Status: *Point in time view as at 31/03/2000. This version of this Act contains provisions that are not valid for this point in time.*
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Solicitors Act 1974

1974 CHAPTER 47

An Act to consolidate the Solicitors Acts 1957 to 1974 and certain other enactments relating to solicitors. [31st July 1974]

Modifications etc. (not altering text)

C1 Act excluded by S.I. 1978/1910, **art. 18(2)**

C2 Act extended by Trustee Savings Banks Act 1985 (c. 58, SIF 110), ss. 3(9), 7(2), **Sch. 1 para. 11(2)(b)**

C3 By Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 101(1), **Sch. 12 para. 23**; S.I. 1991/2208, art. 2(1), **Sch. 1** it is provided (14.10.1991) that in relation to any time before the commencement of s. 70 of that 1991 Act (which came into force on 1.10.1992 by S.I. 1992/333, art. 2(2), **Sch. 2**) references in any enactment amended by that 1991 Act, to youth courts shall be construed as references to juvenile courts.

C4 Act: functions of the Lord Chancellor transferred to the Secretary of State, and all property, rights and liabilities to which the Lord Chancellor is entitled or subject in connection with any such function transferred to the Secretary of State for Constitutional Affairs (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), **arts. 4**, 5 {Sch. 1} (with art. 6)

C5 Act: for the words "Supreme Court Act 1981" wherever they occur there is substituted (prosp.) the words "Senior Courts Act 1981" by virtue of Constitutional Reform Act 2005 (c. 4), ss. 59, 148(1), **Sch. 11 para. 1(2)** [Editorial Note: this amendment will be carried through into the text of the Act at the same time as any other effects on the Act for the year in which the relevant commencement order (or first such order) is made]

Commencement Information

I1 Act not in force at Royal Assent see s. 90(2); Act wholly in force 1.5.1975

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PART I

RIGHT TO PRACTISE AS SOLICITOR

Qualifications and training

1 Qualifications for practising as solicitor.

No person shall 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 Society in accordance with the provisions of this Part authorising him to practise as a solicitor (in this Act referred to as a "practising certificate").

[F1 1A Practising certificates: employed solicitors.

A person who has been admitted as a solicitor and whose name is on the roll shall, if he would not otherwise be taken to be acting as a solicitor, be taken for the purposes of this Act to be so acting if he is employed in connection with the provision of any legal services—

(a) by any person who is qualified to act as a solicitor;

(b) by any partnership at least one member of which is so qualified; or

(c) by a body recognised by the Council of the Law Society under section 9 of the Administration of Justice Act 1985 (incorporated practices).**]**

Textual Amendments

F1 S. 1A inserted by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), **s. 85**

VALID FROM 01/07/2009

[F2 1B Restriction on practice as sole solicitor

(1) Rules under section 31 (rules as to professional practice etc) must provide that a solicitor may not practise as a sole solicitor unless he has in force—

(a) a practising certificate, and

(b) an endorsement of that certificate by the Society authorising him to practise as a sole solicitor (a "sole solicitor endorsement").

(2) The rules may provide that, for the purposes of the rules and this Act, a solicitor is not to be regarded as practising as a sole solicitor in such circumstances as may be prescribed by the rules.

(3) The rules must prescribe the circumstances in which a solicitor may be regarded by the Society as suitable to be authorised to practise as a sole solicitor.**]**

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Textual Amendments

F2 S. 1B inserted (1.7.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 3** (with ss. 29, 192, 193); S.I. 2009/1365, **art. 2(a)(i)**

Modifications etc. (not altering text)

C6 S. 1B extended (with modifications) (1.7.2009) by S.I. 2000/1119, Sch. 4 para. 7(1)Table (as substituted by The Legal Services Act 2007 (Registered European Lawyers) Order 2009 (S.I. 2009/1587), **art. 3(7)(a)**)

2 Training regulations.

(1) The Society, with the concurrence of the Lord Chancellor, the Lord Chief Justice and the Master of the Rolls, may make regulations (in this Act referred to as "training regulations") about education and training for persons seeking to be admitted or to practise as solicitors.

[F3](2) . . . . . .

(3) Training regulations—

(a) may prescribe—

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

(ii) any education or training to be undergone by persons who have been admitted as solicitors;

(iii) the examinations or other tests to be undergone by persons seeking admission as solicitors or who have been admitted;

(iv) the qualifications and reciprocal duties and responsibilities of persons undertaking to give education or training for the purposes of the regulations or undergoing such education or training; and

(v) the circumstances in which articles may be discharged or education or training under the regulations may be terminated;

(b) may require persons who have been admitted as solicitors to hold practising certificates while they are undergoing education or training under the regulations;

(c) may include provision for the charging of fees by the Society and the application of fees which the Society receives;

(d) may make different provision for different classes of persons and different circumstances.

[[F4](4) Where, under Schedule 4 to the Courts and Legal Services Act 1990 (approval of certain regulations in connection with the grant of rights of audience or rights to conduct litigation), the Lord Chancellor **[**[F5]approves any regulation such as is mentioned in subsection (1), the requirement of the concurrence of the Lord Chief Justice and the Master of the Rolls imposed by that subsection shall not apply.**]]**

[[F4](5) Subsection (4) shall have effect whether or not the regulation required to be approved under Schedule 4 to the Act of 1990.**]**

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Textual Amendments

F3 S. 2(2) repealed (1.4.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 125(7), **Sch. 20**; S.I. 1991/608, art. 2, **Sch.**

F4 S. 2(4)(5) added (1 4.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 125(2), **Sch. 17 para. 8**; S.I. 1991/608, art. 2, **Sch.**

F5 Words in s. 2(4) substituted (1.1.2000) by 1999 c. 22, s. 43, **Sch. 6 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (with art. 4, Sch. 2)

Modifications etc. (not altering text)

C7 S. 2 extended (22.5.2000) by S.I. 2000/1119, regs. 1, 37(3), **Sch. 4 para. 1(1)**

Admission

3 Admission as solicitor.

(1) Subject to section 4 and to section 20(3) of the Justices of the [M1]Peace Act 1949 (which relates to the admission as solicitors of certain persons who have served as assistant to a justices' clerk), no person shall be admitted as a solicitor unless he has obtained a certificate from the Society that the Society—

(a) is satisfied that he has complied with training regulations, and

(b) is satisfied as to his character and his suitability to be a solicitor.

(2) Any person who has obtained a certificate that t he Society is satisfied as mentioned in subsection (1) may apply to the Master of the Rolls to be admitted as a solicitor; and if any such person so applies, the Master of the Rolls, [F6]. . ., shall, unless cause to the contrary is shown to his satifaction, in writing, and in such manner and form as the Master of the Rolls may from time to time think fit, admit that person to be a solicitor.

[F7](3) . . . . . .

Textual Amendments

F6 Words repealed by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 125(7), **Sch. 20**

F7 S. 3(3) repealed by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 125(7), **Sch. 20**

Marginal Citations

M1 1949 c. 101.

[F8]4 . . . . . .

Textual Amendments

F8 S. 4 repealed (with*temp.* saving) by Courts and Legal Services Act 1990 (c. 41, SIF 37, 76:1), s. 125(2)(6)(7), Sch. 17 para. 9, Sch. 19 para. 11(1)(2)(3), **Sch. 20**

[F9]5 . . . . . .

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Textual Amendments

F9 S. 5 repealed by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 125(7), **Sch. 20**

The roll

6 Keeping of the roll.

(1) The Society shall continue to keep a list of all solicitors of the Supreme Court, called "the roll".

(2) The roll may be kept by means of a computer.

(3) 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.

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

7 Entry of name and restoration of name struck off.

On production—

(a) of an admission of any person as a solicitor signed by the Master of the Rolls [F10]. . ., or

(b) of an order for the restoration to the roll of the name of a person whose name has been struck off it, **[**[F11]or

(c) of an order under section 47(2)(h) for the restoration of a person's name to the roll,**]**

and on payment to the Society of such fee [F12]. . . as the Council may from time to time determine, the Society shall enter the name of that person on the roll.

Textual Amendments

F10 Words in s. 7(a) repealed (1. 6. 1992) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 125(7), **Sch. 20**; S.I. 1992/1221, art. 2, **Sch.**

F11 S. 7(c) added by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 125(3), **Sch. 18 para. 7**

F12 Words repealed by Administration of Justice Act 1985 (c. 61, SIF 34), ss. 8, 67(2), Sch. 1 para. 2, **Sch. 8 Pt. III**

8 Removal or restoration of name at solicitor's request.

(1) The Society, on the application of a solicitor, may remove his name from 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 enter his name on the roll, on payment to the Society of such fee [F13]. . . as the Council may from time to time determine.

[[F14](2A) Subsection (2) does not apply to a former solicitor with respect to whom a direction has been given under section 47(2)(g).**]**

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(3) The power to enter a name on the roll conferred on the Society by subsection (2) includes power to enter the name of a person whose name was removed from the roll before the coming into force of section 5 of the [M2]Solicitors (Amendment) Act 1974.

[[F15](4) An appeal from any decision of the Society under subsection (2) shall lie to the Master of the Rolls.

(5) The Master of the Rolls may make regulations about appeals to him under this section.**]**

Textual Amendments

F13 Words repealed by Administration of Justice Act 1985 (c. 61, SIF 34), ss. 8, 67(2), Sch. 1 para. 3, **Sch. 8 Pt. III**

F14 S. 8(2A) inserted by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 125(3), **Sch. 18 para. 8**

F15 S. 8(4)(5) added by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), **s. 95**

Marginal Citations

M2 1974 c. 26.

Practising certificates

9 Applications for practising certificates.

(1) On receipt of an application for a practising certificate, the Society 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.

(2) The register may be kept by means of a computer.

(3) 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.

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

(5) If in, or in relation to, an application for a practising certificate or a notice under section 84(1) any person makes any false statement material to the application or notice, a complaint in respect of that statement may be made to the Tribunal by or on behalf of the Society.

10 Issue of practising certificates.

(1) Subject to sections 11 and 12, the Society shall issue a practising certificate to a person who applies for one, if it is satisfied, within 21 days of receipt of his application,—

(a) that his name is on the roll; and

(b) that he is not suspended from practice; and

(c) that his application complies with any regulations under section 28; and

(d) that he is complying with such training regulations (if any) as apply to him; and

(e) that he is complying with any indemnity rules or is exempt from them.

