

---

## STATUTORY INSTRUMENTS

---

# 1976 No. 582

## Solicitors (Northern Ireland) Order 1976

### PART III

#### PROFESSIONAL PRACTICE, CONDUCT AND DISCIPLINE

##### *Restrictions on conduct of practice*

#### **Acting as agent for unqualified person**

27.—<sup>F1</sup>(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<sup>F2</sup> £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.

**F1** SI 1978/1910

**F2** 1989 NI 14

#### **Sharing of profits or fees with unqualified persons**

28.—(1) Subject to paragraph (2), any solicitor who<sup>F3</sup> 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<sup>F4</sup> 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

*Status: Point in time view as at 13/01/2020.*

*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)*

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 [<sup>F5</sup>surviving spouse or civil partner] , 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.

**F3** 1989 NI 14

**F4** 1984 NI 3

**F5** Words in art. 28(2)(b) substituted (13.1.2020) by [The Marriage \(Same-sex Couples\) and Civil Partnership \(Opposite-sex Couples\) \(Northern Ireland\) Regulations 2019 \(S.I. 2019/1514\)](#), regs. 1(2), [132](#) (with regs. 6-9)

### **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 [<sup>F6</sup>or the subject of a bankruptcy restrictions order]<sup>F7</sup>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<sup>F8</sup> 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<sup>F8</sup> Tribunal].

- F6** 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)**
- F7** 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)**
- F8** 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 [<sup>F9</sup>or is the subject of a bankruptcy restrictions order]<sup>F10</sup> 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<sup>F11</sup> level 3 on the standard scale].

- F9** 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)**
- F10** 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)**
- F11** 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
- <sup>F12</sup>(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<sup>F12</sup> 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<sup>F12</sup> Tribunal] in accordance with rules<sup>F12</sup> made under Article 43(8)] and, on the hearing of the application, the<sup>F12</sup> 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.

**Status:** Point in time view as at 13/01/2020.

**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)

(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<sup>F13</sup> level 3 on the standard scale].

(5) If a solicitor<sup>F12</sup> 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<sup>F12</sup> Tribunal].

*Para. (6) rep. by 1989 NI 14*

**F12** 1989 NI 14

**F13** 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<sup>F14</sup>, including terms as to remuneration, as may be fixed or approved by the Society].

**F14** 1989 NI 14

**Status:**

Point in time view as at 13/01/2020.

**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.