable to expect him to commence such proceedings.

(4) Where the Council have given a direction under paragraph (1)(a) in order to give effect to a determination by them under that provision as to the costs of a solicitor in respect of any services provided by him, then—

(a) for the purposes of any taxation of a bill covering those costs the amount charged by the bill in respect of those costs shall be deemed to be limited to the amount specified in the Council's determination; and

(b) where a bill covering those costs has not been taxed in accordance with sub#paragraph (a), the client shall, for the purposes of the recovery of those costs (by whatever means) and notwithstanding any enactment or agreement, be deemed to be liable to pay in respect of those costs only the amount specified in the Council's determination.

(5) Where a bill covering those costs has been taxed in accordance with paragraph (4)(a), the Council's direction under paragraph (1)(a) shall, so far as relating to those costs, cease to have effect.

(6) A solicitor aggrieved by a determination or direction of the Council under paragraph (1) may, within one month from the date on which notice of that determination or direction is served on him, appeal to the Lord Chief Justice who may—

(a) affirm or revoke the determination or direction; or

(b) make any other determination or direction which could have been made or given by the Council under paragraph (1).

(7) A direction of the Council under paragraph (1) shall take effect—

(a) where the solicitor does not appeal against the direction within the period mentioned in paragraph (6), on the expiration of that period; and

(b) where the solicitor appeals against the direction within that period, on the dismissal or withdrawal of the appeal;

and a direction given on any such appeal by the Lord Chief Justice shall take effect immediately.

(8) If a solicitor fails to comply with a direction given under this Article which has taken effect, any person may make a complaint in respect of that failure to the Tribunal; but no other proceedings whatever shall be brought in respect of it.

(9) The powers conferred on the Council by paragraph (1)(a) shall be exercisable in relation to a person notwithstanding that his name has been removed from or struck off the roll, and references to a solicitor in—

(a) the provisions of this Article so far as they relate to the exercise of those powers; and

(b) if a complaint is made to the Tribunal under paragraph (8), in Articles 46 and 51,

shall be construed accordingly.

(10) In paragraphs (1)(d) and (3)(a) "client", in relation to any matter in which a solicitor or his firm has been instructed, includes any person on whose behalf the person who gave the instructions was acting.**]**

[F80 Examination of files

F80 1989 NI 14

Power of Society to examine files in connection with complaints

41B.—(1) Where the Council are satisfied that it is necessary to do so for the purpose of investigating any complaint made to the Society—

(a) alleging professional misconduct by a solicitor; or

(b) relating to the quality of any professional services provided by a solicitor,

the Society may give notice to the solicitor or his firm requiring the production or delivery to any person appointed by the Society, at a time and place to be fixed by the Society, of all documents in the possession of the solicitor or his firm in connection with the matters to which the complaint relates (whether or not they relate also to other matters).

(2) Paragraphs 2(2) to 8 and 17 to 21 of Schedule 1 shall apply in relation to the powers conferred by paragraph (1) as they apply in relation to the powers conferred by paragraph 2(1) of that Schedule, and accordingly in those provisions—

(a) any reference to a person appointed, or to a requirement, under paragraph 2(1) of that Schedule shall be construed as including a reference to a person appointed, or to a requirement, under paragraph (1); and

(b) any reference to any such documents as are mentioned in paragraph 2(1) of that Schedule shall be construed as including a reference to any such documents as are mentioned in paragraph (1).**]**

Lay observers

Lay observers

42.—(1) The Head of the Department of Finance may, after consultation with the Lord Chief Justice, appoint one or more persons (in this Article referred to as "lay observers")

[[F81](a)**]** to report to the Lord Chief Justice, the Head of that Department and the Council on the nature of complaints being made to the Society about the conduct of solicitors and the manner in which the complaints are being dealt with by the Society.**[**[F81] and**]**

[[F81](b) examine any written allegation made by or on behalf of a member of the public concerning the Society's treatment of a complaint about a solicitor or an employee of a solicitor made to the Society by that member of the public or on his behalf.**]**

(2) No solicitor or member of the Bar of Northern Ireland shall be appointed a lay observer.

(3) A lay observer shall hold and vacate office in accordance with the terms of his appointment.

(4) The Head of the Department of Finance may, after consultation with the Lord Chief Justice and the Council, give general directions to lay observers about the scope and discharge of their functions.

(5) The Council shall consider any report which they receive from a lay observer and shall notify him of any action which has been taken in consequence.

[[F81](5A) Where it appears to a lay observer, in examining any such allegation as is mentioned in paragraph (1)(b)—

(a) that there arises out of the complaint in respect of which the allegation has been made both—

(i) a question as to the professional conduct of a solicitor, and

(ii) a question as to the quality of any professional services provided by him; and

(b) that it would be appropriate for the latter question to be considered by the Tribunal with a view to determining whether to exercise any of its powers under Article 51A in relation to the solicitor,

the lay observer may make an application to the Tribunal with respect to the solicitor.**]**

(6) The Department of Finance shall pay to lay observers such remuneration and other allowances (if any) as that Department may determine.
Para.(7) amends sch.1 to 1975 c.25

[[F81](8) The Head of the Department of Finance and Personnel shall lay a copy of any report made by a lay observer before the Assembly.**]**

F81 1989 NI 14

Disciplinary proceedings before the Disciplinary Committee

[[F82]**The Solicitors Disciplinary Tribunal**

43.—(1) The Lord Chief Justice, after consultation with the Council, shall appoint a tribunal, to be known as the Solicitors Disciplinary Tribunal and consisting of—

(a) practising solicitors of not less than 10 years' standing (solicitor members); and

(b) persons who are neither solicitors nor members of the Bar of Northern Ireland (lay members).

(2) The members of the Tribunal shall elect one of the solicitor members to be the president of the Tribunal.

(3) The Department of Finance and Personnel shall pay to lay members such remuneration and other allowances (if any) as that Department may determine.

(4) The Lord Chief Justice, after consultation with the Council, may remove a member of, and may fill a vacancy in, the Tribunal.

(5) The Tribunal may, subject to paragraph (6), act notwithstanding one or more than one vacancy in their membership and any application or complaint made to, or other matter dealt with by or before, the Tribunal may be dealt with or disposed of notwithstanding any change in the membership of the Tribunal.

(6) For the purpose of hearing and determining applications and complaints the Tribunal shall be properly constituted if—

(a) at least 3 members are present; and

(b) at least 1 lay member is present; and

(c) the number of solicitor members present exceeds the number of lay members present; and

(d) the president or another solicitor member presides.

(7) Subject to the provisions of this Order and of any rules made under paragraph (8), the Tribunal may regulate their procedure in such manner as they may think fit.

(8) The Tribunal may, with the concurrence of the Lord Chief Justice, make rules regulating applications and complaints to the Tribunal and the hearing, conduct and determination of such applications and complaints and of inquiries held by the Tribunal.

(9) Without prejudice to the powers of the Tribunal under Article 51(1)(j) and (k), rules under paragraph (8) may make provision for the payment by any party to an application or complaint made to the Tribunal of the costs, or a contribution towards the costs, incurred by any other party or by the Tribunal in connection with that application or complaint.

(10) The Tribunal may appoint a secretary, who shall be a member of the Society but shall not be a member of the Tribunal.

(11) Except as provided by paragraph (3), the Society shall defray the costs incurred by the Tribunal, which shall include the amount of any remuneration which the Society may agree to pay to the person appointed as secretary.

F82 1989 NI 14

Applications and complaints to Tribunal

44.—(1) The following applications and complaints shall be made to and heard by the Tribunal—

(a) an application by a solicitor who has been suspended from practice for an order terminating the suspension;

(b) an application by a person whose name has been struck off the roll for an order for the replacement of his name on the roll;

(c) an application by a solicitor who is restricted from practising on his own account, whether in partnership or otherwise, under an order made under Article 51(1)(c) or (4) for an order removing that restriction;

(d) an application by a solicitor who is **[**[F83]prohibited from providing civil legal services or criminal defence services funded by the Department of Justice**]** by an order made under Article 51B for an order **[**[F84]lifting the prohibition on his providing such services**]**;

(e) a complaint by the Society or any other person—

(i) that a solicitor has been guilty of professional misconduct or of other conduct tending to bring the solicitors' profession into disrepute; or

(ii) that a solicitor has contravened a provision of this Order or of any regulation or order made thereunder (including an order made by or on appeal from the Tribunal), or any term or condition subject to which any certificate has been issued, or any consent has been given, to him or his suspension has been terminated, by the Lord Chief Justice, the Council, the Society, the Tribunal or the High Court under any provision of this Order; or

(iii) that a solicitor has been convicted in Northern Ireland of a criminal offence tending to bring the solicitors' profession into disrepute, or has been convicted outside Northern Ireland of an offence of like character which if committed in Northern Ireland would be a criminal offence;

(f) a complaint requiring a solicitor to answer allegations contained in an affidavit;

(g) a complaint by the Society relating to the conduct of a solicitor in connection with **[**[F85]the provision of civil legal services or criminal defence services funded by the Department of Justice; or**]**

(h) any other application or complaint which is authorised to be made to the Tribunal under any other provision of this Order or under any other enactment.

(2) An application or complaint under paragraph (1) shall be in writing, shall be signed by the person making it and shall be sent to the Tribunal together with—

(a) an affidavit by that person setting forth the facts giving rise to the application or complaint; and

(b) the documents relied on in support of the application or complaint, or duly authenticated copies of those documents;

and the Tribunal shall take into consideration every such application or complaint together with such affidavit and documents as aforesaid.

(3) Where a judge of the**[**[F86]Court of Judicature**]**, a county court judge or a resident magistrate reports to the Society any case where it appears to him that a solicitor is prima facie guilty of professional misconduct, the Society shall make a complaint to the Tribunal under paragraph (1) with respect to the solicitor.

F82 1989 NI 14

F83 Words in art. 44(1)(d) substituted (1.4.2015) by Access to Justice (Northern Ireland) Order 2003 (S.I. 2003/435), art. 1(2), Sch. 4 para. 2(3)(a)(i) (as amended (18.11.2014) by Legal Aid and Coroners' Courts Act (Northern Ireland) 2014 (c. 11), Sch. 2 para 6(43)(b)(ii)); S.R. 2015/194, art. 2, Sch. (with art. 3)

F84 Words in art. 44(1)(d) substituted (1.4.2015) by Access to Justice (Northern Ireland) Order 2003 (S.I. 2003/435), art. 1(2), Sch. 4 para. 2(3)(a)(ii) (as amended (18.11.2014) by Legal Aid and Coroners' Courts Act (Northern Ireland) 2014 (c. 11), Sch. 2 para 6(43)(b)(ii)); S.R. 2015/194, art. 2, Sch. (with art. 3)

F85 Words in art. 44(1)(g)(i)(ii) substituted (1.4.2015) by Access to Justice (Northern Ireland) Order 2003 (S.I. 2003/435), art. 1(2), **Sch. 4 para. 2(3)(b)** (as amended (18.11.2014) by Legal Aid and Coroners' Courts Act (Northern Ireland) 2014 (c. 11), Sch. 2 para 6(43)(b)(ii)); S.R. 2015/194, art. 2, Sch. (with art. 3)

F86 Words in art. 44(3) substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 59(5), 148(1), Sch. 11 para. 6; S.I. 2009/1604, **art. 2(d)**

Procedure on application by solicitor or former solicitor

45. Where an application is made under Article 44(1)(a), (b), (c) or (d), the Tribunal—

(a) shall inform the Society of the application; and

(b) shall hold an inquiry.

F82 1989 NI 14

Procedure on application or complaint against solicitor

46.—(1) Where an application or a complaint is made under Article 44(1)(e), (f) or (h) by a person other than the Society or a lay observer, the Tribunal—

(a) if they decide that a prima facie case has not been shown, shall so notify the applicant or complainant and the solicitor and take no further action; or

(b) if they decide that a prima facie case has been shown shall serve on the solicitor—

(i) a copy of the application or complaint;

(ii) a copy of the affidavit;

(iii) copies or, at the discretion of the Tribunal, a list of the relevant documents; and

(iv) a notice requiring the solicitor to send to the Tribunal, within a specified period, an affidavit by him in answer to the application or complaint, together with any documents, or duly authenticated copies thereof, on which he may rely in support of his answer.

(2) Where an application or a complaint is made under Article 44(1)(e), (f), (g) or (h) by the Society or a lay observer, the Tribunal shall serve on the solicitor the documents mentioned in paragraph (1)(b)(i) to (iv).

(3) Where the notice mentioned in paragraph (1)(b)(iv) is served, any party to the application or complaint may inspect the documents furnished by any other party.

(4) After the expiration of the period specified in such notice, the Tribunal shall consider such (if any) affidavit and documents as have been furnished by the solicitor and—

(a) if they decide that there is no cause for further inquiry shall so notify the applicant or complainant and the solicitor and shall take no further action; or

(b) if they decide that there is cause for inquiry, shall hold an inquiry.

(5) Where an applicant or complainant or a solicitor against whom an application or complaint is made has been notified under paragraph (1)(a) or paragraph (4)(a), the Tribunal shall, if so required in writing by the complainant or the solicitor, make a formal order embodying their decision.**]**

F82 1989 NI 14

Powers of[F87 Tribunal] on inquiry being held

48.—(1) Subject to the provisions of paragraph (2) with respect to the exercise of certain of the powers conferred by this paragraph, the**[**F87 Tribunal**]** shall, on an inquiry being held by them, have the like powers, rights and privileges as are vested in the High Court in respect of—

(a) the summoning of witnesses and their examination on oath;

(b) the requiring of the production of documents; and

(c) the issuing, subject to rules of court, of a commission or request to examine witnesses out of Northern Ireland;

and a summons signed by a member of the**[**[F87] Tribunal**]** may be issued and served on any person for the purposes of securing his attendance as a witness at, or the production by him of any document necessary for the purposes of, any such inquiry.

(2) Where any person—

(a) on being duly summoned as a witness before the**[**[F87] Tribunal**]** makes default in attending;

(b) being in attendance as a witness before the**[**[F87] Tribunal**]** refuses to take an oath lawfully required by the**[**[F87] Tribunal**]** to be taken, or to produce any document in his power or control lawfully required by the**[**[F87] Tribunal**]** to be produced by him, or to answer any question to which the**[**[F87] Tribunal**]** may lawfully require an answer; or

(c) does any other act which, if the**[**[F87] Tribunal**]** were a court of law having power to commit for contempt, would be contempt of court;

the**[**[F87] Tribunal**]** may, by certificate signed by any two members thereof, certify such default, refusal or act (as the case may be) to the High Court, and the High Court may thereupon inquire into the matter so certified and, after hearing any witness who may be produced against or on behalf of the person aforesaid and any statement that may be offered in his defence, may punish or take steps for the punishment of that person in like manner as if he had been guilty of contempt of the High Court.

(3) A witness at an inquiry held by the**[**[F87] Tribunal**]** shall be entitled to the same immunities and privileges as if he were a witness before the High Court.

F87 1989 NI 14

Representation before**[**[F88] Tribunal**]**

49.—(1) A party to any proceedings before the**[**[F88] Tribunal**]** shall be entitled to appear and be heard by that**[**[F88] Tribunal**]** either in person or by counsel or solicitor.

(2) The Society may appear and be heard upon any application or complaint made to the**[**[F88] Tribunal**]**.

(3) Any counsel or solicitor appearing in proceedings before the**[**[F88] Tribunal**]** shall have the same rights, privileges, immunities and duties as if he were appearing in an action in the High Court.

F88 1989 NI 14

Application of Bankers' Books Evidence Act 1879

50. An application to or an inquiry or other proceeding before the**[**[F89] Tribunal**]** shall be a legal proceeding within the meaning of section 10 of the Bankers' Books Evidence Act 1879 .