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(2) At any time when regulations under section 28 specify a training condition or training conditions, any practising certificate issued to an applicant by the Society shall be issued subject to that condition or one of those conditions if it appears to the Society that training regulations will apply to him at the end of 21 days from the Society's receipt of his application.

(3) At any time when regulations under section 28 specify an indemnity condition or indemnity conditions, any practising certificate issued to an applicant by the Society shall be issued subject to that condition or one of those conditions if it appears to the Society that he will be exempt from indemnity rules at the end of 21 days from the Society's receipt of his application.

VALID FROM 01/07/2009

[F16 10A Register of holders of practising certificates

(1) The Society must keep a register of all solicitors who hold practising certificates.

(2) The register must contain—

(a) the full name of each solicitor who holds a practising certificate,

(b) in relation to each solicitor who holds a practising certificate, a statement as to whether there is in force a sole solicitor endorsement, and

(c) such other information as may be specified in regulations under section 28(1)(d).**]**

Textual Amendments

F16 S. 10A inserted (1.7.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 10** (with ss. 29, 192, 193); S.I. 2009/1365, **art. 2(a)(i)**

Modifications etc. (not altering text)

C8 S. 10A extended (with modifications) (1.7.2009) by S.I. 2000/1119, Sch. 4 para. 7(1)Table (as substituted by The Legal Services Act 2007 (Registered European Lawyers) Order 2009 (S.I. 2009/1587), **art. 3(7)(a)**)

11 Fees payable on issue of practising certificates.

(1) Subject to subsection (2), there shall be paid to the Society in respect of each practising certificate to be issued by it, before the certificate is issued, such fee as the Master of the Rolls, with the concurrence of the Lord Chancellor and the Lord Chief Justice, may from time to time by order determine.

[F17 (2) An order under subsection (1) may specify reduced fees for practising certificates in such circumstances as may be so specified.**]**

[F17 (2A) Subsection (2B) applies where an order under subsection (1) specifies a reduced fee in the case of a solicitor whose income, from his practice as a solicitor, is, during such period as may be so specified, less than an amount so specified.**]**

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[[F17](2B) The question whether, for the purposes of any such order, the income of a solicitor during the specified period falls below the specified amount shall be determined in accordance with regulations made by the Master of the Rolls with the concurrence of the Lord Chancellor and the Lord Chief Justice.**]**

(3) All fees received by the Society under subsection (1) shall be applied in such manner as the Society may think fit for the purposes of the Society, including facilitating the acquisition of legal knowledge.

(4) The Society shall submit annually to the judges mentioned in subsection (1) an account of all such fees and of their application and shall cause a copy of the account to be deposited at the Society's hall for inspection by any solicitor.

Textual Amendments

F17 S. 11(2)(2A)(2B) substituted for S. 11(2)(2A) (which subsection (2A) was inserted by Prosecution of Offences Act 1985 (c. 23, SIF 39:1), **s. 4(5)**) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), **s. 87**

Modifications etc. (not altering text)

C9 S. 11(3): power to amend conferred (25.5.2001) by 1999 c. 22, **s. 47(1)**, (with Sch. 14 para. 7(2)); S.I. 2001/1655, **art. 2**

12 Discretion of Society with respect to issue of practising certificates in special cases.

(1) Subject to subsections (2) and (3), this section shall have effect in any case where a solicitor applies for a practising certificate—

(a) for the first time; or

(b) not having held a practising certificate free of conditions since the date of his admission; or

(c) **[**[F18]when, on what would be the commencement date for the certificate, if it were granted**]**, a period of twelve months or more will have elapsed since he held a practising certificate in force; or

(d) after the Tribunal has ordered a penalty or costs to be paid by him or that he be reprimanded; or

(e) after he has been invited by the Society to give an explanation in respect of any matter **[**[F19]relating to**]**his conduct and has failed to give an explanation in respect of that matter which the Council regard as sufficient and satisfactory, and has been notified in writing by the Society that he has so failed; or

[[F20](ee) when, having been required by section 34(1) to deliver an accountant's report to the Society, he has not delivered that report within the period allowed by section 34(2); or**]**

(f) when, having been suspended from practice, the period of his suspension has expired; or

(g) when, having had his name removed from or struck off the roll, his name has been restored to the roll; or

(h) while he is an undischarged bankrupt . . . [F21]; or

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(i) after having been adjudged bankrupt **[**[F22]and discharged**]**or after having entered into a composition with his creditors or a deed of arrangement for the benefit of his creditors; or

(j) while he is a patient as defined by **[**[F23]section 9 of the Mental Health Act 1983**]**(which relates to the judge's functions in relation to the patient), or while he is a person as to whom powers have been exercised under **[**[F23]section 104 of the Mental Health Act 1959 or section 98 of the said Act of 1983**]**(which relates to the judge's powers in cases of emergency); or

(k) after having been committed to prison in civil or criminal proceedings; or

(l) after having had given against him any judgment which involves the payment of money, not being a judgment—

(i) limited to the payment of costs; or

(ii) as to the whole effect of which upon him he is entitled to indemnity or relief from some other person; or

(iii) evidence of the satisfaction of which has been produced to the Society.

(2) Where a practising certificate free of conditions is issued by the Society under subsection (4) to a solicitor in relation to whom this section has effect by reason of any such circumstances as are mentioned in paragraph (d), (e) **[**[F24](ee)**]**, (f), (g), (i), (k), or (l) of subsection (1) **[**[F24]then, except in the case of any circumstances of whose existence the Society is unaware at the time the certificate is issued,**]**, this section shall not thereafter have effect in relation to that solicitor by reason of those circumstances.

(3) Where a solicitor's practising certificate is suspended by virtue of section 15(1) by reason of his suspension from practice and the suspension of his practising certificate is terminated unconditionally under section 16(4) or (5), then, notwithstanding subsection (1)(f), this section shall not thereafter have effect in relation to that solicitor by reason of that suspension from practice and the expiry of the period of that suspension.

(4) In any case where this section has effect, the applicant shall, unless the Society or the Master of the Rolls otherwise orders, give to the Society not less than six weeks before he applies for a practising certificate notice of his intention so to apply; and, subject to subsections (6) and (7), the Society may in its discretion—

(a) grant or refuse the application, or

(b) decide to issue a certificate to the applicant subject to such conditions as the Society may think fit.

[[F25](4A) Without prejudice to the generality of subsection (4)(*b*)—

(a) conditions may be imposed under that provision for requiring the applicant to take any specified steps that will, in the opinion of the Society, be conducive to his carrying on an efficient practice as a solicitor; and

(b) conditions may be so imposed (whether for the purpose mentioned in paragraph (a) or otherwise) notwithstanding that they may result in expenditure being incurred by the applicant.**]**

(5) Where the Society decides to issue a certificate subject to conditions, it may, if it thinks fit, postpone the issue of the certificate pending the hearing and determination of any appeal under section 13(2)(b).

(6) The Society shall not refuse an application by a solicitor for a practising certificate in a case where this section has effect by reason only—

(a) that he is applying for the first time; or

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(b) that he has not held a practising certificate free from conditions since the date of his admission;

and, in a case falling within paragraph (b), the certificate shall not be made subject to any conditions binding on the applicant in respect of any period more than three years after the date on which the first practising certificate issued to him had effect.

(7) Where a solicitor applies for a practising certificate in a case where this section has effect by reason only of any such circumstances as are mentioned in paragraph (h), (k) or (l) of subsection (1) and an appeal has been made to the appropriate court against the order or judgment in question, the Society shall not refuse the application before the determination of that appeal, unless in the opinion of the Society the proceedings on that appeal have been unduly protracted by the appellant or are unlikely to be successful.

Textual Amendments

F18 Words in S. 12(1)(c) substituted (1.7.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 125(3), **Sch. 18 para. 9**; S.I. 1991/1364, art. 2, **Sch.**

F19 Words substituted by Administration of Justice Act 1985 (c. 61, SIF 34), ss. 4(1), 69(5), **Sch. 9 para. 4(2)(a)**

F20 S. 12(ee) inserted by Administration of Justice Act 1985 (c. 61, SIF 34), ss. 4(2)(b), 69(5), **Sch. 9 para. 4(a)**

F21 Words repealed by Insolvency Act 1985 (c. 65, SIF 66), s. 235, **Sch. 10 Pt. III**

F22 Words substituted by Insolvency Act 1985 (c. 65, SIF 66), s. 235, **Sch. 8 para. 25**

F23 Words substituted by Mental Health Act 1983 (c. 20, SIF 85), s. 148, **Sch. 4 para. 38(a)**

F24 Words inserted by Administration of Justice Act 1985 (c. 61, SIF 34), ss. 4(3), 69(5), **Sch. 9 para. 4(b)**

F25 S. 12(4A) inserted by Administration of Justice Act 1985 (c. 61, SIF 34), ss. 4(4), 69(5), **Sch. 9 para. 4(b)**

[F26 12A Additional fee payable by certain solicitors on applying for practising certificates.

(1) Where a solicitor applies for a practising certificate at a time when section 12 has effect in relation to him by reason of the circumstances mentioned in section 12(1)(ee), he shall pay an additional fee to the Society when making his application.

(2) The amount of that additional fee—

(a) shall be fixed by order of the Master of the Rolls made with the concurrence of the Lord Chancellor and the Lord Chief Justice; and

(b) shall be designed to provide reasonable compensation to the Society for the additional cost of dealing with such applications.**]**

Textual Amendments

F26 S. 12A inserted by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), **s. 88**

13 Appeals in connection with issue of practising certificates.

(1) Where an application for a practising certificate is duly made to the Society otherwise than in a case where section 12 has effect and the Society refuses or neglects to issue a certificate, the applicant may apply to the High Court or to any judge of that court,

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or to the Master of the Rolls, who may make such order in the matter, including an order for the payment of costs by the Society to the applicant or by the applicant to the society, as may be just.

(2) Where the Society—

(a) in the exercise of the powers conferred on it by section 10, **[**[F27]decides to issue**]** a practising certificate subject to a training condition or an indemnity condition; or

(b) in the exercise of the powers conferred on it by section 12, refuses to issue a practising certificate or **[**[F27]decides to issue**]** a certificate subject to a condition,

the applicant may appeal to the Master of the Rolls against the decision of the Society within one month of being notified of it.

