STATUTORY INSTRUMENTS

1976 No. 582

Solicitors (Northern Ireland) Order 1976

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");

F1 . . . .

F1 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) [F2] . . . . . .

F2 Art. 5(5) repealed (1.2.2006) by Law Reform (Miscellaneous Provisions) (Northern Ireland) Order 2005 (S.I. 2005/1452 (N.I. 7)), arts. 1(2), 19(3), 24, **Sch. 2**; S.R. 2005/494,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)

[[F3]Regulations 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.**]**

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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.

[[F4]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.

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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.**]**

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PROSPECTIVE

[F5Authorisation 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.**]**

F5 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,[F6]. . . .

[[F6](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**[**[F6] 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).

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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

[F7(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[F7 or termination of his suspension or the replacement of his name on] the roll, as the case may be; or

[F7(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—

[F8(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

[F7(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[F7 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

[F7(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**[**[F9] adjudged a bankrupt and discharged**]** or has entered into a composition with his creditors or a deed of arrangement for their benefit.

[[F10](l) where he has been the subject of a bankruptcy restrictions order; or**]**

[[F11](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.

F7 1989 NI 14
F8 1986 NI 4
F9 1989 NI 19
F10 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)**
F11 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)**

[[F12]**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.

F12 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).

F12 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 **[**[F13]or his becoming the subject of a bankruptcy restrictions order**][**[F14]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.

F12 1989 NI 14
F13 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)**
F14 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.

[
[F15](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 **[**[F16]or his becoming the subject of a bankruptcy restrictions order**][**[F17]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 **[**[F16]or his becoming the subject of a bankruptcy restrictions order**][**[F17]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.

F12 1989 NI 14
F15 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)**
F16 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)**
F17 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.

F12 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.

F12 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.**]**

F12 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.—[F18](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**[**[F19] level 4 on the standard scale**]**.

F18 mod. (EEC lawyers),by SI 1978/1910
F19 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**[**[F20] 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.

F20 1989 NI 14

[[F21]Solicitor practising whilst subject to a bankruptcy restrictions order [[F22]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 **[**[F23]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 [F24]....**]**

F21 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)**

F22 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)**

F23 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)**

F24 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)**

[F25Solicitor 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**]**

F25 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. F26 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**[**F27 level 4 on the standard scale**]**.

F26 1977 c.37
F27 1984 NI 3

Unqualified person not to prepare certain instruments, etc.

23.—F28(1) Subject to**[**F29 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**[**F30 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;

F31(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**[**[F29] 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.

[[F29](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"**[**[F29] 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**[**[F29] 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.

[[F29](4) The Department of Economic Development may institute proceedings for an offence under this Article.**]**

F28 1977 c.37 s.85(2)(3) Mod. (EEC lawyers) by SI 1978/1910
F29 1989 NI 14
F30 1984 NI 3
F31 1977 s.37

Preparation of papers for probate, etc.

24.—(1) **[**[F32]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**[**[F33] level 4 on the standard scale**]**.

[[F32](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.

F32 1989 NI 14
F33 1984 NI 3

Costs not recoverable where unqualified person acts as solicitor

25.—(1) [F34] Costs in respect of anything done by a person who acts or purports to act as a solicitor while he is**[**[F35] 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.

F34 SI 1978/1910
F35 1989 NI 14

Status:
Point in time view as at 07/03/2016. This version of this part 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.