F89 1989 NI 14

[[F82]Orders of Tribunal on inquiry

51.—(1) Where the Tribunal hold an inquiry, they may make an order providing for one or more than one of the following—

(a) the dismissal of the application or complaint;

(b) the admonishing of the solicitor and, if they think fit, the imposing on him of a fine not exceeding £3,000 to be paid to and applied for the purposes of the Society;

(c) the restricting of the solicitor from practising on his own account, whether in partnership or otherwise;

(d) the removal of a restriction on the solicitor from practising on his own account, whether in partnership or otherwise;

(e) the suspension of the solicitor from practice;

(f) the termination of the solicitor's suspension from practice;

(g) the striking off the roll of the name of the solicitor;

(h) the replacement on the roll of the name of a former solicitor whose name has been struck off the roll;

[[F90](i) the lifting of a prohibition on the solicitor providing civil legal services or criminal defence services funded by the Department of Justice;]

(j) the payment by any party to the inquiry of the costs of any other party to be measured by the Tribunal, or of a stated sum as a contribution towards such costs;

(k) the payment by any party to the inquiry of a sum to be measured by the Tribunal for the costs incurred by the Tribunal, or of a stated sum as a contribution towards such costs;

(l) the making by any party of such restitution or satisfaction to any aggrieved party as the Tribunal think fit.

(2) Paragraph (1) does not apply where the Tribunal hold an inquiry into an application under Article 42(5A).

(3) Where the Tribunal hold an inquiry into a complaint under Article 41A(8) relating to a direction given under Article 41A, they may, without prejudice to their powers under paragraph (1) or Article 51A, make an order providing for the direction to be treated for the purposes of this Order as if it were contained in an order of the Tribunal.

(4) An order made by the Tribunal under paragraph (1)(f) or (h) may impose the restriction that the solicitor shall not practise on his own account, whether in partnership or otherwise.

(5) An order made by the Tribunal under paragraph (1)(k) for the payment by any party of the costs of the Tribunal or of a sum towards those costs shall direct such payment to be made by that party to the Society; and any money so paid shall be appropriated by the Society towards the defrayal of the costs referred to in Article 43(11).

(6) The Tribunal may postpone the making of an order under this Article, Article 51A or Article 51B.

(7) Where the making of an order is postponed under paragraph (6), the Tribunal may, on request made to them in that behalf when the matter is considered after such postponement, allow the application or complaint to be withdrawn without any order being made.

(8) The Tribunal may, on the application of the solicitor to whom an order under this Article, Article 51A or Article 51B relates, or of any other party, suspend in whole or in part the operation of the order pending an appeal under Article 53.

(9) Where an order is suspended under paragraph (8)—

(a) nothing in Article 52(1), (2) or (3) shall apply to the filing, enforcement or lodgment of copies of, or to the publication of, that order while it remains suspended; and

(b) neither Article 15(1) nor Article 54(1) shall have effect in relation to that order while it remains suspended.

(10) Any person who practises as a solicitor on his own account, whether in partnership or otherwise, in contravention of—

(a) any regulation for the time being in force under Article 26(2)(a); or

(b) any order made by the Tribunal under paragraph (1)(c) or (4), or by the Lord Chief Justice or the High Court on an appeal under Article 53,

shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(11) If it appears to the Department of Finance and Personnel that there has been a change in the value of money since the relevant date, that Department may by order, subject to negative resolution, substitute for the sum for the time being specified in paragraph (1)(b) such other sum as appears to that Department to be justified by the change.

(12) In paragraph (11) "the relevant date" means—

(a) in relation to the first order made under that paragraph, the date of the coming into operation of Article 19(1) of the Solicitors (Amendment) (Northern Ireland) Order 1989; and

(b) in relation to each subsequent order, the last occasion on which the sum specified in paragraph (1)(b) was altered.

F82 1989 NI 14

F90 Art. 51(1)(i) substituted (1.4.2015) by Access to Justice (Northern Ireland) Order 2003 (S.I. 2003/435), art. 1(2), **Sch. 4 para. 2(4)** (as amended (18.11.2014) by Legal Aid and Coroners' Courts Act (Northern Ireland) 2014 (c. 11), Sch. 2 para 6(43)(b)(ii)); S.R. 2015/194, art. 2, Sch. (with art. 3)

Power of Tribunal to impose sanctions for inadequate professional services

51A.—(1) The powers conferred on the Tribunal by this Article shall be exercisable on an inquiry into—

(a) any application or complaint made to the Tribunal under this Order by or on behalf of the Society; or

(b) any application made to the Tribunal under Article 42(5A) by a lay observer,

and, in the case mentioned in sub#paragraph (a), shall be exercisable whether or not they make any other order on the inquiry.

(2) Where, on an inquiry into any such application or complaint with respect to a solicitor, it appears to the Tribunal that the professional services provided by the solicitor in connection with any matter in which he or his firm had been instructed by a client were in any respect not of the quality that could reasonably have been expected of him as a solicitor, then (subject to paragraph (4)), the Tribunal may, if they think fit, do one or more of the following things, namely—

(a) determine that the costs to which the solicitor shall be entitled in respect of those services shall be limited to such amount as may be specified in their determination and by order direct the solicitor to comply, or to secure compliance, with such one or more requirements falling within paragraph (3) as appear to them to be necessary in order to give effect to their determination;

(b) by order direct the solicitor to take such steps for the completion of the said matter within such reasonable time as they may specify;

(c) by order direct the solicitor to secure the rectification, at the expense of the solicitor or his firm, of any such error, omission or other deficiency arising in connection with the said matter as they may specify;

(d) by order direct the solicitor to take, at the expense of the solicitor or his firm, such other action in the interests of the client as they may specify.

(3) The requirements referred to in paragraph (2)(a) are—

(a) a requirement to refund the whole or part of any amount already paid by or on behalf of the client in respect of the solicitor's costs in respect of his services in connection with the said matter;

(b) a requirement to remit the whole or part of those costs;

(c) a requirement to waive, whether wholly or to any specified extent, the right to recover those costs.

(4) The Tribunal shall not exercise any of their powers under this Article unless they are satisfied that it would in all the circumstances be appropriate to do so; and in determining whether in any case it would be appropriate to exercise any of those powers the Tribunal may have regard—

(a) to the existence of any remedy that could reasonably be expected to be available to the client in civil proceedings;

(b) where proceedings seeking any such remedy have not been commenced by him, to whether it would be reasonable to expect him to commence such proceedings.

(5) Where the Tribunal have given a direction under paragraph (2)(a) in order to give effect to a determination by them under that provision as to the costs of a solicitor in respect of any services provided by him, then—

(a) for the purposes of any taxation of a bill covering those costs the amount charged by the bill in respect of those costs shall be deemed to be limited to the amount specified in the Tribunal's determination; and

(b) where a bill covering those costs has not been taxed in accordance with sub#paragraph (a), the client shall, for the purposes of the recovery of those costs (by whatever means) and notwithstanding any enactment or agreement, be deemed to be liable to pay in respect of those costs only the amount specified in the Tribunal's determination.

(6) Where a bill covering those costs has been taxed in accordance with paragraph (5)(a), the Tribunal's direction under paragraph (2)(a) shall, so far as relating to those costs, cease to have effect.

(7) In paragraphs (2)(d) and (4)(a) “client”, in relation to any matter in which a solicitor or his firm has been instructed, includes any person on whose behalf the person who gave the instructions was acting.

F82 1989 NI 14

Power of Tribunal in relation to legal aid

51B.—(1) On an inquiry into a complaint made to the Tribunal under Article 44(1) against a solicitor the Tribunal may, whether or not they make any other order on the inquiry,—

[[F91](a) make an order prohibiting the solicitor (either permanently or for a specified period) from providing civil legal services or criminal defence services funded by the Department of Justice;

(b) order that any costs otherwise payable in connection with such services provided by the solicitor—

(i) under Article 17(1) of the Access to Justice (Northern Ireland) Order 2003, or

(ii) in accordance with an order made by a court under Article 31(2) of that Order or under Part 3 of the Order of 1981,

shall be reduced or cancelled,**]**

[[F92]and the power of the Tribunal under this Article is without prejudice to any powers of the Department of Justice under any regulations made under Article 36 of the Access to Justice (Northern Ireland) Order 2003 or Article 36B of the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981.**]**

(2) The Tribunal shall not make an order under paragraph (1) unless they determine that there is good reason for doing so arising out of—

[[F93](a) the conduct of the solicitor in connection with the provision for any person of civil legal services or criminal defence services funded by the Department of Justice (including the provision of any such services in the capacity of agent for that person's solicitor); or**]**

(c) the professional conduct generally of the solicitor.

(3) Where the Tribunal make an order under paragraph (1)(a) in the case of a solicitor who is a member of a firm of solicitors, the Tribunal may, if they think fit, order that any other person who is for the time being a member of the firm **[**[F94]shall be prohibited (either permanently or for a specified period) from providing civil legal services or criminal defence services funded by the Department of Justice**]**.

(4) The Tribunal shall not make an order under paragraph (3) **[**[F95]prohibiting any person from providing civil legal services or criminal defence services funded by the Department of Justice**]** unless an opportunity is given to him to show cause why the order should not be made.

(5) In so far as **[**[F96]Article 17 or 31 of the Access to Justice (Northern Ireland) Order 2003**]** has effect in relation to any costs reduced or cancelled by an order under paragraph (1)(b), it shall so have effect subject to the provisions of that order.

[F97](6) . . . . . .

F82 1989 NI 14

F91 Art. 51B(1)(a)(b) substituted (1.4.2015) by Access to Justice (Northern Ireland) Order 2003 (S.I. 2003/435), art. 1(2), **Sch. 4 para. 2(5)(a)** (as amended (18.11.2014) by Legal Aid and Coroners' Courts Act (Northern Ireland) 2014 (c. 11), Sch. 2 para 6(43)(b)(ii), (44)(b)); S.R. 2015/194, art. 2, Sch. (with art. 3)

F92 Words in art. 51B(1) inserted (1.4.2015) by Access to Justice (Northern Ireland) Order 2003 (S.I. 2003/435), art. 1(2), **Sch. 4 para. 2(5)(b)** (as amended (18.11.2014) by Legal Aid and Coroners' Courts Act (Northern Ireland) 2014 (c. 11), Sch. 2 para 6(43)(b)(ii), (44)(b)); S.R. 2015/194, art. 2, Sch. (with art. 3)

F93 Art. 51B(2)(a) substituted for art. 51B(2)(a)(b) (1.4.2015) by Access to Justice (Northern Ireland) Order 2003 (S.I. 2003/435), art. 1(2), **Sch. 4 para. 2(6)** (as amended (18.11.2014) by Legal Aid and Coroners' Courts Act (Northern Ireland) 2014 (c. 11), Sch. 2 para 6(43)(b)(ii)); S.R. 2015/194, art. 2, Sch. (with art. 3)

F94 Words in art. 51B(3) substituted (1.4.2015) by Access to Justice (Northern Ireland) Order 2003 (S.I. 2003/435), art. 1(2), **Sch. 4 para. 2(7)** (as amended (18.11.2014) by Legal Aid and Coroners' Courts Act (Northern Ireland) 2014 (c. 11), Sch. 2 para 6(43)(b)(ii)); S.R. 2015/194, art. 2, Sch. (with art. 3)

F95 Words in art. 51B(4) substituted (1.4.2015) by Access to Justice (Northern Ireland) Order 2003 (S.I. 2003/435), art. 1(2), **Sch. 4 para. 2(8)** (as amended (18.11.2014) by Legal Aid and Coroners' Courts Act (Northern Ireland) 2014 (c. 11), Sch. 2 para 6(43)(b)(ii)); S.R. 2015/194, art. 2, Sch. (with art. 3)

F96 Words in art. 51B(5) substituted (1.4.2015) by Access to Justice (Northern Ireland) Order 2003 (S.I. 2003/435), art. 1(2), **Sch. 4 para. 2(9)**; S.R. 2015/194, art. 2, Sch. (with art. 3)

F97 Art. 51B(6) repealed (1.4.2015) by Access to Justice (Northern Ireland) Order 2003 (S.I. 2003/435), art. 1(2), **Sch. 5**; S.R. 2015/194, art. 2, Sch. (with art. 3)

Modifications etc. (not altering text)

C1 Art. 51B(1)(3) applied by 1981 SI228 (N.I. 8) art. 36A(2) (as substituted (1.4.2015) by Legal Aid and Coroners' Courts Act (Northern Ireland) 2014 (c. 11), s. 12(1), **Sch. 2 para. 1(5)** (with ss. 2(3), 9, Sch. 1 para. 3(3)); S.R. 2015/193, art. 2(e))

Power of Tribunal to make recommendation for application of Schedule 1 to solicitor

51C.—(1) Where the Tribunal hold an inquiry into any application or complaint made under this Order with respect to a solicitor, they may, whether or not they make any order on the inquiry, make a recommendation to the Council that the provisions of Schedule 1 should apply in relation to that solicitor and the other persons mentioned in that Schedule.

(2) A recommendation made by the Tribunal under paragraph (1) shall contain a statement of the findings on which the Tribunal based the recommendation.**]**

F82 1989 NI 14

Effect, notice and recording of orders of Disciplinary Committee

52.—(1) **[**[F98]An order made by the Tribunal on an inquiry**]** shall contain a statement of their findings and shall be signed by at least two of their members and filed with the registrar but the Committee may in any case in which it appears to them to be desirable so to do, make an order not prefaced by a statement of the findings relative to the facts of the case, and in such case a statement of their findings shall be signed by the chairman or secretary of the Committee and shall, if the order is one required to be lodged with the Registrar of the**[**[F99]Court of Judicature**]** under paragraph (2) or paragraph (3) be lodged with such Registrar together with the order.

(2) **[**[F98]Where the Tribunal make an order—

(a) under Article 51(1)(b) imposing a fine on a solicitor;

(b) under Article 51(1)(j), (k) or (l);

(c) under Article 51(3); or

(d) under Article 51A(2),**]**

, the registrar, if so required in writing by the Society or by any other party in whose favour the order was so made, shall lodge a duly authenticated copy of the order with the Registrar of the**[**[F100]Court of Judicature**]**, who shall forthwith cause such copy to be filed; and thereupon the order shall be of the like effect as a judgment of the High Court and enforceable accordingly.

(3) Where the**[**[F98] Tribunal**]** make an order suspending a solicitor from practice or removing from or striking off the roll the name of a solicitor, the registrar shall forthwith—

(a) lodge a duly authenticated copy of the order with the Registrar of the**[**[F101]Court of Judicature**]**; and

(b) cause to be published in the Belfast Gazette, and in such other manner as the**[**[F98] Tribunal**]** may direct, a notice stating the effect of the order,[F98]. . . .

(4) The registrar shall maintain separate files on which all orders made by the**[**[F98] Tribunal**]** shall be entered in the following manner—

(a) on a file to be termed File A, there shall be entered, in alphabetical order against the names of the solicitors concerned, each order directing that the name of a solicitor is to be removed from or struck off the roll, or that a solicitor is to be suspended from practice;

(b) on a file to be termed File B, there shall be entered, in chronological order, all other orders.

(5) Where an order of the**[**[F98] Tribunal**]** includes provision for any of the matters mentioned in**[**[F98] Article 51(1)(c) or (e) or (4)**]**, the registrar shall enter a note of the effect of that order on the roll against the name of the solicitor with respect to whom the application or complaint was made.

(6) On receipt under**[**[F98] Article 53(5)**]** of a copy of an order the registrar shall enter the order as if it were an order of the**[**[F98] Tribunal**]**.

(7) The registrar shall, on payment of such fee (if any) as may be prescribed, furnish a copy of an entry on File A or File B to a person who applies in writing for such a copy.

(8) Notwithstanding the provisions contained in paragraph (7), where—

(a) application is made for a copy of an entry on File B, being an entry under a date which is earlier than two years before the date of such application; or

(b) application is made for a copy of an entry on File A or File B as respects which the**[**[F98] Tribunal**]** have directed the insertion of a note that the furnishing of a copy thereof might cause injustice;

a copy of the entry shall be furnished only—

(i) by permission in writing of the Society; or

(ii) in compliance with an order of a court.