(3) On an appeal to the Master of the Rolls under subsection (2)(a), he may—

(a) affirm the decision of the Society; or

(b) direct the Society to issue a certificate to the applicant free from conditions; or

(c) if regulations under section 28 specify a number of training conditions or indemnity conditions, direct the Society to issue a certificate to the applicant subject to a training condition or, as the case may be, an indemnity condition, different from that subject to which it was originally issued.

(4) On an appeal to the Master of the Rolls under subsection (2)(b), he may—

(a) affirm the decision of the Society; or

(b) direct the Society to issue a certificate to the applicant free from conditions or subject to such conditions other than training conditions or indemnity conditions as the Master of the Rolls may think fit; or

(c) direct the Society not to issue a certificate; or

(d) if a certificate has been issued, by order suspend it; or

(d) make such other order as he thinks fit.

Textual Amendments

F27 Words substituted by Administration of Justice Act 1985 (c. 61, SIF 34), s. 8, **Sch. 1 para. 5**

VALID FROM 01/07/2009

[[F28]**13ZAApplication to practise as sole practitioner while practising certificate in force**

(1) A solicitor whose practising certificate for the time being in force (his "current certificate") does not have a sole solicitor endorsement, may apply to the Society for such an endorsement.

(2) For the purposes of subsection (1) a practising certificate with a sole solicitor endorsement which is suspended is to be treated as having such an endorsement.

(3) A solicitor may not apply under subsection (1) if he is suspended from practice as a sole solicitor.

(4) An application must be—

(a) made in accordance with regulations under section 28, and

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(b) accompanied by any fee payable under section 13ZB in respect of the endorsement applied for.

(5) Where a sole solicitor endorsement is granted to an applicant of a prescribed description, the applicant's practising certificate shall have effect subject to any conditions prescribed in relation to applicants of that description.

"Prescribed" means prescribed by regulations under section 28(3B)(f).

(6) A person who makes an application under this section may appeal to the High Court against—

(a) a decision to refuse the application, or

(b) a decision to impose a condition on a practising certificate in accordance with subsection (5).

(7) The Society may by rules make provision, as respects any application under this section that is neither granted nor refused by the Society within such period as may be specified in the rules, for enabling an appeal to be brought under this section in relation to the application as if it had been refused by the Society.

(8) On an appeal under this section the High Court may—

(a) affirm the decision of the Society,

(b) direct the Society to grant a sole solicitor endorsement,

(c) direct that the applicant's practising certificate is to have effect subject to such conditions (if any) as the High Court thinks fit, or

(d) make such other order as the High Court thinks fit.

(9) In relation to an appeal under this section the High Court may make such order as it thinks fit as to payment of costs.

(10) The decision of the High Court on an appeal under this section shall be final.

Textual Amendments

F28 Ss. 13ZA, 13ZB inserted (1.7.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 16** (with ss. 29, 192, 193); S.I. 2009/1365, **art. 2(a)(iii)** (subject to art. 4)

Modifications etc. (not altering text)

C10 S. 13ZA extended (with modifications) (1.7.2009) by S.I. 2000/1119, Sch. 4 para. 7(1)Table (as substituted by The Legal Services Act 2007 (Registered European Lawyers) Order 2009 (S.I. 2009/1587), **art. 3(7)(a)**)

VALID FROM 01/07/2009

13ZB Fee payable on making of sole solicitor endorsement

(1) Before a sole solicitor endorsement is granted under section 13ZA, there must be paid to the Society in respect of the endorsement a fee of such amount as the Society may from time to time determine.

(2) Different fees may be specified for different categories of applicant and in different circumstances.

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(3) If a fee payable under this section would not otherwise be a practising fee for the purposes of section 51 of the Legal Services Act 2007, it is to be treated for the purposes of that section as such a fee.

(4) In subsection (3) "practising fee" has the meaning given by that section.**]**

Textual Amendments

F28 Ss. 13ZA, 13ZB inserted (1.7.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 16** (with ss. 29, 192, 193); S.I. 2009/1365, **art. 2(a)(iii)** (subject to art. 4)

Modifications etc. (not altering text)

C11 S. 13ZB extended (with modifications) (1.7.2009) by S.I. 2000/1119, Sch. 4 para. 7(1)Table (as substituted by The Legal Services Act 2007 (Registered European Lawyers) Order 2009 (S.I. 2009/1587), **art. 3(7)(a)**)

[[F29]13A Imposition of conditions while practising certificates are in force.

(1) Subject to the provisions of this section, the Society may in the case of any solicitor direct that his practising certificate for the time being in force (his "current certificate") shall have effect subject to such conditions as the Society may think fit.

(2) The power to give a direction under this section 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, section 12 would have effect in relation to him by reason of any such circumstances as are mentioned in paragraph (*d*), (*e*), (*ee*), (*k*) or (*l*) of subsection (1) of that section; or

(b) . . . . . [F30]

(c) he has entered into a composition with his creditors or a deed of arrangement for the benefit of his creditors **[**[F31]; or**]**

[[F31](d) he has been charged with, or convicted of—

(i) an offence involving dishonesty or deception; or

(ii) a serious arrestable offence (as defined by section 116 of the Police and Criminal Evidence Act [M3]1984).**]**.

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

(4) The Society may, if it thinks fit, provide in a direction under this section that the conditions specified in the direction shall not have effect pending the hearing and determination of any appeal under subsection (6).

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

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[[F32]This subsection does not apply to the exercise of the Society's powers under this section by virtue of subsection (2)(d).**]**

(6) A solicitor in whose case a direction is given under this section may appeal to the Master of the Rolls against the decision of the Society within one month of being notified of it.

(7) On an appeal under subsection (6), the Master of the Rolls may—

(a) affirm the decision of the Society; or

(b) direct that the appellant's current certificate shall have effect subject to such conditions as the Master of the Rolls thinks fit; or

by order revoke the direction; or

(d) make such other order as he thinks fit.

(8) Subsection (4A) of section 12 shall apply for the purposes of subsection (1) of this section as it applies for the purposes of subsection (4)(*b*) of that section.**]**

Textual Amendments

F29 S. 13A added by Administration of Justice Act 1985 (c. 61, SIF 34), **s. 5**

F30 S. 13A(2)(b) repealed by Insolvency Act 1985 (c. 65, SIF 66), s. 235, **Sch. 10 Pt. III**

F31 Words added by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), **s. 94(1)**

F32 Words added by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), **s. 94(2)**

Marginal Citations

M3 1984 c.60. (**95**).

[[F33]13B Suspension of practising certificates where solicitors convicted of fraud or serious crime.

(1) Where—

(a) a solicitor has been convicted of–

(i) an offence involving dishonesty or deception; or

(ii) a serious arrestable offence (as defined by section 116 of the Police and Criminal Evidence Act 1984); and

(b) the Society has made an application to the Tribunal under section 47 with respect to him,

the Society may direct that any practising certificate of his which is for the time being in force be suspended.

(2) Any such suspension shall be for such period, not exceeding six months, as the Society shall specify in the direction.

(3) If, before the specified period expires–

(a) the Tribunal determines the Society's application;

(b) the conviction is quashed or set aside; or

(c) the Society withdraws its application to the Tribunal,

the suspension shall cease to have effect.

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(4) Where the specified period comes to an end without any of the events mentioned in subsection (3) having occurred, the Society may direct that the suspension be continued for such period, not exceeding six months, as it shall specify in the direction.

(5) A suspension under this section may only be extended once under subsection (4).

(6) Nothing in this section is to be taken as in any way affecting the Tribunal's power to suspend a solicitor from practice.

(7) A solicitor in whose case a direction is given under subsection (1) or (4) may appeal to the Master of the Rolls against the direction within one month of being notified of it.

(8) In an appeal under subsection (7), the Master of the Rolls may–
- (a) affirm the suspension;
- (b) direct that the appellant's certificate shall not be suspended but shall have effect subject to such conditions as the Master of the Rolls thinks fit;
- (c) by order revoke the direction; or
- (d) make such other order as he thinks fit.**]**

Textual Amendments

F33 S. 13B inserted by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), **s. 94(3)**

Modifications etc. (not altering text)

C12 S. 13B extended (22.5.2000) by S.I. 2000/1119, regs. 1, 37(3), Sch. 4 para. 7(1) (as substituted (1.7.2009) by The Legal Services Act 2007 (Registered European Lawyers) Order 2009 (S.I. 2009/1587), **art. 3(7)(a)**)

[F34 14 Commencement, expiry and replacement of practising certificates.

(1) Every practising certificate shall have effect from the beginning of the day ("the commencement date") on which it is issued.

(2) The Master of the Rolls may, with the concurrence of the Lord Chancellor and the Lord Chief Justice, make regulations—
- (a) prescribing the date ("the replacement date") by which each solicitor who has a practising certificate which is for the time being in force must apply for a new practising certificate if he wishes to continue to have one; and
- (b) requiring every practising certificate to specify its replacement date.

(3) The Society shall enter the commencement date and replacement date of each practising certificate in the register kept under section 9.

(4) Without prejudice to section 28(1), any regulations under subsection (2) may—
- (a) provide for different replacement dates for different categories of solicitor or in different circumstances;
- (b) provide for the Society to specify different replacement dates to those prescribed by the regulations in respect of individual solicitors;
- (c) make such transitional, incidental and supplemental provision, in connection with any provision for different replacement dates (including different dates specified by the Society), as the Master of the Rolls considers expedient.

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(5) Where a practising certificate is in force with respect to a solicitor, the Society may withdraw the certificate if—
  (a) the replacement date for that certificate has passed; but
  (b) he has not applied for a new practising cerificate.

(6) A practising certificate shall expire—
  (a) where the solicitor's name is removed from or struck off the roll, immediately upon the occurrence of that event;
  (b) where it is withdrawn under subsection (5), immediately upon the occurrence of that event;
  (c) where a new practising certificate is issued to the solicitor, on the commencement of the new certificate;
  (d) where the Society refuses to issue the solicitor with a new practising certificate—
    (1) immediately after the replacement date for the existing certificate has passed; or,
    (ii) if that date has already passed, immediately upon the Society taking its decision not to issue him with a new certificate.

