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## STATUTORY INSTRUMENTS

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# 1976 No. 582

## Solicitors (Northern Ireland) Order 1976

### PART VI

#### MISCELLANEOUS AND GENERAL

*Art. 72 rep. by 1989 NI 14*

#### [<sup>F1</sup>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.]

**F1** 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 suspension 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.

#### [<sup>F2</sup>Committees 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—

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- (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.]

**F2** 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<sup>F3</sup>; 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<sup>F3</sup> or the Council] for any purpose whatsoever may be signed on behalf of the Society<sup>F3</sup> 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.

**F3** 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 [<sup>F4</sup> section 55 of the Judicature (Northern Ireland) Act 1978 ] on the Northern Ireland<sup>F5</sup> Supreme Court Rules Committee to make rules of court shall be exercisable in relation to any function conferred on the Lord Chief Justice by this Order.

**F4** 1978 c.23

**F5** prosp. subst. by 2005 c.4

## Time limit for commencement of certain proceedings

76. Notwithstanding anything in<sup>F6</sup> 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.

F6 1981 NI 26

## Relief to banks

77.—(1) Subject to the provisions of this Article, a bank<sup>F7</sup> 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<sup>F7</sup> 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<sup>F7</sup> 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<sup>F7</sup> 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<sup>F7</sup> 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.

F7 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*

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## 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 [<sup>F8</sup> 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<sup>F9</sup> Supreme Court 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.

**F8** [1978 c.23](#)

**F9** [prosp. subst. by 2005 c.4](#)

## 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*

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