F98 1989 NI 14

F99 Words in art. 52(1) substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 59(5), 148(1), Sch. 11 para. 6; S.I. 2009/1604, **art. 2(d)**

F100 Words in art. 52(2) substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 59(5), 148(1), Sch. 11 para. 6; S.I. 2009/1604, **art. 2(d)**

F101 Words in art. 52(3)(a) substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 59(5), 148(1), Sch. 11 para. 6; S.I. 2009/1604, **art. 2(d)**

[[F102]**Appeals against orders of the Tribunal**

53.—(1) A person aggrieved by—

(a) an order of the Tribunal dismissing an application made by him under Article 44(1)(a), (b) or (c); or

(b) an order of the Tribunal under Article 51(4) restricting him from practising on his own account, whether in partnership or otherwise,

may appeal to the Lord Chief Justice who may—

(i) affirm the order of the Tribunal; or

(ii) make any order which could have been made by the Tribunal on its inquiry.

(2) An appeal against any other order made by the Tribunal (except an order under Article 51(3)) shall lie to the High Court—

(a) at the instance of the solicitor or the Society or any person directed by the order to make any restitution or satisfaction;

(b) by leave of the High Court, at the instance of any other person appearing to the High Court to be affected by the order.

(3) An appeal shall also lie to the High Court against the refusal of the Tribunal to suspend the operation of an order under Article 51(8).

(4) The Society shall be entitled to appear and to be heard on the hearing of an appeal under this Article.

(5) A copy of every order made on an appeal under paragraph (2) or (3) shall be sent to the registrar by the Master (Queen's Bench and Appeals).

(6) An appeal under this Article shall be brought within 21 days from the date of the making of the order or refusal appealed against.**]**

F102 1989 NI 14

Publication, etc., of orders

54.—(1) **[**[F103]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),**]**

shall be filed with the secretary of the Society, and the Society shall be entitled to publish any such order wholly or partly, or a synopsis thereof, in any publication of the Society and by sending a copy of any such order or any part or synopsis thereof to every solicitor in Northern Ireland, or otherwise to publish the order in any other manner approved of by the Society.

(2) The making of any order or the publishing under this Article of any order (whether wholly or partly) or of any synopsis thereof shall be deemed to be absolutely privileged.

(3) Any document purporting to be certified by the registrar as a copy of an order made by the**[**[F103] Tribunal**]** or of an entry made pursuant to Article 52 shall in any proceedings be received as evidence of the existence and content of that order or entry as the case may be.

F103 1989 NI 14

PART IV

THE COMPENSATION FUND AND PROFESSIONAL INDEMNITY

The Compensation Fund

55. The Society shall establish a fund to be known as the Compensation Fund which shall be maintained and administered in accordance with Schedule 2.

Grants in case of loss

56. Where the Council, on an application for a grant being made to the Society, are satisfied that a person has suffered loss in consequence of dishonesty on the part of a solicitor, or of an**[**[F104] employee**]** of a solicitor, in connection with that solicitor's practice or purported practice as a solicitor or in connection with any trust of which that solicitor is or was a trustee then, subject to the provisions of Article 58, the Society may, if the Council think fit, make to that person a grant out of the Compensation Fund for the purpose of making good or mitigating that loss.

F104 1989 NI 14

Grants in case of hardship

57. Where the Council, on application for a grant being made to the Society, are satisfied that a person has suffered or is likely to suffer hardship in consequence of the failure on the part of a solicitor to account for money which has come to his hands in connection with his practice or purported practice as a solicitor or in connection with any trust of which he is or was a trustee then, subject to the provisions of Article 58, the Society may, if the Council think fit, make to that person a grant out of the Compensation Fund for the purpose of relieving such hardship.

Provisions as to grants in case of loss or hardship

58.—(1) The following provisions of this Article shall have effect in relation to grants under Article 56 or 57—

(a) the Society shall not make a grant unless the Council are satisfied that the solicitor in respect of whose act or default or in respect of whose**[**[F105] employee's**]** act or default the application is made (unless he is dead or it is impracticable to give notice to him) has been given sufficient notice of the substance of the application and has not given, either to the applicant or to the Society, such explanation as satisfies the Council that no grant should be made;

(b) the fact that the applicant is himself a solicitor or the**[**[F105] employee**]** of a solicitor shall not disqualify him from receiving a grant;

(c) the Society shall, to the extent of the amount of the grant, be subrogated to any rights and remedies of the person to whom it is made in relation to the act or default in respect of which it is made and such person shall not be entitled, whether by way of bankruptcy or other legal proceedings or otherwise, to receive any sum out of the assets of the solicitor,**[**[F105] or employee**]** in respect of that act or default until the Society have been reimbursed the full amount of the grant;

(d) the fact that a person has received or may be likely to receive a grant from the Society shall not constitute any defence to an action brought by such person in respect of the act or default in relation to which such grant has been or may be made and the Society shall be entitled (whether before or after payment of the grant) upon giving to such person a sufficient indemnity against costs to require him to sue in his own name but on behalf of the Society for the purpose of giving effect to any rights conferred on the Society by sub-paragraph (*c*) and to permit the Society to have the conduct of the proceedings.

(2) In this Article references to the person to whom a grant has been made, or to any solicitor,**[**[F105] or employee**]** in respect of whose act or default a grant has been made, shall include in the event of his death, bankruptcy or other disability, references to his personal representative or to any other person having authority to administer his estate.

F105 1989 NI 14

Subvention grants

59. Where the Council, on an application being made to the Society, are satisfied that a solicitor has suffered or is likely to suffer loss or hardship by reason of his liability to any of his or his firm's clients in consequence of some act or default of any**[**[F106] of his partners or employees**]** of that solicitor, in circumstances where but for the liability of that solicitor a grant might have been made out of the Compensation Fund to some other person, then, subject to the provisions of Article 60, the Society may, if the Council think fit, make to such solicitor a grant (in this Part referred to as a "subvention grant") out of the Compensation Fund for the purpose of relieving that loss or hardship.

F106 1989 NI 14

Provisions as to subvention grants

60. The following provisions shall have effect in relation to subvention grants—

(a) the Society shall not make a grant to a solicitor in respect of any act or default of his partner unless the Council are satisfied that the partner (unless he is dead or it is impracticable to give notice to him) has been given sufficient notice of the substance of the application and has not given, either to the applicant or to the Society, such explanation as satisfies the Council that no grant should be made;

(b) a grant may (if the Council think fit) take the form of a loan upon such terms and conditions (including conditions as to the time and manner of repayment, as to the payment of interest and as to security for repayment) as the Council may determine;

(c) in relation to a grant made by way of loan, the Society may, upon such terms or conditions (if any) as the Council may think fit, at any time or times waive or refrain from enforcing the repayment of the whole or any part of the loan or any instalment of the loan or the payment of any interest or any of the other terms or conditions upon which the loan was granted;

(d) a grant may be made to a solicitor whether or not he had a practising certificate in force at the date of any relevant act or default;

(e) where a grant has been made otherwise than by way of loan, the provisions of sub-paragraphs (*c*) and (*d*) of paragraph (1), and paragraph (2), of Article 58 shall apply in relation to such grant as they apply in relation to grants under Article 56 or 57;

(f) where a grant has been made by way of loan and thereafter—

(i) the repayment of any amount (being either the whole or some part of the loan) has been waived; or

(ii) the borrower fails to repay any amount (being either the whole or some part of the loan) the repayment of which has not been waived;

then to the extent of any such amount the provisions of sub-paragraphs (*c*) and (*d*) of paragraph (1), and paragraph (2), of Article 58 shall apply to such grant as they apply in relation to grants under Article 56 or 57.

Power to make regulations as to procedure

61. The Council may make regulations with respect to the procedure to be followed in giving effect to the provisions of this Part and Schedule 2 and with respect to any matters incidental, ancillary or supplemental to those provisions or concerning the administration or protection of the Compensation Fund.

Grants may be made whether or not solicitor had practising certificate

62. A grant may be made under this Part whether or not the solicitor in respect of whose act or default or in respect of whose**[**[F107] employee's**]** act or default an application is made had a practising certificate in force at the time of the act or default and notwithstanding the fact that he has since such time died or ceased to practise or has been suspended from practice or had his name removed from or struck off the roll.

F107 1989 NI 14

Professional indemnity

63.—(1) The Council may by regulations (in this Order referred to as "indemnity regulations") make provision for indemnity against claims in respect of any description of civil liability incurred—

(a) by a solicitor or former solicitor in connection with his practice or with any trust of which he is or was a trustee;

(b) by an**[**[F108] employee or former employee**]** of a solicitor or former solicitor in connection with that solicitor's practice or with any trust of which that solicitor or the**[**[F108] employee**]** is or was a trustee.

(2) Indemnity regulations may—

(a) authorise or require the Society to establish and maintain an indemnity fund or funds;

(b) authorise or require the Society to take out and maintain indemnity insurance with authorised insurers;

(c) require solicitors to take out and maintain indemnity insurance with authorised insurers.

(3) Without prejudice to the generality of paragraphs (1) and (2), indemnity regulations may—

(a) specify the terms and conditions on which indemnity is to be available, and any circumstances in which the right to it is to be excluded or modified;

(b) provide for the management, administration and protection of any fund maintained under paragraph (2)(*a*) and require solicitors to make payments to any such fund;

(c) require solicitors to make payments by way of premium on any insurance policy maintained by the Society under paragraph (2)(*b*);

(d) prescribe the conditions which an insurance policy must satisfy for the purposes of paragraph (2)(*c*);

(e) authorise the Society to determine the amount of any payments required by the regulations subject to such limits, or in accordance with such provisions, as may be prescribed by the regulations;

(f) specify circumstances in which, where a solicitor for whom indemnity is provided has failed to comply with the regulations, the Society or insurers may take proceedings against him in respect of sums paid by way of indemnity in connection with a matter in relation to which he has failed to comply;

(g) specify circumstances in which solicitors are exempt from the regulations;

(h) empower the Council to take such steps as they consider necessary or expedient to ascertain whether or not the regulations are being complied with; and

(i) contain incidental, procedural or supplementary provisions.

(4) If any solicitor fails to comply with indemnity regulations, any person may make a complaint in respect of that failure to the**[**[F108] Tribunal**]**.

(5) The Society may, without prejudice to any of their other powers, carry into effect any arrangements which they consider necessary or expedient for the purpose of providing indemnity under this Article.

F108 1989 NI 14

[F109 PART V

REMUNERATION OF SOLICITORS

F109 1989 NI 14

Contentious business

Contentious business agreements

64.—(1) Subject to paragraph (2), a solicitor may make an agreement in, or evidenced by, writing with his client as to his remuneration in respect of any contentious business done, or to be done, by him providing that he shall be remunerated by a gross sum, or by a salary, or otherwise, and whether at a higher or lower rate than that at which he would otherwise have been entitled to be remunerated.

(2) Nothing in a contentious business agreement shall give validity to—

(a) any purchase by a solicitor of the interest, or any part of the interest, of his client in any action or other contentious proceeding; or

(b) any agreement by which a solicitor retained or employed to prosecute any action or other contentious proceeding, stipulates for payment only in the event of success in that action or proceeding; or

(c) any disposition, contract, settlement, conveyance, delivery, dealing or transfer which under the law relating to bankruptcy is invalid against a trustee or creditor in any bankruptcy or composition.

Effect of contentious business agreements

65.—(1) Subject to the provisions of this Article and to Articles 66 to 68, the costs of a solicitor in any case where a contentious business agreement has been made shall not be subject to taxation or to the provisions of Article 71E.

(2) Subject to paragraph (3), a contentious business agreement shall not affect the amount of, or any rights or remedies for the recovery of, any costs payable by the client to, or to the client by, any person other than the solicitor, and that person may, unless he has otherwise agreed, require any such costs to be taxed according to the rules for their taxation for the time being in force.

(3) A client shall not be entitled to recover from any other person under an order for the payment of any costs to which a contentious business agreement relates more than the amount payable by him to his solicitor in respect of those costs under the agreement.

(4) A contentious business agreement shall be deemed to exclude any claim by the solicitor in respect of the business to which it relates other than—

(a) a claim for the agreed costs; or

(b) a claim for such costs as are expressly excepted from the agreement.

(5) A provision in a contentious business agreement that the solicitor shall not be liable for negligence, or that he shall be relieved from any responsibility to which he would otherwise be subject as a solicitor, shall be void.

Enforcement of contentious business agreements

66.—(1) No action shall be brought on any contentious business agreement, but on the application of any person who—

(a) is a party to the agreement or the representative of such a party; or

(b) is or is alleged to be liable to pay, or is or claims to be entitled to be paid, the costs due or alleged to be due in respect of the business to which the agreement relates,

the court may enforce or set aside the agreement and determine every question as to its validity or effect.

(2) On any application under paragraph (1), the court—

(a) if it is of the opinion that the agreement is in all respect fair and reasonable, may enforce it;

(b) if it is of the opinion that the agreement is in any respect unfair or unreasonable, may set it aside and order the costs covered by it to be taxed as if it had never been made;

(c) in any case, may make such order as to the costs of the application as it thinks fit.

(3) If the business covered by a contentious business agreement (not being an agreement to which Article 67 applies) is business done, or to be done, in any action, a client who is a party to the agreement may make application to the taxing officer for the agreement to be examined.

(4) The taxing officer to whom an application is made under paragraph (3) shall examine the agreement and may either allow it or, if he is of the opinion that the agreement is unfair or unreasonable, require the opinion of the court to be taken on it, and the court may allow the agreement or reduce the amount payable under it, or set it aside and order the costs covered by it to be taxed as if it had never been made.

(5) Where the amount agreed under any contentious business agreement is paid by or on behalf of the client or by any person entitled to do so, the person making the payment may at any time within 12 months from the date of payment, or within such further time as appears to the court to be reasonable, apply to the court, and, if it appears to the court that the special circumstances of the case require it to be re#opened, the court may, on such terms as may be just, re#open it and order the costs covered by the agreement to be taxed and the whole or any part of the amount received by the solicitor to be repaid by him.

(6) In this Article and in Articles 67 to 69 "the court" means—

(a) in relation to an agreement under which any business has been done or was to have been done in the High Court, the High Court;

(b) in relation to an agreement under which any business has been done or was to have been done in the Lands Tribunal, the High Court;

(c) in relation to any other agreement—

(i) under which more than £5,000 is payable, the High Court; or

(ii) under which not more than £5,000 is payable, a county court.

(7) In this Article and in Articles 67 to 70 "the taxing officer" means—

(a) where the court is the High Court, the Master (Taxing Office); and

(b) where the court is the county court, a circuit registrar.

Contentious business agreements by certain representatives

67.—(1) Where the client who makes a contentious business agreement makes it as a representative of a person whose property will be chargeable with the whole or part of the amount payable under the agreement, the agreement shall be referred to the taxing officer before payment.

(2) The taxing officer to whom an agreement is referred under paragraph (1) shall examine it and may either allow it, or, if he is of the opinion that it is unfair or unreasonable, require the opinion of the court to be taken on it, and the court may allow the agreement or reduce the amount payable under it, or set it aside and order the costs covered by it to be taxed as if it had never been made.

(3) A client who makes a contentious business agreement as mentioned in paragraph (1) and pays the whole or any part of the amount payable under the agreement without it being allowed by the taxing officer or by the court shall be liable at any time to account to the person whose property is charged with the whole or any part of the amount so paid for the sum so charged, and the solicitor who accepts the payment may be ordered by the court to refund the amount received by him.

(4) A client makes a contentious business agreement as the representative of another person if he makes it—

(a) as his guardian,

(b) as a trustee for him under a deed or will,

(c) as controller for his property and affairs under Part VIII of the Mental Health (Northern Ireland) Order 1986, or

(d) as a person other than a controller authorised under that Part of that Order to act on his behalf.

Effect on contentious business agreement of death, incapability or change of solicitor

68.—(1) If, after some business has been done under a contentious business agreement but before the solicitor has wholly performed it—

(a) the solicitor dies, or becomes incapable of acting; or

(b) the client changes his solicitor (as, notwithstanding the agreement, he shall be entitled to do); or

(c) the solicitor withdraws from the retainer,

any party to, or the representative of any party to, the agreement may apply to the court, and the court shall have the same jurisdiction as to enforcing the agreement so far as it has been performed, or setting it aside, as the court would have had if the solicitor had not died or become incapable of acting, or the client had not changed his solicitor, or the solicitor had not withdrawn from the retainer.