(7) Where any practising certificate expires in the circumstances mentioned in subsection (6)(a), (b) or (d) the date of its expiry shall be entered in the register kept under section 9.**]**

Textual Amendments

F34 S. 14 substituted (1.7.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), ss. 86, 125(6), **Sch. 19 para. 12**; S.I. 1991/1364, art. 2, **Sch.**

Modifications etc. (not altering text)

C13 S. 14 modified (1.7.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 37, 76:1), 125(6), Sch. 19 para. 12(1)(2); S.I. 1991/1364, art. 2, **Sch.**

15 Suspension of practising certificates.

(1) The making by the Tribunal or by the court of an order suspending a solicitor from practice shall operate, and an adjudication in bankruptcy of a solicitor shall operate immediately, to suspend any practising certificate of that solicitor for the time being in force.

[[F35](1A) Where the power conferred by paragraph 6(1) or 9(1) of Schedule 1 has been exercised in relation to a solicitor by virtue of paragraph 1(1)(a)(i), (c) (so far as it applies to rules made by virtue of section 32) or (e) of that Schedule, the exercise of that power shall operate immediately to suspend any practising certificate of that solicitor for the time being in force.

(1B) Subsection (1A) does not apply if, at the time when the power referred to there is exercised, the Society directs that subsection (1A) is not to apply in relation to the solicitor concerned.

(1C) If, at the time when the power referred to in subsection (1A) is exercised, the Society gives a direction to that effect, the solicitor concerned may continue to act in relation

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to any matter specified in the direction as if his practising certificate had not been suspended by virtue of subsection (1A), but subject to such conditions (if any) as the Society sees fit to impose.**]**

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

Textual Amendments

F35 S. 15(1A)–(1C) inserted by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), **s. 91(2)**

Modifications etc. (not altering text)

C14 S. 15(1)(1A)(1B)(1C) extended (22.5.2000) by S.I. 2000/1119, regs. 1, 37(3), Sch. 4 para. 7(1) (as amended (1.7.2009) by The Legal Services Act 2007 (Registered European Lawyers) Order 2009 (S.I. 2009/1587), **art. 3(7)(a)**)

16 Duration of suspension of practising certificates.

(1) Subject to the provisions of this section, the suspension of a practising certificate shall continue until the certificate expires.

[[F36](1) Where, on the replacement date for a practising certificate, the certificate is suspended it shall expire on that date.**]**

(2) The suspension of a practising certificate by virtue of section 15(1) by reason of an adjudication in bankrupty shall terminate if the adjudication is annulled and an office copy of the order annulling the adjudication is served on the Society.

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

(a) by an order under section 13(4); or

(b) by virtue of section 15(1) by reason of his adjudication in bankruptcy; or

(c) by virtue of section 15(1) by reason of his suspension from practice and the period of his suspension from practice expires before the **[**[F37]replacement date**]**of the certificate,

[[F38](d) by virtue of section 15(1A)**]**

the solicitor may at any time before the certificate expires (and, in the case of adjudication in bankruptcy, while the adjudication remains unannulled) apply to the Society to terminate the suspension.

(4) On an application under subsection (3), the Society may in its discretion—

(a) by order terminate the suspension either unconditionally or subject to such conditions as the Society may think fit; or

(b) refuse the application.

(5) If on an application by a solicitor under subsection (3) the Society refuses the application or terminates the suspension subject to conditions, the solicitor may appeal against the decision of the Society to the Master of the Rolls, who may—

(a) affirm the decision; or

(b) terminate the suspension either unconditionally or subject to such conditions as he may think fit.

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Textual Amendments

F36 S. 16(1) substituted (1.7.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 125(3), **Sch. 18 para. 10(2)**; S.I. 1991/1364, art. 2, **Sch.**

F37 Words in S. 16(3)(*c*) substituted (1.7.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 125(3), **Sch. 18 para. 10(3)**; S.I. 1991/1364, art. 2, **Sch.**

F38 S. 16(3)(d) inserted by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), **s. 91(3)**

Modifications etc. (not altering text)

C15 S. 16 extended (22.5.2000) by S.I. 2000/1119, regs.1, 37(3), **Sch. 4 para. 7(1)**

17 Publicity in relation to suspension of practising certificates.

(1) Where a solicitor's practising certificate is suspended by an order under section 13(4), or by virtue of section 15(1) by reason of his adjudication in bankruptcy, the Society shall forthwith cause notice of that suspension to be published in the London Gazette and a note of it to be entered against the name of the solicitor on the roll.

(2) Where any such suspension of a practising certificate as is mentioned in subsection (1) is terminated under section 16(2), (4) or (5), the Society shall forthwith cause a note of that termination to be entered against the name of the solicitor on the roll and, if so requested in writing by the solicitor, a notice of it to be published in the London Gazette.

Modifications etc. (not altering text)

C16 S. 17 extended (22.5.2000) by S.I. 2000/1119, regs. 1, 37(3), **Sch. 4 para. 7(1)**

VALID FROM 01/07/2009

[F39 17A Suspension of sole solicitor endorsement

(1) The making by the Tribunal or by the court of an order suspending a solicitor from practice as a sole solicitor shall operate to suspend any sole solicitor endorsement of that solicitor for the time being in force.

(2) For the purposes of this Act, a sole solicitor endorsement shall be deemed not to be in force at any time while it is suspended.

(3) Subsection (2) is subject to section 13ZA(2).

Textual Amendments

F39 Ss. 17A, 17B inserted (1.7.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 22** (with ss. 29, 192, 193); S.I. 2009/1365, **art. 2(a)(i)**

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Modifications etc. (not altering text)

C17 S. 17A extended (with modifications) (1.7.2009) by S.I. 2000/1119, Sch. 4 para. 7(1)Table (as substituted by The Legal Services Act 2007 (Registered European Lawyers) Order 2009 (S.I. 2009/1587), **art. 3(7)(a)**)

VALID FROM 01/07/2009

17B Duration and publicity of suspension of sole solicitor endorsement

(1) Where a sole solicitor endorsement is suspended, it expires on such date as may be prescribed by regulations under section 28.

(2) Where a solicitor's sole solicitor endorsement is suspended—

(a) by an order under section 13(4), or

(b) by virtue of section 17A(1) in circumstances where the period of that suspension expires before the date on which his endorsement will expire,

the solicitor may at any time before the endorsement expires apply to the Society to terminate the suspension.

(3) Section 16(4) to (7) apply in relation to an application under subsection (2) as they apply in relation to an application under section 16(3).

(4) Where a solicitor's sole solicitor endorsement is suspended by an order under section 13(4) or by virtue of section 17A(1), the Society shall forthwith cause notice of that suspension to be published and a note of it to be entered against the name of the solicitor on the roll.

(5) Where any suspension is terminated by virtue of section 16(4) or (5), as applied by subsection (3) of this section, the Society shall forthwith cause a note of that termination to be entered against the name of the solicitor on the roll and, if so requested in writing by the solicitor, a notice of it to be published.**]**

Textual Amendments

F39 Ss. 17A, 17B inserted (1.7.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 22** (with ss. 29, 192, 193); S.I. 2009/1365, **art. 2(a)(i)**

Modifications etc. (not altering text)

C18 S. 17B extended (with modifications) (1.7.2009) by S.I. 2000/1119, Sch. 4 para. 7(1)Table (as substituted by The Legal Services Act 2007 (Registered European Lawyers) Order 2009 (S.I. 2009/1587), **art. 3(7)(a)**)

18 Evidence as to holding of practising certificates.

(1) Any list purporting to be published by authority of the Society and to contain the names of solicitors who have obtained practising certificates for the current year before 2nd January in that year shall, until the contrary is proved, be evidence that the persons so named as solicitors holding practising certificates for the current year are solicitors holding such certificates.

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(2) The absence from any such list of the name of any person shall, until the contrary is proved, be evidence that that person is not qualified to practise as a solicitor under a certificate for the current year, but in the case of any such person an extract from the roll certified as correct by the Society shall be evidence of the facts appearing in the extract.

Rights and privileges of solicitors

19 Rights of practising and rights of audience.

(1) Subject to subsection (2), every person qualified in accordance with section 1 may practise as a solicitor—

(a) in the Supreme Court;

(b) in any county court;

(c) in all courts and before all persons having jurisdiction in ecclesiastical matters; and

(d) in all matters relating to applications to obtain notarial faculties,

and shall be entitled to all the rights and privileges, and may exercise and perform all the powers and duties, formerly appertaining to the office or profession of a proctor in the provincial, diocesan or other jurisdictions in England and Wales.

(2) Nothing in subsection (1) shall affect the provisions of section **[**[F40]94 of the Supreme Court Act 1981**]**, **[**[F41]section 13 or 60 of the County Courts Act 1984**]**or any other enactment in force at the commencement of this Act which restricts the right of any solicitor to practise as such in any court.

(3) Nothing in subsection (1) or (2) shall prejudice or affect any right of practising or being heard in, before or by any court, tribunal or other body which immediately before the commencement of this Act was enjoyed by virtue of any enactment, rule, order or regulation or by custom or otherwise by persons qualified to act as solicitors.

Textual Amendments

F40 Words substituted by Supreme Court Act 1981 (c. 54, SIF 37), s. 152(1), **Sch. 5**

F41 Words substituted by County Courts Act 1984 (c. 28, SIF 34), s. 148(1), **Sch. 2 para. 49**

Unqualified persons acting as solicitors

20 Unqualified person not to act as solicitor.

(1) No unqualified person shall—

(a) act as a solicitor, or as such issue any writ or process, or commence, prosecute or defend any action, suit or other proceeding, in his own name or in the name of any other person, in any court of civil or criminal jurisdiction; or

(b) act as a solicitor in any cause or matter, civil or criminal, to be heard or determined before any justice or justices or any commissioners of Her Majesty's revenue.

