

SCHEDULES

SCHEDULE 1

PART I

PROPERTY IN THE CONTROL OR POSSESSION OF CERTAIN SOLICITORS AND OTHER PERSONS

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^{F1} level 3 on the standard scale]; and

(b) ^{F2} . . . 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.

F1 1984 NI 3

F2 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

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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^{F3}, 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^{F3} . . . 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^{F3} . . . the High Court under^{F3} 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^{F3} . . . under this paragraph in any notification given to him under Article 38.

F3 1989 NI 14

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Changes and effects yet to be applied to the whole Order associated Parts and Chapters:

Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- art. 6(1A) inserted by [2011 c. 24 \(N.I.\) s. 88\(2\)](#)
- art. 10(2D) inserted by [2011 c. 24 \(N.I.\) s. 88\(4\)](#)
- art. 51(11A) inserted by [2016 c. 14 \(N.I.\) s. 3\(4\)](#)
- art. 71H(3) revoked by [1996 c. 23 s. 107\(2\)Sch.4](#)
- art. 75(1A) inserted by [2016 c. 14 \(N.I.\) s. 3\(6\)](#)
- art. 75(2A)(2B) inserted by [2011 c. 24 \(N.I.\) s. 90\(1\)](#)