(2) The court, notwithstanding that it is of the opinion that the agreement is in all respects fair and reasonable, may order the amount due in respect of business under the agreement to be ascertained by taxation, and in that case—

(a) the taxing officer, in ascertaining that amount, shall have regard so far as may be to the terms of the agreement; and

(b) payment of the amount found by him to be due shall be paid forthwith by the party liable to pay the same, unless rules of court provide otherwise pending the determination of an appeal under Article 71G(6).

(3) If in such a case as is mentioned in paragraph (1)(b) an order is made for the taxation of the amount due to the solicitor in respect of the business done under the agreement, the court shall direct the taxing officer to have regard to the circumstances under which the change of solicitor has taken place, and the taxing officer, unless he is of the opinion that there has been no default, negligence, improper delay or other conduct on the part of the solicitor affording the client reasonable ground for changing his solicitor, shall not allow to the solicitor the full amount of the remuneration agreed to be paid to him.

(4) If in such a case as is mentioned in paragraph (1)(c) an order is made for the taxation of the amount due to the solicitor in respect of the business done under the agreement, the court shall direct the taxing officer to have regard to the circumstances under which the withdrawal from the retainer has taken place, and the taxing officer, unless he is of opinion that the withdrawal from the retainer was for good cause, shall not allow to the solicitor the full amount of the remuneration agreed to be paid to him.

Security for costs and termination of retainer

69.—(1) A solicitor may take security from his client for his costs, to be ascertained by taxation or otherwise, in respect of any contentious business to be done by him.

(2) If a solicitor who has been retained by a client to conduct contentious business requests the client to make a payment of a sum of money, being a reasonable sum on account of the costs incurred or to be incurred in the conduct of that business and the client refuses or fails within a reasonable time to make that payment, the refusal or failure shall be deemed to be a good cause whereby the solicitor may, upon giving reasonable notice to the client, withdraw from the retainer.

(3) On any application for an order declaring that the solicitor has ceased to be the solicitor acting for the party in the cause or matter which is the subject of the contentious business referred to in paragraph (2), the court may determine whether the sum requested by the solicitor was reasonable and whether the client has failed to make the payment within a reasonable time.

Taxations with respect to contentious business

70. Subject to the provisions of any rules of court or county court rules, on every taxation of costs in respect of any contentious business, the taxing officer may—

(a) allow interest at such rate and from such time as he thinks just on money disbursed by the solicitor for the client, and on money of the client in the hands of, and improperly retained by, the solicitor; and

(b) in determining the remuneration of the solicitor, have regard to the skill, labour and responsibility involved in the business done by him.

Non#contentious business

Orders as to remuneration of solicitors for non#contentious business

71.—(1) For the purposes of this Article there shall be a committee to be known as the "Non#contentious Costs Committee" (in this Part referred to as "the Committee") and consisting of the following persons—

(a) two judges of the High Court or the Court of Appeal of whom the Lord Chief Justice may be one, appointed by the Lord Chief Justice;

(b) the President of the Lands Tribunal;

(c) two solicitors appointed by the Council; and

(d) for the purpose only of prescribing and regulating the remuneration of solicitors in respect of business under the Land Registration Act (Northern Ireland) 1970, the Registrar of Titles.

(2) The Committee acting by any three or more of the members thereof (the Lord Chief Justice or another judge of the High Court or the Court of Appeal being one) may make orders prescribing and regulating in such manner as they think the remuneration of solicitors in respect of non#contentious business.

(3) The Lord Chief Justice may appoint an officer of the**[**[F110]Court of Judicature**]** to act as Clerk to the Committee.

(4) The Committee may refer any question arising in the exercise of their functions to any person appearing to them to be likely to assist them in reaching a conclusion thereon for advice, investigation or report and the Committee or any such person may receive evidence from any source appearing to the Committee or, as the case may be, to such person to be relevant.

(5) The costs of any reference made by the Committee under paragraph (4) shall be defrayed by the Society.

(6) Before any order is made under this Article, the Committee shall—

(a) cause a draft of the order to be sent to the Council; and

(b) consider any observations in writing submitted to them by the Council within three months of the sending of the draft;

and the Committee may then make the order either in the form of the draft or with such alterations or additions as they may think fit.

(7) An order under this Article may, as regards the mode of remuneration, prescribe that it shall be according to a scale of rates of commission or percentage, varying or not in different classes of business, or by a gross sum, or by a fixed sum for each document prepared or perused, without regard to length, or in any other mode, or partly in one mode and partly in another, and may regulate the amount of remuneration with reference to all or any of the following, among other, considerations, that is to say—

(a) the position of the party for whom the solicitor is concerned in the business, that is, whether as vendor or purchaser, lessor or lessee, mortgagor or mortgagee, and the like;

(b) the place where, and the circumstances in which, the business or any part thereof is transacted;

(c) the amount of the capital money or rent to which the business relates;

(d) the skill, labour, specialised knowledge and responsibility involved therein on the part of the solicitor;

(e) the complexity, importance, difficulty, rarity or urgency of the questions raised;

(f) the number and importance of the documents prepared or perused; and

(g) the time expended by the solicitor.

(8) An order under this Article may authorise and regulate—

(a) the taking by a solicitor from his client of security for payment of any remuneration, to be ascertained by taxation or otherwise, which may become due to him under any such order; and

(b) the allowance of interest.

(9) So long as an order made under this Article is in operation, taxation of bills of costs of solicitors in respect of non-contentious business shall, subject to the provisions of Article 71A, be regulated by that order.

(10) All orders made by the Committee shall be laid before the Assembly by the Head of the Department of Finance and Personnel and shall be subject to negative resolution.

(11) In Part I of Schedule 1 to the Statutory Rules (Northern Ireland) Order 1979 for the reference to Article 64 of the Solicitors (Northern Ireland) Order 1976 there shall be substituted a reference to this Article.

F110 Words in art. 71(3) substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 59(5), 148(1), Sch. 11 para. 6; S.I. 2009/1604, **art. 2(d)**

Non#contentious business agreements

71A.—(1) Subject to the provisions of this Article and to regulations, a solicitor may make an agreement in, or evidenced by, writing with his client respecting the amount and manner of payment for the whole or a part of any past or future services in respect of non-contentious business done or

to be done by the solicitor, either by a gross sum or by commission or percentage, or by salary or otherwise, and either at the same rate as, or, subject to the provisions of regulations, at a rate different from, that at which he would otherwise be entitled to be remunerated.

(2) Any such agreement shall be limited to the conduct and completion of the non-contentious business in respect of which it is made and shall not extend to any other non-contentious business unless subsequently agreed upon in writing between the client and the solicitor.

(3) If it appears to the High Court upon an application made to the Court in that behalf that any such agreement is in all respects fair and reasonable between the parties, the Court may order the agreement to be enforced in such manner and subject to such conditions as to the costs of the application or otherwise as it thinks fit; but if the terms of the agreement do not appear to the Court to be fair and reasonable the Court may order the agreement to be set aside or varied and may direct that all or any costs incurred or chargeable in respect of the matters included in the agreement be taxed under this Part.

(4) Except as provided by paragraph (3), the bill of a solicitor for the amount due under any such agreement as is referred to in this Article shall not be subject to taxation or to the provisions of Article 71E.

(5) Articles 64(2) and 65(2) to (5) shall apply to a non-contentious business agreement as they apply to a contentious business agreement.

Certain stipulations and restrictions on purchasers to be void

71B.—(1) Any stipulation made on the sale of any land after 1st September 1976 to the effect that any purchaser shall be liable for any costs of the vendor's solicitor shall be void.

(2) A grantor or lessor who grants or leases any property for ever or for any term of years may as a condition of the grant or lease lawfully require that it be prepared by his solicitor but may not require the grantee or lessee to pay any costs of such solicitor in connection therewith.

(3) Any stipulation made on the sale of any land after 1st September 1976 to the effect that the assurance to, or the registration of the assurance to, or the registration of the title of, the purchaser shall be prepared or carried out by a solicitor appointed by or acting for the vendor, and any stipulation which might restrict a purchaser in the selection of a solicitor to act on his behalf in relation to any land agreed to be purchased, shall, except as provided in paragraph (2), be void, but a stipulation requiring the purchaser to furnish to the vendor at the purchaser's expense, a duplicate or counterpart of the assurance shall be valid.

(4) For the purposes of this Article—

"sale" includes a transaction effected by a grant or sub-grant in fee farm and a demise or sub-demise, but does not include the compulsory acquisition of land by virtue of any enactment or the acquisition of land by agreement by a person or body authorised or capable of being authorised under an enactment in force at the date of the agreement to acquire that land compulsorily;

"assurance" includes a conveyance or transfer, a grant or sub-grant in fee farm, a lease or sub-lease, or a tenancy agreement;

"vendor" includes a vendor who is a transferor, grantor or sub-grantor in fee farm, a lessor or sub-lessor; and "purchaser" shall be construed accordingly.

Remuneration—general

Power of court to order solicitor to deliver bill

71C.—(1) The jurisdiction of the High Court to make orders for the delivery by a solicitor of a bill of costs, and for the delivery up of, or otherwise in relation to, any documents in his possession, custody or power, is hereby declared to extend to cases in which no business has been done by him in the High Court.

(2) A county court shall have the same jurisdiction as the High Court to make orders making such provision as is mentioned in paragraph (1) in cases where the bill of costs or the documents relate wholly or partly to contentious business done by the solicitor in that county court.

(3) In this Article and in Articles 71D to 71G "solicitor" includes the executors, administrators and assignees of a solicitor.

Right to furnish bill in general terms

71D. A solicitor's bill shall be sufficient in form if it contains a reasonable statement or description of the services rendered, with a lump sum charged there for, together with a detailed statement of disbursements, but in any action upon or taxation of such a bill further details of the services rendered may, if it is deemed proper, be ordered by the court or, as the case may be, by the taxing officer.

Action to recover solicitors' costs

71E.—(1) Subject to the provisions of this Order, no action shall be brought to recover any costs due to a solicitor unless a bill of those costs has been delivered in accordance with the requirements set out in paragraph (2).

(2) The requirements referred to in paragraph (1) are that the bill must—

(a) be signed by the solicitor, or if the costs are due to a firm, by one of the partners of that firm, either in his own name or in the name of the firm, or be enclosed in, or accompanied by, a letter which is so signed and refers to the bill; and

(b) be delivered to the party to be charged therewith, either personally or by being sent to him by ordinary post to, or left for him at, his place of business, dwelling-house, or last known place of abode;

and, where a bill is proved to have been delivered in compliance with those requirements, it shall not be necessary in the first instance for the solicitor to prove the contents of the bill and it shall be presumed, until the contrary is shown, to be a bill duly complying with this Order.

Order for taxation

71F.—(1) Where the retainer of a solicitor is disputed, the solicitor or the client may apply to the High Court to have such dispute determined and if the Court then finds that a proper retainer exists the Court may order the bill to be taxed.

(2) Where the retainer of a solicitor is not disputed an order may be obtained from the Master (Taxing Office)

(a) by the client, for the delivery and taxation of the solicitor's bill;

(b) by the client, for the taxation of a bill already delivered;

(c) by the solicitor, for the taxation of a bill already delivered, at any time after the expiration of one month from its delivery, where no other order for its taxation has previously been made.

(3) An application for an order under paragraph (2) shall not be made by a client—

(a) save in exceptional circumstances—

(i) after the expiration of three months from the date of the delivery of the bill;

(ii) in any case where judgment has been obtained in an action for the recovery of the amount of a bill of costs; or

(iii) where the bill has been paid;

(b) in any event, after the expiration of six months from the date of the delivery of the bill.

(4) An order for the taxation of a bill made on an application under this Article by a client shall be an order

(a) for the taxation of all the costs; or

(b) for the taxation of such part of the costs as the client requests in his application.

(5) An order under this Article may be made upon such terms as to the costs of the application therefor and of the taxation as the Master (Taxing Office) or, as the case may be, the High Court, thinks fit.

(6) No bill previously taxed shall be again referred unless in exceptional circumstances the High Court sees fit so to order.

(7) Where a person other than the client has paid, or is or was liable to pay, a bill either to the solicitor or to his client, that person or his assignee or personal representative may apply to the Master (Taxing Office) for taxation of the bill as if he were the client, and the same proceedings shall be had thereon as if the application had been made by the client.

(8) Where the Master (Taxing Office) has no power to make an order by virtue of paragraph (7) except in special circumstances, he may in considering whether there are special circumstances sufficient to justify the making of an order, take into account circumstances which affect the applicant but do not affect the client.

(9) Without prejudice to the provisions of paragraph (7), where a trustee or personal representative has become liable to pay the bill of a solicitor, the Master (Taxing Office) may, upon the application of any person interested in any property out of which the trustee or personal representative has paid, or has power to pay, the bill, and upon such terms (if any) as he thinks fit, make an order for the taxation of the bill; and in considering any such application, the Master (Taxing Office) shall have regard to the provisions of this Article as to applications by the client for the taxation of a solicitor's bill so far as they are capable of being applied to an application made under this paragraph and to the extent and nature of the interest of the applicant.

(10) If an applicant under paragraph (9) pays any money to the solicitor, he shall have the same right to be paid that money by the trustee or personal representative liable to pay the bill as the solicitor had.

(11) The Master (Taxing Office) on any application made pursuant to paragraph (7) or (9) may order the solicitor to deliver to the person making the application a copy of the bill upon payment of the costs of the copy.

(12) Where a bill of costs relates wholly to contentious business done in a county court the functions of the High Court and the Master (Taxing Office) under this Article and Article 71G in relation to that bill may be exercised by the county court and a circuit registrar, and the references in Article 71G(5) and (8) to rules of court shall in any such case be construed as references to county court rules.

Provisions as to taxation

71G.—(1) Where a client or other person obtains an order for the delivery and taxation of a solicitor's bill, a copy of the bill shall be delivered within two months from the service of the order or such extended time as the Master (Taxing Office) may allow.

(2) The bill delivered shall stand referred to the Master (Taxing Office) and he shall tax the bill on such date as he may direct.

(3) On such taxation the solicitor shall give credit for, and an account shall be taken of, all sums of money received by him from or on account of the client and the solicitor shall be entitled to credit for all disbursements, expenses or other sums properly paid by him for or on account of the client.

(4) The costs of the taxation shall, unless otherwise directed by the High Court in any particular case, be in the discretion of the Master (Taxing Office), subject to an appeal under paragraph (6) by any dissatisfied party and shall be taxed by the taxing officer when and as allowed.

(5) The amount certified by the Master (Taxing Office) to be due on such taxation (including, where allowed, the costs of the taxation) shall be paid forthwith by the party liable to pay the same, unless rules of court provide otherwise pending the determination of an appeal under paragraph (6).

(6) An appeal shall lie at the instance of any dissatisfied party to the High Court against any allowance or disallowance made by the Master (Taxing Office) under this Part.

(7) If after due notice of any taxation any party fails, without reasonable explanation given to the Master (Taxing Office) before taxation, to attend or be represented on the taxation, the Master (Taxing Office) may proceed with the taxation in the absence of such party.

(8) Without prejudice to the provisions of section 21 of the Interpretation Act (Northern Ireland) 1954, the procedure to be followed on taxation under this Part and on an appeal therefrom shall be regulated by rules of court.

Charging orders

71H.—(1) Subject to paragraph (2), any court in which a solicitor has been employed to prosecute or defend any action, matter or proceeding may at any time declare the solicitor entitled to a charge on the property recovered or preserved through his instrumentality for his taxed costs in relation to that action, matter or proceeding, and may make such orders for the taxation of those costs and for raising money to pay, or for paying, those costs out of that property as the court thinks fit, and all conveyances and acts done to defeat, or operating to defeat, that charge shall, except in the case of a conveyance to a bona fide purchaser for value without notice, be void as against the solicitor.

(2) No order shall be made under paragraph (1) if the right to recover the costs is barred by any statute of limitations.
*Para. (3) rep. by 1996 c. 23***]**

PART VI

MISCELLANEOUS AND GENERAL

Art. 72 rep. by 1989 NI 14

[[F111]Exercise of solicitors' lien on documents by Society

72A. Where, under any provision of this Order or otherwise, a solicitor has delivered any document to the Society or to a solicitor appointed by the Society, the Society shall be deemed to have a lien on that document of the same nature and to the same extent as the solicitor would have had if the document had remained in his possession.**]**

F111 1989 NI 14

Cessation and suspension of membership of Society, etc.