(2) Any person who contravenes the provisions of subsection (1)—

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(a) shall be guilty of an offence and liable on conviction on indictment to imprisonment for not more than two years or to a fine or to both; and

(b) shall 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; . . . [F42]

(c) . . . . . [F42]

Textual Amendments

F42 S. 20(2)(c) and the word "and" immediately preceding it repealed by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 125(7), **Sch. 20**

Modifications etc. (not altering text)

C19 S. 20 modified (22.5.2000) by S.I. 2000/1119, regs. 1, 37(1), **Sch. 3 Pt. 2**

C20 S. 20 amended by S.I. 1978/1910, art. 18(1), **Sch. Pt. II**

C21 S. 20 excluded (1.1.1992) by Administration of Justice Act 1985 (c. 61, SIF 34), **s. 9(3)**; S.I. 1991/2683, **art. 2** and excluded by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), **ss. 11(3)**, 27(10), 28(6), 59(1)

21 Unqualified person not to pretend to be a solicitor.

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 liable on summary conviction to **[**[F43]a fine not exceeding the fourth level on the standard scale**]**

Textual Amendments

F43 Words substituted by virtue of Criminal Justice Act 1982 (c. 48, SIF 39:1), **ss. 38**, 46 and Administration of Justice Act 1985 (c. 61, SIF 34), ss. 8, 69(5), Sch. 1 para. 6, **Sch. 9 para. 17**

Modifications etc. (not altering text)

C22 S. 21 amended by Copyright, Designs and Patents Act 1988 (c. 48, SIF 67A), **s. 278(2)(3)**

22 Unqualified person not to prepare certain instruments.

(1) Subject to **[**[F44]subsections (2) and (2A)**]**, any unqualified person who directly or indirectly—

(a) draws or prepares any instrument of transfer or charge for the purposes of the [M4]Land Registration Act 1925, or makes any application or lodges any document for registration under that Act at the registry, or

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

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 liable on summary conviction to a fine not exceeding **[**[F45]level 3 on the standard scale**]**.

(2) Subsection (1) does not apply to—

(a) a barrister or duly certificated notary public;

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[[F46](aa) a registered trade mark agent drawing or preparing any instrument relating to any design, **[**[F47]or trade mark**]**;

(ab) a registered patent agent drawing or preparing any instrument relating to any invention, design technical information, **[**[F47]or trade mark**].]**

[[F48](ac) any accredited person drawing or preparing any instrument—

(i) which creates, or which he believes on reasonable grounds will create, a farm business tenancy (within the meaning of the Agricultural Tenancies Act 1995), or

(ii) which relates to an existing tenancy which is, or which he believes on reasonable grounds to be, such a tenancy;**]**

(b) any public 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;

and paragraph (b) of that subsection does not apply to a duly certificated solicitor in Scotland.

[[F49](2A) Subsection (1) also does 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 section.**]**

(3) For the purposes of subsection (1)(b), "instrument"**[**[F50]includes a contract for the sale or other disposition of land (except a contract to grant such a lease as is referred to in section 54(2) of the [M5]Law of Property Act 1925 (short leases)), but**]**does not include—

(a) a will or other testamentary instrument;

(b) an agreement not **[**[F51]intended to be executed as a deed**][**[F52]other than a contract that is included by virtue of the preceding provisions of this subsection;**]**

(c) a letter or power of attorney; or

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

[[F53](3A) In subsection (2)—

[[F54]"accredited person" means any person who is—

(a) a Full Member of the Central Association of Agricultural Valuers,

(b) an Associate or Fellow of the Incorporated Society of Valuers and Auctioneers, or

(c) an Associate or Fellow of the Royal Institution of Chartered Surveyors;**]**

"registered trade mark agent" has the same meaning as in **[**[F55]the Trade Marks Act 1994**]**; and

"registered patent agent" has the same meaning as in section 275(1) **[**[F56]of the Copyright, Designs and Patents Act 1988**].]**

[[F57](4) A local weights and measures authority may institute proceedings for an offence under this section.**]**

Textual Amendments

F44 Words substituted by Administration of Justice Act 1985 (c. 61, SIF 34), **s. 6(1)(2)**

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F45 Words substituted by virtue of Criminal Justice Act 1982 (c. 48, SIF 39:1), **ss. 38**, 46
F46 S. 22(2)(aa)(ab) inserted by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), **ss. 59(1)**, 68(2)
F47 In s. 22(2)(aa)(ab) words substituted (31.10.1994) by 1994 c. 26, s. 106(1), **Sch. 4 para. 5(2)**; S.I. 1994/2550, **arts. 2**,3
F48 S. 22(2)(ac) inserted (1.9.1995) by 1995 c. 8, **s. 35(2)** (with s. 37)
F49 S. 22(2A) inserted by Administration of Justice Act 1985 (c. 61, SIF 34), ss. 6(3), 69(5), **Sch. 9 para. 5(a)**
F50 Words inserted by Administration of Justice Act 1985 (c. 61, SIF 34), ss. 6(4), 69(5), **Sch. 9 para. 5(b)**
F51 Words substituted by Law of Property (Miscellaneous Provisions) Act 1989 (c. 34, SIF 98:1), s. 1, **Sch. 1 para. 8**
F52 Words inserted by Administration of Justice Act 1985 (c. 61, SIF 34), ss. 6(4), 69(5), **Sch. 9 para. 5(b)**
F53 S. 22(3A) inserted by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), **ss. 59(1)**, 68(3)
F54 In s. 22(3A) definition inserted (1.9.1995) by 1995 c. 8, **s. 35(3)** (with s. 37)
F55 In s. 22(3A) words in definition substituted (31.10.1994) by 1994 c. 26, s. 106(1), **Sch. 4 para. 5(3)(a)**; S.I. 1994/2550, **arts. 2**, 3
F56 In s. 22(3A) words in definition substituted (31.10.1994) by 1994 c. 26, s. 106(1), **Sch. 4 para. 5(3)(b)**; S.I. 1994/2550, **arts. 2**, 3
F57 S. 22(4) inserted by Administration of Justice Act 1985 (c. 61, SIF 34), **s. 6(5)**

Modifications etc. (not altering text)

C23 S. 22 amended by S.I. 1978/1910, art. 18(1), **Sch. Pt. II**
C24 S. 22 excluded (prosp.) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), **ss. 36(1)(5)**, 59(1), 124(3) and excluded (prosp.) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), **ss. 27(10)**, 28(6), 59(1)
C25 S. 22 modified (22.5.2000) by S.I. 2000/1119, regs. 1, 37(1), **Sch. 3 Pt. 2**
C26 S. 22(1) excluded (1.1.1992) by Administration of Justice Act 1985 (c. 61, SIF 34), **ss. 9(3)(4)**; S.I. 1991/2683, **art. 2** and excluded by Administration of Justice Act 1985 (c. 61, SIF 34), **ss. 11(4)**, 32(4)(5)
C27 S. 22(1) restricted (prosp.) by Building Societies Act 1986 (c. 53, SIF 16), ss. 54(3)(a)(5), 124, 126(4), Sch. 21 paras. 7(1)(2), **13** (which amendment was repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **s. 1(1)**, {Sch. 1 Pt. 17 Group 2}

Marginal Citations

M4 1925 c. 21.
M5 1925 c.20. (**98:1**).

[F58 22A Powers of entry etc. of local weights and measures authorities.

(1) Any authorised officer who has reasonable cause to suspect that an offence may have been committed under section 22 may, at any reasonable time—
  (a) enter any premises which are not used solely as a dwelling;
  (b) require any officer, agent or other competent person on the premises who is, or may be, in possession of information relevant to an investigation under section 22, to provide such information;
  (c) require the production of any document which may be relevant to such an investigation;
  (d) take copies, or extracts, of any such documents;
  (e) seize and retain any document which he has reason to believe may be required as evidence in proceedings for an offence under section 22.

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(2) Any person exercising any power given by subsection (1) shall, if asked to do so, produce evidence that he is an authorised officer.

(3) A justice of the peace may issue a warrant under this section if satisfied, on information on oath given by an authorised officer, that there is reasonable cause to believe that an offence may have been committed under section 22 and that—

(a) entry to the premises concerned, or production of any documents which may be relevant to an investigation under section 22, has been or is likely to be refused to an authorised officer; or

(b) there is reasonable cause to believe that, if production of any such document were to be required by the authorised officer without a warrant having been issued under this section, the document would not be produced but would be removed from the premises or hidden, tampered with or destroyed.

(4) A warrant issued under this section shall authorise the authorised officer accompanied, where he considers it appropriate, by a constable or any other person—

(a) to enter the premises specified in the information, using such force as is reasonably necessary; and

(b) to exercise any of the powers given to the authorised officer by subsection (1).

(5) If a person—

(a) intentionally obstructs an authorised officer in the exercise of any power under this section;

(b) intentionally fails to comply with any requirement properly imposed on him by an authorised officer in the exercise of any such power;

(c) fails, without reasonable excuse, to give to an authorised officer any assistance or information which he may reasonably require of him for the purpose of exercising any such power; or

(d) in giving to an authorised officer any information which he has been required to give to an authorised officer exercising any such power, makes any statement which he knows to be false or misleading in a material particular,

he shall be guilty of an offence.

(6) A person guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(7) Nothing in this section shall be taken to require any person to answer any question put to him by an authorised officer, or to give any information to an authorised officer, if to do so might incriminate him.

(8) In this section—

"authorised officer" means any officer of a local weights and measures authority who is authorised by the authority to exercise the powers given by subsection (1); and

"document" includes information recorded in any form.

(9) In relation to information recorded otherwise than in legible form, references in this section to its production include references to producing a copy of the information in legible form.**]**

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Textual Amendments

F58 S. 22A inserted by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), **s. 96**

[F59 23 Unqualified person not to prepare papers for probate etc.

(1) Subject to subsections (2) and (3), any unqualified person 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 liable on summary conviction to a fine not exceeding the first level on the standard scale.

(2) Subsection (1) does not apply to a barrister or duly certificated notary public.

F60 **[** (2B) In subsection (2)(i) "jointly controlled body" and "subsidiary" have the meanings given by section 13 of the Friendly Societies Act 1992.**]**

(3) Subsection (1) also does 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 section.**]**

Textual Amendments

F59 S. 23 substituted by Administration of Justice Act 1985 (c. 61, SIF 34), **s. 7**

F60 S. 23(2B) inserted (1.2.1993) by Friendly Societies Act 1992 (c. 40), ss. 120(1), **Sch. 21 Pt. I para. 5(1)(3)** (with ss. 7(5), 93(4)); S.I. 1993/16, art. 2, **Sch. 3**.