73.—(1) If the name of a solicitor who is a member of the Society is removed from or struck off the roll that solicitor shall thereupon cease to be a member of the Society.

(2) A member of the Society who is suspended from practising as a solicitor shall not be entitled during the period of his supension to any of the rights or privileges of membership of the Society.

(3) A solicitor shall not be entitled to exercise any of the rights or privileges of membership of the Society during any year or part of a year for which his subscription to the Society has not been paid.

[F112Committees of the Council

73A.—(1) The Council has power to appoint a committee for any such general or special purpose as in the opinion of the Council may be better regulated or managed by means of a committee, and may delegate to any committee so appointed, with or without restrictions or conditions, as they think fit, the exercise of any functions exercisable by the Council.

(2) Subject to paragraph (5), the number and term of office of the members of a committee appointed under this Article, and the number of those members necessary to form a quorum, shall be fixed by the Council.

(3) A committee appointed under this Article may include persons who are not members of the Council, and such persons need be neither members of the Society nor solicitors; but at least half of the members of any such committee (including the chairman) shall be members of the Council.

(4) If more than one-third of the members of any committee appointed under this Article are not members of the Council, no resolution of that committee shall be duly passed unless the majority of the members of the Council present vote in favour of it.

(5) Any committee to which any functions exercisable by the Council under Article 41A or 41B are delegated in pursuance of paragraph (1) shall include—

(a) such number of persons who are solicitors but not members of the Council as the committee may determine; and

(b) such number of persons who are neither solicitors nor members of the Bar of Northern Ireland as the Lord Chief Justice may, after consultation with the Council, determine.

(6) The persons to be appointed by the Council to any committee pursuant to paragraph (5)(b) shall be nominated by the Lord Chief Justice.

(7) The validity of any proceedings of a committee to which paragraph (5) applies shall not be affected by any casual vacancy among the persons appointed to it pursuant to that paragraph.**]**

F112 1989 NI 14

Powers to act on behalf of the Society and proof of resolutions

74.—(1) Anything authorised or required to be done by the Society under or in pursuance of this Order or any other enactment or of any instrument made thereunder may be done on behalf of the Society by the Council**[**F113; and the power to delegate functions to committees conferred on the Council by Article 73A shall include power to delegate functions exercisable by the Council by virtue of this paragraph**]**.

(2) Any document issued by the Society**[**[F113] or the Council**]** for any purpose whatsoever may be signed on behalf of the Society**[**[F113] or, as the case may be, the Council by the secretary of the Society or**]** by such other person or persons (if any) as the Council may direct.

(3) Where the Society are entitled to appear and be heard on or with reference to any matter, the Society may do so either by counsel or solicitor.

(4) In any proceedings a document purporting to be certified by the secretary as a copy of a resolution passed by the Council or a committee thereof on a specified date shall be evidence that that resolution was duly passed by the Council or committee on that date.

F113 1989 NI 14

Regulations and rules

75.—(1) Subject to the provisions of this Order, the Society may make regulations—

(a) for the purpose of the due execution of those provisions;

(b) with respect to any matter which under this Order may or is to be prescribed or is to be provided for by regulations;

and regulations may contain such provisions as the Society may think proper for facilitating the due enforcement thereof.

(2) All regulations shall be made with the concurrence of the Lord Chief Justice.

(3) The powers conferred by [[F114] section 55 of the Judicature (Northern Ireland) Act 1978] on the Northern Ireland**[**[F115]Court of Judicature**]** Rules Committee to make rules of court shall be exercisable in relation to any function conferred on the Lord Chief Justice by this Order.

F114 1978 c.23
F115 Words in art. 75(3) substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 59(5), 148(1), Sch. 11 para. 6; S.I. 2009/1604, **art. 2(d)**

Time limit for commencement of certain proceedings

76. Notwithstanding anything in**[**[F116] Article 19(1) of the Magistrates' Courts (Northern Ireland) Order 1981**]**, proceedings for an offence under Article 22, 23, 24, 28, 30 or 31(4) may be brought at any time within two years next after the commission of the offence, or within six months next after the first discovery thereof by the prosecutor, whichever period is the shorter.

F116 1981 NI 26

Relief to banks

77.—(1) Subject to the provisions of this Article, a bank**[**[F117] or a building society**]** shall not, in connection with any transaction on any account of any solicitor kept with it or with any other bank**[**[F117] or building society**]** (other than an account kept by a solicitor as trustee for a specified beneficiary) incur any liability or be under any obligation to make any inquiry or be deemed to have any knowledge of any right of any person to any money paid or credited to any such account which it would not incur or be under or be deemed to have in the case of an account kept by a person entitled absolutely to all the money paid or credited to such account.

(2) Nothing in paragraph (1) shall relieve a bank**[**[F117] or a building society**]** from any liability or obligation under which it would be apart from this Order.

(3) Notwithstanding anything in paragraph (1), a bank**[**[F117] or a building society**]** at which a solicitor keeps an account for clients' money shall not, in respect of any liability of the solicitor to the bank**[**[F117] or society**]**, not being a liability in connection with that account, have or obtain any recourse or right, whether by way of set-off, counterclaim, charge or otherwise, against money standing to the credit of that account.

(4) Nothing in paragraph (3) shall deprive a bank of any right existing on the day when the first regulations made under Article 33(1)(*a*) come into operation.

F117 1989 NI 14

Administration of oaths and taking of affidavits

78.—(1) Subject to the provisions of this Article, every solicitor who holds a practising certificate which is in force shall have all the powers conferred by any enactment on a commissioner for oaths including section 24 of the Stamp Duties Management Act 1891 ; and any reference to such a commissioner in an enactment or instrument (including an enactment passed or instrument made after the commencement of this Article) shall include a reference to such a solicitor unless the context otherwise requires.

(2) A solicitor shall not exercise the powers conferred by this Article in a proceeding in which he is solicitor to any of the parties, or in which he is interested.

(3) A solicitor before whom any oath or affidavit is taken or made shall state in the jurat or attestation at which place and on what date the oath or affidavit is taken or made.

(4) A document containing such a statement and purporting to be sealed or signed by a solicitor shall be admitted in evidence without proof of the seal or signature, and without proof that he is a solicitor or that he holds a practising certificate which is in force.

Para.(5) rep. by 1978 c.23

Arts.79, 80 rep. by 1978 c.23

Savings

81. Nothing in this Order shall operate to prejudice or affect—

(a) any inherent or other jurisdiction exercisable by any court, division or judge of the High Court or by the Court of Appeal or [[F118] the Crown Court] or any judge of either of those Courts or of any other Court in relation to a solicitor whether by reason of his being deemed to be an officer of the**[**[F119]Court of Judicature**]** or otherwise; or

(b) any enactment empowering an unqualified person to conduct, defend or otherwise act in relation to any legal proceedings; or

(c) any rights or privileges of the solicitor to any government department (including a department of the Government of the United Kingdom);

and nothing in this Order shall operate to require any solicitor such as is mentioned in paragraph (*c*) or any clerk or officer appointed to act for him to be admitted or enrolled or to hold a practising certificate in any case where it would not have been necessary for him to be admitted or enrolled or to hold such a certificate if this Order had not been made.

F118 1978 c.23

F119 Words in art. 81(a) substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 59(5), 148(1), Sch. 11 para. 6; S.I. 2009/1604, **art. 2(d)**

Repeals and transitional provisions

Para.(1), with Schedule 3, effects repeals

Para. (2) rep. by 1989 NI 14

(3) Any admission, appointment, approval, fee, notice, certificate, instrument, order, rule, regulation, direction, appeal or proceeding under or for the purposes of an enactment repealed by this Order shall be treated as being under or for the purposes of the corresponding enactment of this Order, and—

(a) any such order, rule or regulation shall remain in force until corresponding provision is made under this Order, and may be varied or revoked by an order, rule or regulation, as the case may require, made under the corresponding enactment of this Order; and

(b) any such proceeding which was brought before the committee established under section 18 of the Solicitors Act (Northern Ireland) 1938 , and which stood not completed immediately before the commencement of this Article shall be completed in like manner as if this Order had not been made.

Para. (4) rep. by 1989 NI 14

SCHEDULES

SCHEDULE 1

Aricles 36(1), 37(1), 38, 39.

PART I

PROPERTY IN THE CONTROL OR POSSESSION OF CERTAIN SOLICITORS AND OTHER PERSONS

Interpretation

1. In this Schedule—

Definition rep. by 1989 NI 14

"documents" means deeds, wills, documents constituting or evidencing the title to any property, papers, books of account, records, vouchers and other documents.

Production, delivery and taking possession of documents

2.—(1) The Society may require the production or delivery to any person appointed by the Society at a time and place to be fixed by the Society, and may take possession of all documents in the possession or control of the solicitor or his firm (including documents which are the property of the solicitor or his firm and not of his or their clients), or relating to any controlled trust.

(2) If the Society have reason to suspect that any documents which relate wholly or in part to the solicitor's or his firm's practice or former practice (whether or not the documents are the property of the solicitor or his firm) or to any controlled trust are in the possession or control of some person other than the solicitor or his firm or any of his or his firm's clients or any other solicitor instructed by any such client, the Society may require that person to produce or deliver such documents to any person appointed by the Society at a time and place to be fixed by the Society and may take possession of such documents.

3.—(1) If any person having possession or control of any such documents fails to comply forthwith with any requirement made under paragraph 2—

(a) he shall be guilty of an offence and be liable on summary conviction to a fine not exceeding**[**[F120] level 3 on the standard scale**]**; and

(b) [F121]. . . the High Court may, on the application of the Society, order that person to comply with the requirement within such time as may be specified in the order, and may at the same time or later order that on that person's failure to comply with such requirement one or more officers of the Society, or one or more persons appointed by the Society for the purpose, may forthwith enter upon any premises (using such force as is reasonably necessary) to search for, and take possession of, the documents.

(2) On an application under this paragraph, the court shall have regard to the interests of the persons to whom the documents which are the subject of the application belong or to whose business they relate or, where they relate to a controlled trust, to the interests of the beneficiaries under that trust.

F120 1984 NI 3
F121 1989 NI 14

4. Upon taking possession of any such documents, the Society shall serve upon the solicitor and every person from whom those documents were received, or from whose premises they were taken by virtue of an order made under paragraph 2, a notice giving particulars and the date of taking possession thereof.

5. Within fourteen days after the service of a notice under paragraph 4, the solicitor or other person upon whom the notice was served may, on serving not less than forty-eight hours' notice upon the Society and (if the notice served under paragraph 4 gives the name of the solicitor instructed by the Society) upon that solicitor, apply to a judge of the High Court in chambers for an order directing the Society to return those documents to the person from whom they were received, or from whose premises they were taken, as the case may be, by the Society, or to such other person as the applicant may require; and on the hearing of any such application the judge may make such order with respect to the matter as he thinks fit.

6. If no application is made under paragraph 5 or if the judge to whom any such application is made directs that the documents shall remain in the custody or control of the Society, the Society may make inquiries to ascertain the person to whom those documents belong or to whose business they relate and may deliver those documents to either of such persons or deal with them in accordance with the directions of either of those persons; so however that—

(a) before delivering such documents the Society may take copies of, or extracts from, any such documents, and may if requested by the solicitor, supply copies to him at his expense; and

(b) the Society may, if they consider that such documents include documents which are the property of the solicitor, require the person to whom the documents are delivered, as a condition precedent to such delivery to undertake to permit the solicitor to inspect such documents and take copies of, or extracts from, them.

7. At any time after a period of six years from the date on which the Society have taken possession of a document under the powers of this Schedule, if no person claims it, the Society may dispose of or destroy the document.

8.—(1) The provisions of this Schedule shall have effect in relation to documents notwithstanding any lien on, or right of retention of, those documents which may be vested in the solicitor or any other person**[**[F122],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**]**.

(2) In any case in which this Schedule applies to a solicitor[F122]. . . or the personal representatives of a solicitor by virtue of any provision of this Order or of any other enactment, the Society shall before exercising any of their functions under this Schedule (other than making an application to[F122]. . . the High Court under**[**[F122] paragraph 22A**]**) in relation to him or them, notify him or them in writing that this Schedule so applies:

Provided that the Society may, if they think fit, include a notification to a solicitor[F122]. . . under this paragraph in any notification given to him under Article 38.

F122 1989 NI 14

Control of moneys

9.—(1) [F123]. . . the High Court may, on the application of the Society, order that no payment shall be made without the leave of[F123]. . . the High Court—

(a) by any bank**[**[F123] or building society**]** (whether or not named in the order) out of any[F123]. . . account in which any money (whether received before, on or after the date of the order) of the solicitor or his firm is held or which the solicitor or his firm has the right to operate on or otherwise deal with; or

(b) by any other person (whether or not named in the order) of any money placed with him by the solicitor or his firm (whether before, on or after the date of the order) or held by him (in whatever manner and whether received before, on or after that date) on behalf of the solicitor or his firm.

(2) No order under this paragraph shall take effect in relation to any person to whom it applies unless—

(a) the Society have served a copy of the order on that person (whether or not he is named in the order) and he either knows that he holds money on behalf of the solicitor or his firm or has failed to exercise due diligence to ascertain whether any money is so held by him; and

(b) if that person is a banker**[**[F123] or building society officer**]**, the Society have informed him of the branch of the bank**[**[F123] or building society**]** at which the money to which the order relates is believed by them to be held.

F123 1989 NI 14

10. The Society may, on a resolution in that behalf made by the Council, take control of all sums of money due from the solicitor or his firm to, or held by him or his firm (in whatever manner or in whatever account and whether received before, on or after the date of the resolution) on behalf of, his or his firm's clients or subject to any controlled trust, and for that purpose the Society shall serve upon the solicitor or his firm, and, except where the provisions of Article 40 apply, upon any bank**[**[F124] or building society**]** and upon any other person having possession or control of any such sums of money a notice, together with a certified copy of such resolution, prohibiting the payment out of such sums of money otherwise than pursuant to paragraph 12 or 13.

F124 1989 NI 14

11. Within fourteen days of the service of a notice under paragraph 10 the solicitor or his firm, or the bank**[**[F125], building society**]** or other person upon whom the notice was served may, on serving not less than fourty-eight hours' notice upon the Society and (if the notice served under paragraph 10 gives the name of the solicitor instructed by the Society) upon that solicitor, apply to a judge of the High Court in chambers for an order directing the Society to withdraw the notice, and on the hearing of any such application the judge may make such order with respect to the matter as he thinks fit.

F125 1989 NI 14

12. Subject to the service of any notice under paragraph 10, and to any application that may be made under paragraph 11 the Society or any person in that behalf appointed by the Society may withdraw the money, or any part of the money, which is in any account in the name of the solicitor or his firm, or which is in the possession or control of any person on whom a notice was duly served under paragraph 10, and any money in the office of the solicitor or his firm due to or held on behalf of his clients, and pay them into a special account or special accounts in the name of the Society

or such person appointed as aforesaid and may operate on, and otherwise deal with, such special account or accounts as the solicitor or his firm might have operated on, or otherwise dealt with, the said account; so however that a bank**[**[F126] or a building society**]** with whom such special account or accounts is or are kept shall be under no obligation to ascertain whether that account or those accounts is or are being so operated on or otherwise dealt with.

F126 1989 NI 14

13.—(1) If any person fails to comply with the requirements of any notice given under paragraph 10—

(a) he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding**[**[F127] level 4 on the standard scale**]**; and

(b) [F128]. . . the High Court may, on the application of the Society—

(i) order him to comply with the requirements of the notice within such time as may be specified in the order; or

(ii) appoint the Society to act as the attorney of the solicitor named in that paragraph.

Sub-paras. (2)-(4) rep. by 1989 NI 14

F127 1984 NI 3
F128 1989 NI 14

14.—(1) If the Society have reason to suspect that any person holds any money on behalf of the solicitor or his firm, the Society may for the purpose of enabling them to perform any of their functions under this Schedule require that person to give to the Society such information as to such money or the accounts in which the money is held as may be reasonably required.