Modifications etc. (not altering text)

C28 S. 23 restricted by Administration of Justice Act 1985 (c. 61, SIF 34), s. 69(5), **Sch. 9 para. 6**

C29 S. 23 modified (22.5.2000) by S.I. 2000/1119, regs. 1, 37(1), **Sch. 3 Pt. 2**

C30 S. 23 amended (17.5.2004) by S.I. 1978/1910, art. 18(1), Sch. Pt. 2 (as amended by The European Communities (Services of Lawyers) (Amendment) Order 2004 (S.I. 2004/1117), **art. 5(2)(d)**)

C31 S. 23(1) excluded (1.1.1992) by Administration of Justice Act 1985 (c. 61, SIF 34), **s. 9(3)(4)**; S.I. 1991/2683, **art. 2**

S. 23(1) excluded (7.12.2004) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), ss. 55(1), 59(1), 124(3); S.I. 2004/2950, **art. 2**

C32 S. 23(2) amended (1.1.1993) by S.I. 1992/3218, reg. 82(1), **Sch. 10 Pt. I para. 8(1)**

S. 23(2) amended (1.7.1994) by S.I. 1994/1696, reg. 68, **Sch. 8 para. 4**

24 Application of penal provisions to body corporate.

(1) If any act is done by a body corporate, or by any director, officer or servant of a body corporate, and is of such a nature or is done in such a manner as to be calculated to imply that the body corporate is qualified or recognised by law as qualified to act as a solicitor—

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(a) the body corporate shall be guilty of an offence and liable on summary conviction to **[**[F61]a fine not exceeding the fourth level on the standard scale, and**]**

(b) in the case of an act done by a director, officer or servant of the body corporate, he also shall be guilty of an offence and liable on summary conviction to **[**[F62]a fine not exceeding the fourth level on the standard scale.**]**

(2) For the avoidance of doubt it is hereby declared that in sections 20, 22 and 23 references to unqualified persons and to persons include references to bodies corporate.

Textual Amendments

F61 S. 24(1)(*a*): words substituted by virtue of Criminal Justice Act 1982 (c. 48, SIF 39:1), **ss. 38**, 46 and Administration of Justice Act 1985 (c. 61, SIF 34), ss. 8, 69(5), **Sch. 1 para. 7**(*a*), Sch. 9 para. 17

F62 S. 24(1)(*b*): words substituted by virtue of Criminal Justice Act 1982 (c. 48, SIF 39:1), **ss. 38**, 46 and Administration of Justice Act 1985 (c. 61, SIF 34), ss. 8, 69(5), **Sch. 1 para. 7**(*b*), Sch. 9 para. 17

Modifications etc. (not altering text)

C33 S. 24(1) excluded (1.1.1992) by Administration of Justice Act 1985 (c. 61, SIF 34), **s. 9(3)**; S.I. 1991/2683, **art. 2**

C34 S. 24(2) excluded by (1.1.1992) by Administration of Justice Act 1985 (c. 61, SIF 34), **s. 9(3)**; S.I. 1991/2683, **art. 2**

C35 S. 24(2) excluded by Administration of Justice Act 1985 (c. 61, SIF 34), **s. 32(4)**

25 Costs where unqualified person acts as solicitor.

(1) No costs in respect of anything done by any unqualified person acting as a solicitor shall be recoverable by him, or by any other person, in any action, suit or matter.

(2) Nothing in subsection (1) 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 if that money would have been recoverable if he had held such a certificate when so acting.

Modifications etc. (not altering text)

C36 S. 25 excluded by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), **ss. 27(10)**, 28(6), 59(1)

C37 S. 25(1) modified (22.5.2000) by S.I. 2000/1119, reg. 37(2), Sch. 3 Pt. 3 (which amendment was omitted (1.1.2010) by virtue of The Legal Services Act 2007 (Registered European Lawyers) Order 2009 (S.I. 2009/1587), **art. 2(6)(b)**)

C38 S. 25(1) excluded by S.I. 1978/1910, art. 18(2), **Sch. Pt. III** (as amended by The European Communities (Services of Laywers) (Amendment) Order 2004 (S.I. 2004/1117), {art. 5(3})

26 Time limit for commencement of certain proceedings.

Notwithstanding anything in the **[**[F63M6]Magistrates' Courts Act 1980**]**, proceedings in respect of any offence under section 21, 22 or 23 may be brought at any time before the expiration of two years from the commission of the offence or six months from its first discovery by the prosecutor, whichever period expires first.

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Textual Amendments

F63 Words substituted by Magistrates' Courts Act 1980 (c. 43, SIF 82), s. 154, **Sch. 7 para. 132**

Marginal Citations

M6 1980 c. 43.

27 Saving for persons authorised to conduct legal proceedings.

Nothing in this Part shall affect any enactment empowering an unqualified person to conduct, defend, or otherwise act in relation to any legal proceedings.

Supplementary

28 Regulations.

(1) The Master of the Rolls may make regulations, with the concurrence of the Lord Chancellor and the Lord Chief Justice, about the following matters, namely—
- (a) admission as a solicitor;
- (b) the keeping of the roll;
- (c) practising certificates and applications for them;
- (d) the keeping of the register under section 9.

(2) The power conferred by subsection (1) includes power to specify—
- (a) one or more conditions (in this Act referred to as "training conditions") to be imposed on the issue of practising certificates to solicitors to whom training regulations apply; and
- (b) one or more conditions (in this Act referred to as "indemnity conditions") to be imposed on the issue of practising certificates to solicitors who are exempt from indemnity rules.

(3) Regulations about the keeping of the roll and of the register under section 9 may provide for the manner in which entries are to be made, altered and removed.

[[F64](3A) Regulations about the keeping of the roll 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 by the regulations; and
- (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 paragraph (*a*) or to pay any fee payable by virtue of paragraph (*b*), or
  - (ii) replies to any such enquiry by indicating that he does not wish to have his name retained on the roll;
- (d) authorise the Society to remove from the roll the name of any solicitor who has died.**]**

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(4) **[**[F65]Regulations about the keeping of the roll may also**]**provide for rights of appeal to the Master of the Rolls in connection with the making and alteration of entries on the roll and the removal of entries from it.

(5) The Master of the Rolls may make regulations about the procedure for any appeals to him authorised by this Part or regulations under this section.

Textual Amendments

F64 S. 28(3A) inserted by Administration of Justice Act 1985 (c. 61, SIF 34), s. 8, **Sch. 1 para. 8(2)**

F65 Words substituted by Administration of Justice Act 1985 (c. 61, SIF 34), s. 8, **Sch. 1 para. 8(3)**

Modifications etc. (not altering text)

C39 S. 28(5) extended (22.5.2000) by S.I. 2000/1119. regs. 1, 37(3), Sch. 4 para. 1(2)

29 Non–British subjects as solicitors. 12 & 13 Will. 3. c. 2.

Nothing in section 3 of the Act of Settlement (which provides among other things that aliens are incapable of enjoying certain offices or places of trust) shall be taken to disqualify a person from becoming or practising as a solicitor of the Supreme Court or of the Supreme Court of Northern Ireland.

30 Evidence as to solicitors in Scotland.

For the purposes of this Part, a letter purporting to be signed by or on behalf of the registrar of solicitors in Scotland—

(a) stating that a person specified in the letter is or is not a solicitor in Scotland shall be evidence that that person is or, as the case may be, is not a solicitor in Scotland;

(b) stating that a person specified in the letter did not at any time during a period so specified have in force a practising certificate as a solicitor in Scotland shall be evidence that that person was not during any part of that period a duly certificated solicitor in Scotland.

PART II

PROFESSIONAL PRACTICE, CONDUCT AND DISCIPLINE OF SOLICITORS AND CLERKS

Practice rules

31 Rules as to professional practice, conduct and discipline.

(1) Without prejudice to any other provision of this Part the Council may, if they think fit, make rules, with the concurrence of the Master of the Rolls, for regulating in respect of any matter the professional practice, conduct and discipline of solicitors **[**[F66]and for empowering the Society to take such action as may be appropriate to enable the Society to ascertain whether or not the provisions of rules made, or of any code or guidance issued, by the Council are being complied with.**]**

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(2) If any solicitor fails to comply with rules made under this section, any person may make a complaint in respect of that failure to the Tribunal.

[[F67](3) Where, under Schedule 4 to the Courts and Legal Services Act 1990 (approval of certain rules in connection with the grant of rights of audience or rights to conduct litigation), the **[**[F68]Lord Chancellor approves any rule such as is mentioned in subsection (1), the requirement of the concurrence of the Master of the Rolls imposed by that subsection shall not apply.**]]**

[[F67](4) Subsection (3) shall have effect whether or not the rule required to be approved under Schedule 4 to the Act of 1990.**]**

Textual Amendments

F66 Words in s. 31(1) inserted (27.9.1999) by 1999 c. 22, s. 48, **Sch. 7 para. 1** (with Sch. 14 para. 7(2)); S.I. 1999/2657, **art. 2(a)**

F67 S. 31(3)(4) added (1.4.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 125(2), **Sch. 17 para. 10**; S.I. 1991/608, art. 2, **Sch.**

F68 Words in s. 31(3) substituted (1.1.2000) by 1999 c. 22, s. 43, **Sch. 6 para. 3** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (with art. 4, Sch. 2)

Modifications etc. (not altering text)

C40 S. 31 extended (14.10.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), **s. 89(3)(a)(i)(4)**; S.I. 1991/1883, art.3, **Sch.**
S. 31 extended (22.5.2000) by S.I. 2000/1119, regs. 1, 37(3), **Sch. 4 para. 1(3)**

Accounts etc.

32 Accounts rules and trust accounts rules.

(1) The Council shall make rules, with the concurrence of the Master of the Rolls—

(a) as to the opening and keeping by solicitors of accounts at banks **[**[F69]or with building societies**]** for clients' money; and

(b) as to the keeping by solicitors of accounts containing particulars and information as to money received or held or paid by them for or on account of their clients; and

(c) empowering the Council to take such action as may be necessary to enable them to ascertain whether or not the rules are being complied with;

and the rules may specify the location of the . . . [F70]branches at which the accounts are to be kept.

(2) The Council shall also make rules, with the concurrence of the Master of the Rolls—

(a) as to the opening and keeping by solicitors of accounts at banks **[**[F69]or with building societies**]** for money comprised in controlled trusts; and

(b) as to the keeping by solicitors of accounts containing particulars and information as to money received or held or paid by them for or on account of any such trust; and

(c) empowering the Council to take such action as may be necessary to enable them to ascertain whether or not the rules are being complied with;

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and the rules may specify the location of the [F70]. . . branches at which the accounts are to be kept.

(3) If any solicitor fails to comply with rules made under this section, any person may make a complaint in respect of that failure to the Tribunal.

(4) The Council shall be at liberty to disclose a report on or information about a solicitor's accounts obtained in the exercise of powers conferred by rules made under subsection (1) or (2) [F71]. . . for use in investigating the possible commission of an offence by the solicitor and [F71]. . . for use in connection with any prosecution of the solicitor consequent on the investigation.

(5) Rules under this section may specify circumstances in which solicitors or any class of solicitors are exempt from the rules by virtue of their office or employment.

[[F72](6) For the purposes of this section and section 33 references to clients' money and money of a kind mentioned in subsection (1)(b) of this section or (1)(a) of section 33 include references to money held by a solicitor as a stakeholder (whether or not paid by a client of his).**]**

Textual Amendments

F69 Words in s. 32(1)(2) inserted by Building Societies Act 1986 (c. 53, SIF 16), ss. 53(3)(a)(5), 120(1), **Sch. 18 para. 11(2)**

F70 Word repealed by Building Societies Act 1986 (c. 53, SIF 16), **ss. 54(3)**(*a*)(5), 120, Sch. 18 para. 11(2), Sch. 19 Pt. I

F71 Words in s. 32(4) repealed (27.9.1999) by 1999 c. 22, ss. 48, 106, Sch. 7 para. 2(a), **Sch. 15 Pt. II** (with Sch. 14 paras. 7(2), 36(9)); S.I. 1999/2657, art. 2(a)(d)(ii)(a), **Sch. 2 Pt. I**

F72 S. 32(6) inserted (1.6.1992) by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 125(3), **Sch. 18 para. 13**; S.I. 1992/1221, art. 2, **Sch.**

Modifications etc. (not altering text)

C41 S. 32 extended (14.10.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), **s. 89(3)(a)(ii)(4)**; S.I. 1991/1883, art. 3, **Sch.**

C42 S. 32 extended (22.5.2000) by S.I. 2000/1119, regs. 1, 37(3), **Sch. 4 para. 1(3)**

C43 S. 32(3) extended by S.I. 2000/1119, reg. 37(2), Sch. 4 para. 7(2) (as amended (16.9.2004) by The European Communities (Lawyer's Practice) (Amendment) Regulations 2004 (S.I. 2004/1628), **reg. 7(1)**)

33 Interest on clients' money.

(1) Rules made under section 32 shall make provision for requiring a solicitor, in such cases as may be prescribed by the rules, either—

(a) to keep on deposit in a separate account at a bank **[**[F73]or with a building society**]** for the benefit of the client money received for or on account of a client; or

(b) 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.

(2) The cases in which a solicitor may be required by the rules to act as mentioned in subsection (1) may be defined, among other things, by reference to the amount of any sum received or the period for which it is or is likely to be retained or both; and the rules may include provision for enabling a client (without prejudice to any other

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remedy) to require that any question arising under the rules in relation to the client's money be referred to and determined by the Society.

(3) Except as provided by the rules, 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 **[**[F73]or with a building society**]** being money received or held for or on account of his clients generally.

(4) Nothing in this section or in the rules 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 on it; [F74]. . .

[F74](b) . . . . . .

Textual Amendments

F73 Words inserted by Building Societies Act 1986 (c. 53, SIF 16), **ss. 54(3)**(*a*)(5), 120, Sch. 18 para. 11(3)

F74 S. 33(4)(b) and the word "or" immediately preceding it repealed (1. 6. 1992) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 125(7), **Sch. 20**; S.I. 1992/1221, art. 2, **Sch.**

Modifications etc. (not altering text)

C44 S. 33 extended (22.5.2000) by S.I. 2000/1119, regs. 1, 37(3), Sch. 4 para. 7(2) (as amended (1.7.2009) by The Legal Services Act 2007 (Registered European Lawyers) Order 2009 (S.I. 2009/1587), **art. 3(7)(a)**)

[[F75]33A Inspection of practice bank accounts etc.

(1) The Council may make rules, with the concurrence of the Master of the Rolls, empowering the Council to require a solicitor to produce documents relating to any account kept by him at a bank or with a building society—

(a) in connection with his practice; or

(b) in connection with any trust of which he is or formerly was a trustee,

for inspection by a person appointed by the Council pursuant to the rules.

(2) The Council shall be at liberty to disclose information obtained in exercise of the powers conferred by rules made under subsection (1) for use in investigating the possible commission of an offence by the solicitor and for use in connection with any prosecution of the solicitor consequent on the investigation.**]**

Textual Amendments

F75 S. 33A inserted (27.9.1999) by 1999 c. 22, s. 48, **Sch. 7 para. 3** (with Sch. 14 para. 7(2)); S.I. 1999/2657, **art. 2(a)**

Modifications etc. (not altering text)

C45 S. 33A extended (22.5.2000) by S.I. 2000/1119, regs. 1, 37(3), **Sch. 4 para. 1(3)**

C46 S. 33A(2) extended (22.5.2000) by S.I. 2000/1119, **regs. 1**,37(3), Sch. 4 para. 7(2)

34 Accountants' reports.

(1) Every solicitor shall once in each period of twelve months ending with 31st October, unless the Council are satisfied that it is unnecessary for him to do so, deliver to the

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Society, whether by post or otherwise, a report signed by an accountant (in this section referred to as an "accountant's report") and containing such information as may be prescribed by rules made by the Council under this section.

(2) An accountant's report shall be delivered to the Society not more than six months (or such other period as may be prescribed by rules made under this section) after the end of the accounting period **[**[F76]for the purposes of**]** that report.

(3) Subject to any rules made under this section, the accounting period for the purposes of an accountant's report—

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

(b) shall cover not less than twelve months; and

(c) where possible, consistently with the preceding provisions of this section, shall correspond to a period or consecutive periods for which the accounts of the solicitor or his firm are ordinarily made up.

(4) The Council shall make rules to give effect to the provisions of this section, and those rules shall prescribe—

(a) the qualification to be held by an accountant by whom an accountant's report is given;

(b) the information to be contained in an accountant's report;

(c) the nature and extent of the examination to be made by an 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 an accountant's report;

(d) the form of an 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) Rules under this section may include provision—

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

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

[[F77](5A) Without prejudice to the generality of subsection (5)(*b*), rules under this section 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 section.**]**

(6) If any solicitor fails to comply with the provisions of this section or of any rules made under it, a complaint in respect of that failure may be made to the Tribunal by or on behalf of the Society.

(7) A certificate under the hand of the Secretary of the Society 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 section or any rules made under it.

(8) Where a solicitor is exempt from rules under section 32—

(a) nothing in this section shall apply to him unless he takes out a practising certificate;

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(b) an accountant's report shall in no case deal with books, accounts or documents kept by him in the course of employment by virtue of which he is exempt from those rules; and

(c) no examination shall be made of any such books, accounts and documents under any rules made under this section.

Textual Amendments

F76 Words substituted by Administration of Justice Act 1985 (c. 61, SIF 34), s. 8, **Sch. 1 para. 9**

F77 S. 34(5A) added by Administration of Justice Act 1985 (c. 61, SIF 34), s. 8, **Sch. 1 para. 9**(*b*)

Modifications etc. (not altering text)

C47 S. 34 extended (14.10.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), **s. 89(3)(a)(iii)(4)**; S.I. 1991/1883, art. 3, **Sch.**
S. 34 extended (22.5.2000) by S.I. 2000/1119, regs. 1, 37(3), **Sch. 4 para. 1(3)**

C48 S. 34(1)(2) extended (1.1.1992) by Administration of Justice Act 1985 (c. 61, SIF 34), s. 9, **Sch. 2 para. 5(1)**(*a*); S.I. 1991/2683, **art. 2**

VALID FROM 31/03/2009

[F78 Sole solicitors

Textual Amendments

F78 Ss. 34A, 34B and cross-heading inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 36** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(i)**

34A Employees of solicitors

(1) Rules made by the Society may provide for any rules made under section 31, 32, 33A or 34 to have effect in relation to employees of solicitors with such additions, omissions or other modifications as appear to the Society to be necessary or expedient.

(2) If any employee of a solicitor fails to comply with rules made under section 31 or 32, as they have effect in relation to the employee by virtue of subsection (1), any person may make a complaint in respect of that failure to the Tribunal.

(3) If any employee of a solicitor fails to comply with rules made under section 34, as they have effect in relation to the employee by virtue of subsection (1), a complaint in respect of that failure may be made to the Tribunal by or on behalf of the Society.

Modifications etc. (not altering text)

C49 S. 34A extended (with modifications) (1.7.2009) by S.I. 2000/1119, Sch. 4 para. 7(2)Table (as amended by The Legal Services Act 2007 (Registered European Lawyers) Order 2009 (S.I. 2009/1587), **art. 3(7)(c)**)

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34B Employees of solicitors: accounts rules etc

(1) Where rules made under section 32(1) have effect in relation to employees of solicitors by virtue of section 34A(1), section 85 applies in relation to an employee to whom the rules have effect who keeps an account with a bank or building society in pursuance of such rules as it applies in relation to a solicitor who keeps such an account in pursuance of rules under section 32.

(2) Subsection (3) applies where rules made under section 32—
- (a) contain any such provision as is referred to in section 33(1), and
- (b) have effect in relation to employees of solicitors by virtue of section 34A(1).

(3) Except as provided by the rules, an employee to whom the rules are applied is not liable to account to any client, other person or trust for interest received by the employee on money held at a bank or building society in an account which is for money received or held for, or on account of—
- (a) clients of the solicitor, other persons or trusts, generally, or
- (b) that client, person or trust, separately.

(4) Subsection (5) applies where rules made under section 33A(1) have effect in relation to employees of solicitors by virtue of section 34A(1).

(5) The Society may disclose a report on or information about the accounts of any employee of a solicitor obtained in pursuance of such rules for use—
- (a) in investigating the possible commission of an offence by the solicitor or any employees of the solicitor, and
- (b) in connection with any prosecution of the solicitor or any employees of the solicitor consequent on the investigation.

(6) Where rules made under section 34 have effect in relation to employees of solicitors by virtue of section 34A(1), section 34(9) and (10) apply in relation to such an employee as they apply in relation to a solicitor.**]**

Modifications etc. (not altering text)

C50 S. 34B extended (with modifications) (1.7.2009) by S.I. 2000/1119, Sch. 4 para. 7(2)Table (as amended by The Legal Services Act 2007 (Registered European Lawyers) Order 2009 (S.I. 2009/1587), **art. 3(7)(c)**)

Intervention in solicitor's practice, Compensation Fund and professional indemnity

35 Intervention in solicitor's practice.

The powers conferred by Part II of Schedule 1 shall be exercisable in the circumstances specified in Part I of that Schedule.