(2) If any person who holds any money on behalf of the solicitor or his firm fails to give to the Society such information as he is required to give under sub-paragraph (1) or knowingly makes any misstatement in respect thereof he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding**[**[F129] level 3 on the standard scale**]**.

F129 1984 NI 3

Re-direction of postal packets

15.—(1) [F130]. . . the High Court, on the application of the Society, may order that for such time not exceeding eighteen months as the judge thinks fit, postal packets (as defined by**[**[F131] section 125(1) of the Postal Services Act 2000**]**) addressed to the solicitor or his firm at any place or places mentioned in the order for re-direction shall be directed to any other address there mentioned.

(2) Where such an order is made the Society shall pay to the**[**[F131] postal operator (as defined by **[**[F132]section 27 of the Postal Services Act 2011**]**) concerned**]** the like charges (if any) as would have been payable for the re-direction of such packets[F131]. . . , if the addressee had permanently ceased to occupy the premises to which they were addressed and had applied to the**[**[F131] postal operator**]** to re-direct them to him at the address mentioned in the order.

F130 1989 NI 14
F131 SI 2001/1149

F132 Words in Sch. 1 para. 15(2) substituted (1.10.2011) by Postal Services Act 2011 (Consequential Modifications and Amendments) Order 2011 (S.I. 2011/2085), art. 5(1), **Sch. 1 para. 12**

Removal of solicitor-trustee from trust

16.—(1) If the solicitor is a trustee of a controlled trust, the Society may apply to[F133]. . . the High Court for an order for the appointment of a new trustee in substitution for him.

(2) The Trustee Act (Northern Ireland) 1958 shall have effect in relation to an appointment of a new trustee under this paragraph as it has effect in relation to an appointment under section 40 of that Act.

F133 1989 NI 14

General

17. Subject to any order for the payment of costs that may be made on an application under paragraph 3, 5, 9, 11, 13, 15, 16 or 19 any costs incurred by the Society for the purposes of this Schedule shall be paid by the solicitor and shall be recoverable from him as a debt owing to the Society.

18. The Society may do all things which in their opinion are necessary for the purpose of facilitating the exercise of their functions under this Schedule and in particular may for that purpose employ and pay agents.

19. The Society may apply to[F134]. . . the High Court for an order making provision for the disposal and destruction of any documents which may be in their possession by virtue of this Schedule or for the transfer or payment by or to any person of any moneys to which this Schedule relates.

F134 1989 NI 14

20. If any claim or charge is made or any proceeding is taken against the Society or their servants or agents for any act or omission by the Society or their servants or agents done or made in good faith and in the execution or purported execution of the functions conferred under this Schedule the Society or their servants or agents, as the case may be, shall be reimbursed out of the Compensation Fund established under Article 55 for all or any costs or damages which they may have incurred in relation to such claim, charge or proceeding.

21. The Society may make regulations for the purposes of carrying the provisions of this Schedule into effect and such regulations may include incidental, ancillary or supplemental provisions.

22. References in this Schedule to a banking**[**[F135] or building society**]** account include references to any deposit or other such account as well as to a current or drawing account.

F135 1989 NI 14

PART II

POWERS EXERCISABLE BY THE SOCIETY AS ATTORNEY

[F136 22A.—(1) Without prejudice to paragraph 13(1)(b)(ii), the High Court may at any time, on the application of the Society, by order appoint the Society as the attorney of any solicitor named in a resolution passed by the Council under Article 36.

(2) Where the Society are appointed under paragraph 13(1)(b)(ii) or this paragraph to act as attorney of a solicitor—

(a) the Society shall have power, either in their name or in the name of the solicitor, to do all or any of the acts and things mentioned in paragraph 23 and all such other acts and things in relation to the solicitor's practice or property or assets as appear to the Society to be necessary for any of the purposes of this Order, as fully and effectively in all respects as if they were done by the solicitor present in person (irrespective of where he then may be); and

(b) the solicitor shall be precluded from doing any of the acts and things mentioned in head (a) which may be done by the Society as his attorney.

(3) The Society shall have a claim on the property of the solicitor for all costs (if any) incurred by the Society as his attorney.**]**

F136 1989 NI 14

23. The powers exercisable pursuant to**[F137** paragraph 22A(2)**]** are as follows—

(1) To operate all banking**[F137** or building society**]** accounts in the name or under the control of the solicitor, and to open and operate any new**F137**. . . account and to sign, endorse and negotiate cheques, dividend and interest warrants, bills of exchange and negotiable instruments payable to the solicitor and to close all or any of such**F137**. . . accounts.

(2) To demand, sue for, recover, enforce and give good and sufficient receipts, discharges, releases and indemnities for and in respect of all property, money, securities, costs, legacies, gifts, rights and debts belonging to the solicitor or in which he has any interest and to effect a compromise or release of, or to abandon, any claim in respect thereof and to pay, satisfy or compromise any such debts, liabilities or claims.

(3) To carry on, wind-up, transfer, sell or otherwise dispose of the practice of the solicitor and the office furniture, fittings, papers, documents, books, machines and apparatus connected therewith.

(4) To take possession of all or any property whatsoever belonging to the solicitor or in which he has any estate, title, right or interest including all property, title deeds, documents, papers and books in the possession, custody or control of the solicitor.

(5) To manage, let, sell, mortgage, charge or otherwise dispose of and convey, assign, transfer, surrender, sub-lease or grant in fee any property whatsoever of the solicitor or in which he has any estate, title, right or interest or any part thereof on such terms and conditions as the Society think fit.

(6) To furnish bills of costs in respect of any action, cause, suit, proceeding, sale, transaction or matter in which the solicitor is or has been engaged or retained, to institute proceedings for recovery of such costs, to compromise any claim in respect of such costs and to give good and sufficient receipts for such costs.

(7) To engage an accountant for the purpose of preparing such balance sheet and statement in connection with the practice of the solicitor as will show all money held by the solicitor on his own behalf and for or on account of clients and other persons and where and how at the date of such balance sheet and statement the solicitor holds such money.

(8) To give, vary and revoke instructions as to the manner in which any money payable to or by the solicitor (whether periodically or otherwise) is to be paid or dealt with and as to the custody and disposal of any personal property, including securities and documents of title.

(9) To apply and subscribe for (whether absolutely or conditionally), pay calls on, buy, accept or otherwise acquire, and to sell, assign, exchange or otherwise dispose of, stocks, funds, shares, debentures, debenture stock, securities and investments of every description, however constituted and wherever issued, and whether now existing or hereafter to be created belonging to the solicitor or in which he has any interest, and any options or rights in respect thereof; and generally to manage and vary investments.

(10) To effect and maintain insurance against loss, damage, and liability in connection with the property or assets of the solicitor or his practice and to recover under such insurance.

(11) In respect of any will, intestacy, settlement or trust or any agreement or other instrument or matter, to approve apportionments and accounts, and to sanction investments or the exercise of any power or the doing of any act for which the approval or sanction of the solicitor is required, otherwise than as trustee.

(12) In connection with any stocks, funds, shares, debentures, debenture stock, securities, or investments belonging to the solicitor or in which he has any interest, to attend and vote or appoint any person to attend and vote as proxy for the solicitor at meetings of holders thereof, and to effect, sanction or oppose any exercise or modification of rights.

(13) In regard to any property whatsoever belonging to the solicitor or in which he has any interest, to institute, carry on, defend, compromise or discontinue any action or other proceeding, and in any such proceeding to give security or indemnities for costs, to pay money into court and to obtain payment of money lodged in court; and to settle, compromise or submit to arbitration any dispute arising in relation to any such property or interest.

(14) To present, support or oppose any petition for winding-up or bankruptcy; to join in, sanction or oppose any composition or arrangement; to attend and vote or appoint any person to attend and vote as proxy for the solicitor at any meetings of creditors; to make and file proofs of claim; and generally to represent the solicitor in any liquidation, bankruptcy or insolvency.

(15) To engage, remunerate, dismiss, and fix and vary the duties and terms of service of persons employed to carry on or to assist in carrying on the practice of the solicitor including any employees of the solicitor.

(16) To settle or pay any account, debt or reckoning whatsoever wherein the solicitor is or will be in anywise interested or concerned with any person whomsoever and to pay or receive the balance thereof as the case may require.

(17) To deliver to clients of the solicitor or to other persons any documents of title, papers, books, securities, money or other property on such terms as the attorney thinks fit.

(18) To pay all rent, rates, taxes, assessments and outgoings (including repairs and insurance against fire and other contingencies) in connection with any property of the solicitor or in which he has any estate, title, right or interest and in connection with the practice of the solicitor to pay all expenses of carrying on the same including any insurance against negligence or otherwise.

(19) Subject to the rights of the clients of the solicitor, to act upon any retainer given, to prosecute or defend any action, cause, suit or proceeding which the solicitor has commenced or for which he has been retained, to complete any sale or purchase of registered or unregistered land in which the solicitor has been engaged or for which he has been retained, to carry out and complete any other sale, purchase, transaction or matter in which the solicitor is engaged or for which he has been retained and to receive and give good and sufficient receipts for any damages, compensation, deposit, purchase money or other money payable in respect of any such action, cause, suit, proceeding, sale, transaction or matter, and to pay over any money and do all things necessary to complete any such action, suit, proceeding, sale, transaction or matter.

(20) For all or any of the foregoing purposes to enter into and sign, seal, execute, perfect and deliver any contract, instrument, deed, surrender, assurance or other instrument whatsoever, and to take all steps necessary to procure the registration of any such instrument in the books of any company or other body or in any register kept in pursuance of any enactment.

(21) Generally to act in relation to the solicitor's practice and estate as fully and effectively as the solicitor could do.

F137 1989 NI 14

[F138SCHEDULE 1A

Article 26A(7).

INCORPORATED PRACTICES: SUPPLEMENTARY PROVISIONS

F138 1989 NI 14

Interpretation

1.—(1) Subject to sub#paragraph (2), references in this Schedule to a recognised body are references to a body corporate for the time being recognised under Article 26A.

(2) References in this Schedule to a recognised body in relation to—

(a) a complaint (other than such a complaint as is mentioned in paragraph 19(1)(a)); or

(b) any such application as is mentioned in paragraph 18(2),

include references to a body corporate that was recognised under Article 26A at the time when the conduct to which the complaint or application relates took place.

(3) References in this Schedule to an officer of a recognised body include references to a director, manager or secretary of that body**[**F139 and references in this Schedule to a director, in relation to a limited liability partnership, are references to a member of the limited liability partnership**]** .

(4) In Article 3(2) the definitions of “client”, “contentious business” and “non-contentious business” shall apply for the purposes of—

(a) this Schedule; and

(b) any other provision of this Order in so far as it has effect in relation to a recognised body by virtue of this Schedule,

as if for any reference to a solicitor there were substituted a reference to a recognised body; and for those purposes “controlled trust”, in relation to a recognised body, means a trust of which it is sole trustee or co-trustee only with one or more of its officers or employees and “unqualified person” does not include a recognised body.

F139 SR 2004/307

Appeal against refusal or revocation by Council of recognition

2.—(1) A body corporate aggrieved by a decision of the Council refusing an application for recognition under Article 26A may, within one month from the date on which notice of that decision is served on it, appeal to the Lord Chief Justice who may—

(a) affirm the decision; or

(b) direct the Council to grant recognition of the body in question under Article 26A;

and the Lord Chief Justice may make such order as to the payment of costs by the Council or by that body as he thinks proper.

(2) Regulations may make provision, as respects any application for recognition that is neither granted nor refused by the Council within such period as may be prescribed, for enabling an appeal to be brought under sub-paragraph (1) in relation to the application as if it had been refused by the Council.

(3) A body corporate aggrieved by a decision of the Council to revoke the recognition of that body under regulations made under Article 26A(2)(d) may, within one month from the date on which notice of that decision is served on it, appeal to the Lord Chief Justice who may affirm or revoke the decision and make such order as to the payment of costs by the Council or by that body as he thinks proper.

Power of registrar to inspect files relating to certain proceedings

3. Article 15(5) shall apply in relation to proceedings which have been brought with respect to a recognised body for any of the following purposes, namely—

(a) for the winding-up of the body;[F140] . . .

(b) for the appointment of a receiver or manager of property of the body,**[**[F141] or

(c) for the appointment of an administrator under Schedule B1 to the Insolvency (Northern Ireland) Order 1989,**]**

as it applies in relation to proceedings in bankruptcy which have been taken against a solicitor.

F140 Word in Sch. 1A para. 3(a) repealed (27.3.2006) by Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)), arts. 1(3), 3(3), 31, Sch. 2 para. 10(a), Sch. 9; S.R. 2006/21, **art. 2** (with S.R. 2006/22, arts. 2-7)

F141 Sch. 1A para. 3(c) and preceding word inserted (27.3.2006) by Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)), arts. 1(3), 3(3), Sch. 2 para. 10(b); S.R. 2006/21, **art. 2** (with S.R. 2006/22, arts. 2-7)

Acting as agent for unqualified person

4.—(1) No recognised body shall wilfully and knowingly

(a) act as agent in any action, suit, matter or transaction for any unqualified person; or

(b) permit its name to be in any way made use of in any action, suit, matter or transaction upon the account, or for the profit, of any unqualified person; or

(c) send any process to an unqualified person; or

(d) do any other act so as to enable an unqualified person to appear, act or practice in any respect as a solicitor in any action, suit, matter or transaction.

(2) Subparagraph (1) does not apply where the recognised body is acting by virtue of an appointment made pursuant to Article 32.

Sharing of profits or fees with unqualified persons

5.—(1) Subject to sub-paragraph (2), a recognised body which knowingly shares any of its profits or fees with an unqualified person shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(2) Sub-paragraph (1) shall not apply in any of the following cases, namely—

(a) where a body corporate which has ceased its business as a recognised body receives from a recognised body a share of the profits or fees of that recognised body as a price or value of the body corporate's business; or

(b) where an agreement for sharing fees is made between a recognised body in Northern Ireland and a body or person carrying on the business or profession of providing professional legal services in some other part of the United Kingdom or in any country outside the United Kingdom; or

(c) where, for the purposes of making legal aid and advice more readily available to persons in need, the Council have directed in writing that sub-paragraph (1) shall not apply in relation to a non-profit making organisation.

(3) References in this paragraph to the profits and fees of a recognised body are to the profits and fees of the business of that body as a recognised body.

Employment of persons struck off roll or suspended

6. Article 29 (except paragraph (4)) shall apply to a recognised body and its business as such as it applies to a solicitor and his practice as such.

Failure to disclose fact of name having been struck off the roll, etc.

7. Article 30 shall apply in relation to employment by a recognised body in connection with its business as it applies in relation to employment by a solicitor in connection with his practice.

Employment of persons found guilty of offences or party to misconduct

8. In Article 31(1) to (4)—

(a) any reference to a person who is or was an employee of a solicitor, but is not himself a solicitor shall be construed as including a reference to a person who is or was employed by a recognised body but is not himself a solicitor; and

(b) any other reference to a solicitor or to his practice as a solicitor shall be construed as including a reference to a recognised body or to its business as such a body.

Winding-up practice of a deceased solicitor

9. In Article 32 the reference to a duly qualified solicitor shall be construed as including a reference to a recognised body.

Interest on clients' money

10.—(1) Where regulations made under Article 33 and containing any such provision as is referred to in Article 34(1)(a)(i) are applied to recognised bodies in accordance with Article 26A(2)(f), then, except as provided by the regulations and subject to sub#paragraph (2), a recognised body which in pursuance of the regulations maintains an account in which it keeps money received or held for or on account of its clients generally shall not be liable to account to any person for interest received by it on money in that account.

(2) Nothing in any such regulations or in sub#paragraph (1) shall—

(a) affect any arrangement in writing between a recognised body and any of its clients as to the application of the client's money or interest on it; or

(b) apply to money received by a recognised body being money subject to a trust of which the body is a trustee.

Accountants' reports

11.—(1) In Article 35—

(a) paragraphs (1) and (2); and

(b) subject to any regulations made under that Article and applied to recognised bodies in accordance with Article 26A(2)(f), paragraph (3),

shall apply to a recognised body as they apply to a solicitor.

(2) A certificate under the hand of the secretary of the Society shall, unless the contrary is proved, be evidence that a recognised body has or, as the case may be, has not delivered to the Society an accountant's report or supplied any evidence required under Article 35 or under any such regulations as are referred to in sub-paragraph (1)(b).

Control of recognised body's property in certain cases

12.—(1) Where the Council have reasonable cause to believe and have passed a resolution stating that they have reasonable cause to believe, that—

(a) an officer or employee of a recognised body has been guilty of dishonesty in connection with that body's business or in connection with any trust of which that body is a trustee; or

(b) in consequence of the act on default of an officer or employee of a recognised body—

(i) there has been undue delay in connection with any matter in which the recognised body 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 recognised body to, or held by it on behalf of, its clients or subject to any controlled trust is in jeopardy while in the control or possession of that body,

the provisions of Schedule 1 shall apply in relation to the recognised body and its business in like manner as they apply in relation to a solicitor and his practice.

(2) Subject to sub#paragraph (3), where—

(a) the Council are satisfied that a recognised body has failed to comply with any regulations applicable to it by virtue of Article 26A; or

(b) a person has been appointed receiver or manager of property of a recognised body; or

(c) a winding-up order has been made with respect to a recognised body, or a resolution for voluntary winding-up has been passed with respect to a recognised body (other than a resolution passed solely for the purposes of its reconstruction or of its amalgamation with another body corporate),

the provisions of Schedule 1 shall apply in relation to the recognised body and its business in like manner as they apply in relation to a solicitor and his practice.

(3) Those powers shall only be exercisable by virtue of sub#paragraph (2)(a) if the Society have given the recognised body notice in writing that the Council are satisfied that the body has failed to comply with the regulations specified in the notice and also (at the same or any later time) notice that those powers are accordingly exercisable in its case by virtue of sub#paragraph (2)(a).

(4) Where the Council have passed a resolution to the effect that they are satisfied that a recognised body—

(a) has failed to comply with—

(i) any provision respecting the keeping of accounts contained in regulations made under Article 33 and applied to recognised bodies in accordance with Article 26A(2)(f) or with any requirement made in pursuance of any such regulations so applied for the production of books of account or other documents; or

(ii) the provisions of Article 35 or of any regulations made thereunder and applied to recognised bodies in accordance with Article 26A(2)(f); and

(b) has been informed that such failure will have the consequence that the provisions of Schedule 1 shall apply in relation to the body and its business,

the provisions of Schedule 1 shall apply in relation to the recognised body and its business in like manner as they apply in relation to a solicitor and his practice.

(5) Where a recognised body—

(a) having more than one office or place of business at any one time (disregarding, where it has a Belfast agent, the office or place of business of such agent) has been invited by the Society to satisfy them that its officers and employees who are solicitors exercise adequate personal supervision over each such office or place of business and, having failed so to satisfy the Society, has been notified in writing by the Society that it has so failed; or

(b) having been invited by the Society to give an explanation in respect of any matter relating to the conduct of a director of the body and having failed to give the Society such an explanation as appears to them to be satisfactory, has been notified in writing by the Society that it has so failed,

the Council may direct that the provisions of Schedule 1 shall apply in relation to the recognised body and its business in like manner as they apply in relation to a solicitor and his practice.

(6) Where the Tribunal have made a recommendation to the Council under paragraph 24 in respect of any recognised body the Council may direct that the provisions of Schedule 1 shall apply in relation to the recognised body and its business in like manner as they apply in relation to a solicitor and his practice.

13.—(1) Where the recognition of a body corporate under Article 26A—

(a) has been revoked under regulations made under Article 26A(2)(d) or by an order of the Tribunal under this Schedule; or

(b) has expired and no further recognition of that body has been granted under that Article,

that body shall within three weeks from the material date satisfy the Council that it has made suitable arrangements for making available to its clients or to some other recognised body or solicitor instructed by his clients or, with the approval of the Council, instructed by itself—

(i) all deeds, wills, documents constituting or evidencing title to any property, papers, books of accounts, records, vouchers or other documents in its possession or control, or relating to any controlled trust; and

(ii) all sums of money due from it to, or held by it on behalf of, its clients or subject to any controlled trust,

and if it fails so to satisfy the Council, the provisions of Schedule 1 shall apply in relation to the body and its former business in like manner as they apply in relation to a solicitor and his practice.

(2) In sub-paragraph (1) "the material date" means whichever is the latest of the following dates, that is to say—

(a) the date on which the recognition of the body corporate under Article 26A expires;

(b) where an application for further recognition of the body corporate under Article 26A has been made before the date specified in head (a), the last date on which an appeal against the decision not to grant further recognition of the body corporate may be lodged;

(c) the last date on which an appeal against the decision or order revoking the recognition may be lodged;

(d) the date on which any appeal mentioned in head (b) or (c) is dismissed or abandoned.

(3) Where the powers conferred by Schedule 1 are exercisable in relation to a recognised body in accordance with paragraph 12 or 14 they shall continue to be so exercisable after that body's recognition under Article 26A has been revoked or has otherwise ceased to be in force.

14. Where—

(a) a complaint is made to the Council that there has been undue delay on the part of a recognised body in connection with any matter in which it has been instructed on behalf of a client or any matter which relates to the administration of a controlled trust or in complying with an order of the Tribunal under paragraph 21(2)(c), (d) or (e) or (3) or Article 51A; and

(b) the Council have by notice invited the body to give an explanation in respect of the matter; and

(c) the body has, within a period of not less than fourteen days specified in the said notice or such longer period as the Council may determine failed to give an explanation in respect of that matter which the Council regard as sufficient and satisfactory; and

(d) the body has been notified in writing by the Society that it has so failed,

the provisions of Schedule 1 shall apply in relation to the recognised body and its business in like manner as they apply in relation to a solicitor and his practice; but as regards the documents specified in paragraph 2 and the sums of money specified in paragraph 10 of Part I of that Schedule only in so far as they relate to the matter of the complaint.

15. In connection with the application of Schedule 1 for the purposes of this Schedule, in Schedule 1 any reference to the solicitor or to his practice shall be construed as including a reference to the body corporate in relation to which the powers conferred by that Schedule are exercisable by virtue of paragraph 12, 13 or 14 of this Schedule or to its business (or former business) as a recognised body.

Powers of Council in respect of inadequate professional services

16.—(1) In Article 41A (except paragraphs (8) and (9))—

(a) any reference to a solicitor shall be construed as including a reference to a recognised body; and

(b) any reference to professional services provided by a solicitor in connection with any matter in which he or his firm had been instructed by a client shall be construed as including a reference to professional services provided by a recognised body in connection with any matter in which it had been instructed by a client.

(2) The powers conferred on the Council by Article 41A(1)(a) shall be exercisable in relation to a body corporate in accordance with this paragraph notwithstanding that it is no longer a recognised body.

(3) If a body corporate fails to comply with a direction given under Article 41A by virtue of this paragraph which has taken effect, any person may make a complaint in respect of that failure to the Tribunal; but no other proceedings whatever shall be brought in respect of it.

Examination of files

17.—(1) Where the Council are satisfied that it is necessary to do so for the purpose of investigating—

(a) any such complaint as is mentioned in head (b), (c) or (d) of paragraph 19(1); or

(b) any complaint made to the Society and relating to the quality of any professional services provided by a recognised body,

the Society may give notice to the recognised body to which the complaint relates requiring the production or delivery to any person appointed by the Society, at a time and a place to be fixed by the Society, of all documents in the body's possession in connection with the matters to which the complaint relates (whether or not they relate also to other matters).

(2) Paragraphs 2(2) to 8 and 17 to 21 of Schedule 1 shall apply in relation to the powers conferred by sub#paragraph (1) as they apply in relation to the powers conferred by sub-paragraph (1) of paragraph 2 of that Schedule, and accordingly in those provisions—

(a) any reference to the solicitor shall be construed as including a reference to the body with respect to which the powers are exercisable by virtue of sub#paragraph (1);

(b) any reference to a person appointed, or to a requirement, under paragraph 2(1) of that Schedule shall be construed as including a reference to a person appointed, or to a requirement, under sub#paragraph (1); and

(c) any reference to any such documents as are mentioned in paragraph 2(1) of that Schedule shall be construed as including a reference to any such documents as are mentioned in sub#paragraph (1).

Lay observers

18.—(1) Paragraph (1)(b) of Article 42 shall apply in relation to a complaint about a recognised body or an officer or employee of such a body as it applies in relation to a complaint about a solicitor or an employee of a solicitor.

(2) Where it appears to a lay observer, in examining any such allegation as is mentioned in paragraph (1)(b) of that Article—

(a) that there arises out of the complaint in respect of which the allegation has been made both—

(i) a question as to the conduct of a recognised body, being conduct capable, in his view, of forming the subject#matter of any such complaint as is mentioned in head (b), (c) or (d) of paragraph 19(1); and

(ii) a question as to the quality of any professional services provided by the body as a recognised body; and

(b) that it would be appropriate for the latter question to be considered by the Tribunal with a view to determining whether to exercise in relation to the body any of the powers conferred on the Tribunal by paragraph 22,

the lay observer may make an application to the Tribunal with respect to the body.

Complaints to Tribunal with respect to recognised bodies

19.—(1) The Tribunal shall have jurisdiction to hear and determine any of the following complaints made to it under this paragraph with respect to a recognised body, namely—

(a) a complaint that the body has (while a recognised body) been convicted by any court in the United Kingdom of a criminal offence which renders it unsuitable to be recognised under Article 26A;

(b) a complaint that the body has failed to comply with Article 35 or with any regulations applicable to it by virtue of Article 26A;

(c) a complaint that the body has acted in contravention of paragraph 4 or Article 29 or of any terms and conditions subject to which a consent has been granted under Article 29; or

(d) a complaint that the body has knowingly acted in contravention of an order under Article 31 or of any terms and conditions subject to which a consent has been granted under such an order.

(2) A complaint may be made to the Tribunal under this paragraph by any person.

Procedure on applications and complaints

20. In Article 46 any reference to a solicitor shall be construed as including a reference to a recognised body.

Powers of Tribunal with respect to recognised bodies

21.—(1) Where on an inquiry into any complaint made to it under this Schedule the Tribunal are satisfied that a recognised body—

(a) has been convicted as mentioned in head (a) of paragraph 19(1); or

(b) has failed to comply with Article 35 or with any such regulations as are mentioned in head (b) of paragraph 19(1); or

(c) has acted as mentioned in head (c) or (d) of that provision; or

(d) has failed to comply with any direction given to it under Article 41A by virtue of paragraph 16,

the Tribunal may, if they think fit, make one or more of the orders referred to in sub#paragraph (2).

(2) Those orders are—

(a) an order revoking the recognition under Article 26A of the body to which the complaint relates;

(b) an order directing the payment by that body of a fine not exceeding £3,000, to be paid to and applied for the purposes of the Society;

(c) the payment by any party to the inquiry of the costs of any other party to be measured by the Tribunal, or of a stated sum as a contribution towards such costs;

(d) the payment by any party to the inquiry of a sum to be measured by the Tribunal for the costs incurred by the Tribunal, or of a stated sum as a contribution towards such costs;

(e) the making by any party of such restitution or satisfaction to any aggrieved party as the Tribunal thinks fit.

(3) On an inquiry into a complaint under paragraph 16(3) relating to a direction given under Article 41A, the Tribunal may, without prejudice to their powers under sub-paragraphs (1) and (2) or paragraph 22, make an order providing for the direction to be treated for the purposes of this Order as if it were an order of the Tribunal.

(4) In Article 51—

(a) paragraph (5) shall apply to an order under sub-paragraph (2)(d) as it applies to an order under paragraph (1)(k) of that Article;

(b) paragraphs (6) to (9) shall apply to an order under this paragraph as they apply to an order under that Article, but in paragraph (8) the reference to the solicitor shall be construed as a reference to the recognised body;

(c) paragraphs (11) and (12) shall have effect in relation to the sum specified in sub# paragraph (2)(b) as they have effect in relation to the sum specified in paragraph (1)(b) of that Article.

Powers of Tribunal in respect of inadequate professional services

22.—(1) The powers conferred on the Tribunal by Article 51A shall be exercisable on an inquiry into—

(a) any complaint made to the Tribunal under this Schedule by or on behalf of the Society with respect to a recognised body; or

(b) any application made to the Tribunal under paragraph 18(2) by a lay observer with respect to a recognised body,

in like manner as they are exercisable on an inquiry into any complaint or application made as mentioned in Article 51A(1) with respect to a solicitor.

(2) Accordingly, in Article 51A as it applies in relation to any such complaint or application as is mentioned in sub#paragraph (1)(a) or (b)—

(a) any reference to a solicitor shall be construed as including a reference to a recognised body; and

(b) any reference to professional services provided by a solicitor in connection with any matter in which he or his firm had been instructed by a client shall be construed as including a reference to professional services provided by a recognised body in connection with any matter in which it had been instructed by a client.

Powers of Tribunal in relation to legal aid

23.—(1) Where the Tribunal makes any such order as is referred to in Article 51B(1)(a) in the case of a solicitor who is an officer or employee of a recognised body, the Tribunal may, if they think fit, order that any solicitor who is for the time being a director of that body shall be **[**[F142]prohibited from providing (either permanently or for a specified period) civil legal services or criminal defence services funded by the Department of Justice**]** .

[F143](2) . . . . . .

F142 Words in Sch. 1A para. 23(1) substituted (1.4.2015) by Access to Justice (Northern Ireland) Order 2003 (S.I. 2003/435), art. 1(2), **Sch. 4 para. 2(10)** (as amended (18.11.2014) by Legal Aid and Coroners' Courts Act (Northern Ireland) 2014 (c. 11), Sch. 2 para 6(43)(b)(ii)); S.R. 2015/194, art. 2, Sch. (with art. 3)

F143 Sch. 1A para. 23(2) repealed (1.4.2015) by Access to Justice (Northern Ireland) Order 2003 (S.I. 2003/435), art. 1(2), **Sch. 5**; S.R. 2015/194, art. 2, Sch. (with art. 3)

Power of Tribunal to make recommendation for application of Schedule 1 to recognised body

24.—(1) Where the Tribunal hold an inquiry into any application or complaint made under this Schedule with respect to a recognised body they may, whether or not they make any order on the inquiry, make a recommendation to the Council that the provisions of Schedule 1 should apply in relation to that recognised body.

(2) A recommendation made by the Tribunal under sub-paragraph (1) shall contain a statement of the findings on which the Tribunal based the recommendation.

Effect, notice and recording of orders of Tribunal

25.—(1) Where the Tribunal make an order—

(a) under paragraph 21(2)(b), (c), (d) or (e) or (3); or

(b) under Article 51A(2), by virtue of paragraph 22,

the registrar, if so required in writing by the Society or by any other party in whose favour the order was made, shall lodge a duly authenticated copy of the order with the Master (Queen's Bench and Appeals) who shall forthwith cause such copy to be filed; and thereupon the order shall be of the like effect as a judgment of the High Court and enforceable accordingly.

(2) Where the Tribunal make an order revoking the recognition of a body corporate under Article 26A the registrar shall forthwith—

(a) lodge a duly authenticated copy of the order with the Master (Queen's Bench and Appeals); and

(b) cause to be published in the Belfast Gazette and in such other manner as the Tribunal may direct, a notice stating the effect of the order.

(3) Article 52(4) shall not apply to orders made by the Tribunal under this Schedule but the registrar shall maintain separate files on which such orders shall be entered in the following manner—

(a) on a file to be termed File C, there shall be entered, in alphabetical order against the names of the bodies corporate concerned, each order revoking the recognition under Article 26A of a body corporate;

(b) on a file to be termed File D, there shall be entered, in chronological order, all other orders.

(4) Article 52(6), (7) and (8) shall apply to File C as they apply to File A and to File D as they apply to File B.

Revocation of recognition by reason of default by director

26.—(1) Where—

(a) an order is made by the Lord Chief Justice under Article 20(1) or 27(1) in the case of a director of a recognised body;

(b) any order is made by the Tribunal under Article 51 in the case of a director of a recognised body; or

(c) an order is made by the High Court or the Court of Appeal that the name of a director of a recognised body be struck off the roll or that such a director be suspended from practice as a solicitor; or

(d) any such order as is mentioned in head (a), (b) or (c) is made in the case of a person employed by a recognised body and the act or omission constituting the ground on which the order was made was instigated or connived at by a director of the recognised body or, if the act or omission was a continuing act or omission, a director of the body had or reasonably ought to have had knowledge of its continuance,

the Tribunal may, on an application made with respect to the recognised body by or on behalf of the Society, by order revoke its recognition under Article 26A.

(2) The Tribunal shall not take a case into consideration during any period within which proceedings by way of appeal may be brought which may result in sub#paragraph (1) being rendered inapplicable in that case, or while any such proceedings are pending.

(3) Any reference to a director of a recognised body in any of heads (a) to (d) of sub#paragraph (1) includes a reference to a person who was a director of the body at the time of the conduct leading to the making of the order referred to in that paragraph.

Compensation Fund

27.—(1) On an application for recognition under Article 26A a body corporate shall pay to the Society with any fee required to be paid by virtue of paragraph (2)(a) of that Article a contribution to the Compensation Fund of such amount as the Council may from time to time determine; and Schedule 2 shall apply to an amount paid to the Society in pursuance of this sub#paragraph as if it were an annual contribution paid in pursuance of paragraph 2 of that Schedule.

(2) Where the Council, on an application for a grant being made to the Society, are satisfied—

(a) that a person has suffered loss in consequence of dishonesty on the part of an officer or employee of a recognised body in connection with that body's business or purported business as a recognised body or in connection with any trust of which it is or was a trustee; or

(b) that a person has suffered or is likely to suffer hardship in consequence of the failure on the part of a recognised body to account for money which has come into its possession in connection with that body's business or purported business as a recognised body or in connection with any trust of which it is or was a trustee;

then, subject to the provisions of sub-paragraph (3), the Society may, if the Council think fit, make to that person a grant out of the Compensation Fund for the purpose of making good or mitigating that loss or (as the case may be) relieving such hardship.

(3) The following provisions shall have effect in relation to grants under sub-paragraph (2)—

(a) the Society shall not make a grant unless the Council are satisfied that the recognised body in respect of whose act or default or in respect of whose officer's or employee's act or default the application is made has been given sufficient notice of the substance of the application and had not given, either to the applicant or to the Society, such explanation as satisfied the Council that no grant should be made;

(b) the fact that the applicant is a solicitor, an employee of a solicitor, a recognised body or an officer or employee of such a body shall not disqualify the applicant from receiving a grant.

(4) Where the Council, on an application being made to the Society, are satisfied that a member of a recognised body has suffered or is likely to suffer loss or hardship by reason of his liability to any of that body's clients in consequence of some act or default of any officer or employee of that body, in circumstances where but for the liability of that member a grant might have been made out of the Compensation Fund to some other person, then, subject to the provisions of sub-paragraph (5), the Society may, if the Council think fit, make to that member a grant out of the Compensation Fund for the purpose of relieving that loss or hardship.

(5) The following provisions shall have effect in relation to grants under sub#paragraph (4)—

(a) the Society shall not make a grant to a member of a recognised body in respect of any act or default of another member of that body unless the Council are satisfied that the other member (unless he is dead or it is impracticable to give notice to him) has been given sufficient notice of the substance of the application and has not given, either to the applicant or to the Society, such explanation as satisfies the Council that no grant should be made;

(b) a grant may (if the Council think fit) take the form of a loan upon such terms and conditions (including conditions as to the time and manner of repayment, as to the payment of interest and as to security for repayment) as the Council may determine;

(c) in relation to a grant made by way of loan, the Society may, upon such terms or conditions (if any) as the Council may think fit, at any time or times waive or refrain from enforcing the repayment of the whole or any part of the loan or any instalment of the loan or the payment of any interest or any of the other terms or conditions upon which the loan was granted.

(6) Sub-paragraph (7) applies—

(a) to a grant made under sub-paragraph (2);

(b) to a grant made under sub-paragraph (4) otherwise than by way of loan; and

(c) where a grant has been made under sub-paragraph (4) by way of loan and thereafter—

(i) the repayment of any amount (being either the whole or some part of the loan) has been waived; or

(ii) the borrower fails to repay any amount (being either the whole or some part of the loan) the repayment of which has not been waived;

to such a grant to the extent of any such amount.

(7) Where this sub-paragraph applies to a grant—

(a) the Society shall, to the extent of the amount of the grant, be subrogated to any rights and remedies of the person to whom it is made in relation to the act or default in respect of which it is made and such person shall not be entitled, whether by way of winding-up, bankruptcy or other legal proceedings or otherwise, to receive any sum out of the assets of the recognised body or an officer or employee of that body in respect of that act or default until the Society have been reimbursed the full amount of the grant;

(b) the fact that a person has received or may be likely to receive a grant from the Society shall not constitute any defence to an action brought by such person in respect of the act or default in relation to which such grant has been or may be made and the Society shall be entitled (whether before or after payment of the grant) upon giving to such person a sufficient indemnity against costs to require him to sue in his own name but on behalf of the Society for the purpose of giving effect to any rights conferred on the Society by head (a) and to permit the Society to have the conduct of the proceedings.

(8) In subparagraphs (2) to (7)—

(a) references to the person to whom a grant has been made or to any member, officer or employee of a recognised body in respect of whose act or default a grant has been made shall include, in the event of his death, bankruptcy or other disability, references to his personal representative or to any other person having authority to administer his estate;

(b) references to any recognised body in respect of whose act or default a grant has been made shall include, in the event of the winding up of that body, a reference to its liquidator.

Costs: general modification of provisions of Part V

28.—(1) In the provisions to which this paragraph applies—

(a) any reference to a solicitor or to a client of a solicitor shall be construed as including a reference to a recognised body or to a client of such a body; and

(b) any reference to a client's solicitor shall be construed as including a reference to any recognised body acting for a client.

(2) This paragraph applies to the following provisions (which relate to the remuneration of solicitors in respect of contentious and non-contentious business), namely—

Article 64;

Article 65 (except paragraph (5));

Articles 66 and 67;

Article 69;

Article 71 (except paragraphs (1)(c) and (7));

Articles 71A and 71B;

Article 71D;

Article 71E(1); and

Articles 71F to 71H.

Effect of business agreements

29. A provision in a contentious or non-contentious business agreement made between a recognised body and a client that the body shall not be liable for the negligence of any of its officers or employees, or that it shall be relieved from any responsibility to which it would otherwise be subject in the course of carrying on its business as a recognised body, shall be void.

Effect on contentious business agreement of supervening incapacity of recognised body to act for client

30.—(1) If, after some business has been done under a contentious business agreement made between a recognised body and a client but before the body has wholly performed it, the body ceases to be capable of wholly performing it by reason of one of the following events, namely—

(a) the body ceases (for any reason) to be a recognised body;

(b) a winding-up order is made with respect to the body or a resolution for voluntary winding-up is passed with respect to the body (other than a resolution passed solely for the purposes of its reconstruction or of its amalgamation with another body corporate); or

(c) the client terminates the retainer or employment of the body in favour of another recognised body or a solicitor (as, notwithstanding the agreement, he shall be entitled to do),

any party to, or the representative of any party to, the agreement may apply to the court, and the court shall have the same jurisdiction as to enforcing the agreement so far as it has been performed, or setting it aside, as the court would have had if the recognised body were still capable of wholly performing it.

(2) The court, notwithstanding that it is of the opinion that the agreement is in all respects fair and reasonable, may order the amount due in respect of business under the agreement to be ascertained by taxation, and in that case—

(a) the taxing officer, in ascertaining that amount, shall have regard so far as may be to the terms of the agreement; and

(b) payment of the amount found by him to be due may be enforced in the same manner as if the agreement had been wholly performed.

(3) If in such a case as is mentioned in subparagraph (1)(c) an order is made for the taxation of the amount due to the recognised body in respect of the business done under the agreement, the court shall direct the taxing officer to have regard to the circumstances under which the termination of the body's retainer or employment has taken place, and the taxing officer, unless he is of the opinion that there has been no default, negligence, improper delay or other conduct on the part of any officer or employee of the body affording the client reasonable ground for terminating its retainer or employment, shall not allow to the body the full amount of the remuneration agreed to be paid to it.

(4) In this paragraph "the court" has the meaning assigned by Article 66(6) and in this paragraph and paragraph 31 "the taxing officer" has the meaning assigned by Article 66(7).

Taxations with respect to contentious business

31. Subject to the provisions of any rules of court or county court rules, on every taxation of costs in respect of any contentious business done by a recognised body, the taxing officer may—

(a) allow interest at such rate and from such time as he thinks just on money disbursed by the body for the client, and on money of the client in the possession of, and improperly retained by, the body; and

(b) in determining the remuneration of the body, have regard to the skill, labour and responsibility on the part of any solicitor, being an officer or employee of the body, which the business involved.

Orders as to remuneration for non-contentious business

32. In relation to an order under Article 71 regulating (in accordance with paragraph 28) the remuneration of recognised bodies in respect of non-contentious business, paragraph (7) of that Article shall have effect as if—

(a) in sub#paragraph (a), for "the solicitor" there were substituted " the recognised body "; and

(b) in sub-paragraphs (d) and (g), for "the solicitor" there were substituted " any solicitor, being an officer or employee of the recognised body, ".

Power of court to order delivery of bill of costs, etc.

33. Any jurisdiction—

(a) of the High Court to make any such orders as are referred to in Article 71C(1) in relation to a solicitor (whether or not business has been done by him in the High Court); or

(b) of the county court to make any such orders as are referred to in Article 71C(2) in relation to a solicitor,

shall be exercisable in like manner in relation to a recognised body.

Power of court to order recognised body to pay over clients' money

34. Any jurisdiction of the High Court to make, in the case of a solicitor who is acting or has acted as such for a client, an order requiring the payment or delivery up of, or otherwise relating to, money or securities which the solicitor has in his possession or control on behalf of the client shall be exercisable in like manner in the case of a recognised body which is acting or has acted as such for a client.

Actions to recover costs

35. Paragraph (2) of Article 71E shall have effect in relation to a bill of costs delivered by a recognised body as if—

(a) for the words from "by the solicitor" to "the firm" there were substituted " on behalf of the recognised body by any officer or employee of the body authorised by it to do so "; and

(b) for "the solicitor" (where last occurring) there were substituted " the recognised body ".

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Lien on documents

36. Article 72A shall apply in relation to a recognised body as it applies in relation to a solicitor.

Bank and building society accounts

37. Article 77 shall apply in relation to a recognised body as it applies in relation to a solicitor.

Privilege from disclosure etc.

38.—(1) Any communication made to or by a recognised body in the course of its acting as such for a client shall in any legal proceedings be privileged from disclosure in like manner as if the body had at all material times been a solicitor acting for the client.

(2) Any enactment or instrument making special provision in relation to a solicitor or other legal representative as to the disclosure of information, or as to the production, seizure or removal of documents, with respect to which a claim to professional privilege could be maintained shall, with

any necessary modications, have effect in relation to a recognised body as it has effect in relation to a solicitor.

(3) **[**[F144]In sections 748(4), 749 and 771(5) and (6) of the Income Tax Act 2007**][**[F145]and section 832(5) and (6) of the Corporation Tax Act 2010**]** any reference to a solicitor's client shall, in relation to a solicitor who is an officer or employee of a recognised body, be construed as a reference to a client of that body.

F144 Words in Sch. 1A para. 38(3) substituted (1.4.2010 with effect as mentioned in s. 381(1) of the amending Act) by Taxation (International and Other Provisions) Act 2010 (c. 8), ss. 374, 381(1), **Sch. 8 para. 288** (with Sch. 9 paras. 1-9, 22)

F145 Words in Sch. 1A para. 38(3) inserted (1.4.2010 with effect as mentioned in s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), ss. 1177, 1184(1), **Sch. 1 para. 168** (with Sch. 2)

Modification of enactments relating to conveyancing etc.

39. In the following provisions, namely—

(a) sections 56 and 66 of the Conveyancing Act 1881;

(b) section 85(1)(e) of the Land Registration Act (Northern Ireland) 1970;

(c) paragraph (3) of Schedule 1 to the Registration of Deeds Act (Northern Ireland) 1970; and
Sub-para. (d) rep. by 1998 NI 6

any reference to a solicitor shall be construed as including a reference to a recognised body, and any reference to a person's solicitor shall be construed as including a reference to a recognised body acting for that person.**]**

SCHEDULE 2

Articles 55, 56, 57, 59, 61, Schedule 1.

THE COMPENSATION FUND

1. The fund shall be maintained and administered by the Society and shall be held by the Society on trust for the purposes provided for in Part IV and this Schedule.

2. Every solicitor shall on each occasion on which a practising certificate is issued to him pay to the Society with the fee payable in respect of that certificate under Article 10 a contribution (in this Schedule referred to as “the annual contribution”) of such sum as may be prescribed, and the Society shall pay that contribution into the fund:

Provided that—

(a) a solicitor shall not be required to pay the annual contribution on the issue of the first three practising certificates issued to him after his admission; and

(b) on the issue of the fourth, fifth and sixth practising certificates issued to him after his admission a solicitor shall be liable to pay only one half of the amount of the annual contribution; and

(c) an annual contribution shall not be required to be paid by a solicitor who is employed as a full-time public officer or in the full-time service of a local or public authority and who does not engage in any form of private practice as a solicitor.

3. The Society may invest in trustee**[**[F146] investments**]** any money which forms part of the fund and is not immediately required for any of the purposes provided for by Part IV or this Schedule.

F146 2001 c. 14 (NI)

4. [F147]. . . the Society may borrow for the purposes of the fund from any lender and may charge any investments of the fund by way of security for any such loan:

F147 1991 NI 6

Provided that the aggregate sum owing at any one time in respect of such loans shall not exceed**[**[F148] Â£1 million or such other amount as the Department of Finance and Personnel may by order subject to negative resolution specify**]**.

F148 2004 NI 13

F148 2004 NI 13

5. The Society may insure with any person authorised by law to carry on insurance business within the United Kingdom for such purposes and on such terms as the Society may deem expedient in relation to the fund.

6. There shall be carried to the credit of the fund—

(a) all moneys and all investments forming part of the Compensation Fund established under Article 55;

(b) all annual contributions paid to the Society in pursuance of paragraph 2;

(c) all interest, dividends and other income and accretions of capital arising from the investment of the fund or any part thereof;

(d) the proceeds of any realisation of any investments of the fund;

(e) all money borrowed for the purposes of the fund;

(f) all sums received by the Society under any insurance effected by the Society under paragraph 5;

(g) all sums received by the Society under Article 58(*c*) or 60(*e*);

(h) any other money which may belong or accrue to the fund or be received by the Society in respect thereof.

7. All money from time to time forming part of the fund and all investments of the fund shall be applicable—

(a) for payment of any costs, charges and expenses of establishing, maintaining, administering and applying the fund;

(b) for payment of any premiums on insurances effected by the Society under paragraph 5;

(c) for repayment of any money borrowed by the Society for the purposes of the fund and for payment of interest on any money so borrowed;

(d) for payment of any grants which the Society may make under Part IV;

(e) for payment of costs, charges and expenses incurred by the Society in exercise of any power conferred by Article 36, 37 or 39 or Schedule 1;

(f) for payment of any other sums properly payable out of the fund by virtue of Part IV or this Schedule.

8. Notwithstanding anything in Part IV or in this Schedule, the Society shall not make any grant out of the Compensation Fund in respect of any loss arising in connection with the employment of a solicitor as a full-time public officer or in the full-time service of a local or public authority or by reason of any breach of a fiduciary duty to which any such employment gave rise.

Schedule 3—Repeals

Status:
Point in time view as at 07/03/2016. This version of this Order contains provisions that are prospective.

Changes to legislation:
There are outstanding changes not yet made by the legislation.gov.uk editorial team to Solicitors (Northern Ireland) Order 1976. Any changes that have already been made by the team appear in the content and are referenced with annotations.