Modifications etc. (not altering text)

C51 S. 35 applied (with modifications) (22.5.2000) by S.I. 2000/1119, arts. 1, 37(3), Sch. 4 para. 9 (as amended (1.7.2009) by The Legal Services Act 2007 (Registered European Lawyers) Order 2009 (S.I. 2009/1587), **art. 3(9)**)

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36 Compensation Fund.

(1) The fund, known as the "Compensation Fund", shall be maintained and administered in accordance with the provisions of Schedule 2.

(2) Where the Council are satisfied—

(a) that a person has suffered or is likely to suffer loss in consequence of dishonesty on the part of a solicitor, or of an employee of a solicitor, in connection with that solicitor's practice or purported practice or in connection with any trust of which that solicitor is or formerly was a trustee; or

(b) that a person has suffered or is likely to suffer hardship in consequence of 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 or in connection with any trust of which he is or formerly was a trustee; or

(c) 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 of his partners or employees 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;

the Society may make a grant out of the Compensation Fund for the purpose of relieving that loss or hardship.

(3) A grant under subsection (2)(c) may be made by way of a loan upon such terms and conditions (including terms and conditions as to the time and manner of repayment, the payment of interest and the giving of security for repayment) as the Council may determine, and the Society may at any time or times, upon such terms and conditions (if any) as the Council think fit, waive or refrain from enforcing the repayment of the whole or any part of the loan, the payment of any interest on the loan or any of its terms or conditions.

(4) Where—

(a) a grant is made otherwise than by way of loan, or

(b) a grant is made by way of loan and a condition specified in subsection (5) is satisfied in relation to it,

the Society shall be subrogated, to the extent specified in subsection (6), to any rights and remedies of the person to whom the grant is made in relation to the act or default in respect of which it is made, and shall be entitled, upon giving him a sufficient indemnity against costs, to require him whether before or after payment of the grant, to sue in his own name but on behalf of the Society for the purpose of giving effect to the Society's rights, and to permit the Society to have the conduct of the proceedings.

(5) The conditions mentioned in subsection (4) are—

(a) that repayment of the whole or part of the loan has been waived;

(b) that the borrower has failed to repay the whole or part of the loan in accordance with the terms and conditions of the loan.

(6) The extent to which the Society is subrogated under subsection (4) is—

(a) for a grant made by way of loan, the amount in relation to which a condition specified in subsection (5) is satisfied, and

(b) for any other grant, the amount of the grant.

(7) Where the Society refuses a grant, the Council shall state the reasons for the refusal.

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(8) The Council may make rules about the Compensation Fund and the procedure for making grants from it.

Modifications etc. (not altering text)

C52 S. 36 extended (14.10.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), **s. 89(3)(a)(iv)(4)**; S.I. 1991/1883, art. 3, **Sch.**
S. 36 extended (22.5.2000) by S.I. 2000/1119, regs. 1, 37(3), Sch. 4 paras. 1(3), **8**

C53 S. 36 applied (with modifications) (14.10.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 89, **Sch. 14 para. 6**; S.I. 1991/1883, art. 3, **Sch.**

C54 S. 36(3)–(7) extended (1.1.1992) by Administration of Justice Act 1985 (c. 61, SIF 34), s. 9, **Sch. 2 para. 6(3)**; S.I. 1991/2683, **art. 2**

VALID FROM 31/03/2009

[F79 36A Compensation funds

(1) Compensation rules may require or authorise the Society to establish or maintain a fund or funds ("compensation funds") for the purpose of making grants in respect of compensation claims.

(2) Compensation rules may require solicitors, or solicitors of a description prescribed in the rules, to make contributions to compensation funds of such amounts, at such times and in such circumstances, as may be prescribed in or determined in accordance with the rules.

(3) Any amount payable by virtue of such a requirement may be recovered as a debt due to the Society.

(4) Subsection (2) does not apply to a solicitor who is a Crown Prosecutor.

(5) The Society may invest any money which forms part of a compensation fund in any investments in which trustees may invest under the general power of investment in section 3 of the Trustee Act 2000 (as restricted by sections 4 and 5 of that Act).

(6) The Society may insure with authorised insurers, in relation to compensation funds, for such purposes and on such terms as it considers appropriate.

(7) The Society may, in such circumstances and subject to such conditions as may be prescribed in or determined in accordance with compensation rules—
   (a) borrow for the purposes of a compensation fund;
   (b) charge investments which form part of a compensation fund as security for borrowing by the Society for the purposes of that fund.

(8) A compensation fund may be applied by the Society for the purposes mentioned in subsection (9) (in addition to the making of grants in respect of compensation claims).

(9) The purposes are—
   (a) payment of premiums on insurance policies effected under subsection (6);
   (b) repayment of money borrowed by the Society for the purposes of the fund and payment of interest on any money so borrowed;

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(c) payment of any other costs, charges or expenses incurred by the Society in establishing, maintaining, protecting administering or applying the fund;

(d) payment of any costs, charges or expenses incurred by the Society in exercising its powers under Part 2 of Schedule 1;

(e) payment of any costs or damages incurred by the Society, its employees or agents as a result of proceedings against it or them for any act or omission of its or theirs in good faith and in the exercise or purported exercise of such powers.

(10) In this section—

"compensation claim" has the same meaning as in section 36;

"compensation fund" has the meaning given by subsection (1);

"compensation rules" means rules under section 36(1).**]**

Textual Amendments

F79 Ss. 36, 36A substituted (31.3.2009) for s. 36 by Legal Services Act 2007 (c. 29), 177, 211, {Sch. 16 para. 37} (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(i)** (subject to arts. 4, 5)

Modifications etc. (not altering text)

C55 S. 36A extended (1.7.2009) by S.I. 2000/1119, Sch. 4 para. 8(1) (as amended by The Legal Services Act 2007 (Registered European Lawyers) Order 2009 (S.I. 2009/1587), **art. 3(8)(a)**)

C56 S. 36A(2)(3) applied by Administration of Justice Act 1985 (c. 61), Sch. 2 para. 6(2) (as substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 94** (with ss. 29. 192, 193)); S.I. 2009/503, **art. 2(b)(ii)** (subject to art. 5)
S. 36A(2)(3) applied by Courts and Legal Services Act 1990 (c. 41), Sch. 14 para. 7 (as substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 133** (with ss. 29. 192, 193)); S.I. 2009/503, **art. 2(b)(iii)**

37 Professional indemnity.

(1) The Council, with the concurrence of the Master of the Rolls, may make rules (in this Act referred to as "indemnity rules") concerning indemnity against loss arising from 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 formerly was a trustee;

(b) by an 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 employee is or formerly was a trustee.

(2) For the purpose of providing such indemnity, indemnity rules—

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

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

(c) may require solicitors or any specified class of solicitors to take out and maintain insurance with authorised insurers.

(3) Without prejudice to the generality of subsections (1) and (2), indemnity rules—

(a) may 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;

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(b) may provide for the management, administration and protection of any fund maintained by virtue of subsection (2)(a) and require solicitors or any class of solicitors to make payments to any such fund;

(c) may require solicitors or any class of solicitors to make payments by way of premium on any insurance policy maintained by the Society by virtue of subsection (2)(b);

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

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

(f) may specify circumstances in which, where a solicitor for whom indemnity is provided has failed to comply with the rules, 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) may specify circumstances in which solicitors are exempt from the rules;

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

(i) may contain incidental, procedural or supplementary provisions.

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

(5) The Society shall have power, without prejudice to any of its other powers, to carry into effect any arrangements which it considers necessary or expedient for the purpose of indemnity under this section.

Modifications etc. (not altering text)

C57 S. 37 extended (14.10.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), **s. 89(3)(a)(v)(4)**; S.I. 1991/1883, art. 3, **Sch.**
S. 37 extended (22.5.2000) by S.I. 2000/1119, regs. 1, 37(3), Sch. 4 para. 1(3) (as amended (1.7.2009) by The Legal Services Act 2007 (Registered European Lawyers) Order 2009 (S.I. 2009/1587), **art. 3(4)**)

[F80 Inadequate professional services]

Textual Amendments

F80 Ss. 37A and 44A: by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), **ss. 93(1)(2)**, 125(6) (with Sch. 19 para. 14); S.I. 1991/608, art. 2, **Sch.**, it is provided (1.4.1991) that s. 44A shall cease to have effect and that in its place shall be inserted s. 37A and cross-heading

[F81 37A Redress for inadequate professional services.

Schedule 1A shall have effect with respect to the provision by solicitors of services which are not of the quality which it is reasonable to expect of them.]

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Textual Amendments

F81 Ss. 37A and 44A: by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), **ss. 93(1)(2)**, 125(6) (with Sch. 19 para. 14); S.I. 1991/608, art. 2, **Sch.**, it is provided (1.4.1991) that s. 44A shall cease to have effect and that in its place shall be inserted s. 37A and cross-heading

Modifications etc. (not altering text)

C58 S. 37A extended (22.5.2000) by S.I. 2000/1119, regs. 1, 37(3), Sch. 4 para. 7(2) (as amended (1.7.2009) by The Legal Services Act 2007 (Registered European Lawyers) Order 2009 (S.I. 2009/1587), **art. 3(7)(c)**)

Restrictions on practice as solicitor

38 Solicitor who is justice of the peace not to act in certain proceedings.

(1) Subject to the provisions of this section, it shall not be lawful for any solicitor who is one of the justices of the peace for any area, or for any partner of his, to act in connection with proceedings before any of those justices as solicitor or agent for the solicitor of any person concerned in those proceedings.

(2) Where the area for which a solicitor is a justice of the peace **[**[F82]consists of two or more petty sessions areas**]**, his being a justice for the area shall not subject him or any partner of his to any disqualification under this section in relation to proceedings before justices acting for a **[**[F83]petty sessions area**]** for which he does not ordinarily act.

(3) Where a solicitor is a justice of the peace for any area, that shall not subject him or any partner of his to any disqualification under this section if his name is entered in the supplemental list kept under **[**[F84]section 7 of the [M7]Justices of the Peace Act 1997**]**

[F85](4) . . . . . .

Textual Amendments

F82 Words in s. 38(2) substituted (27.9.1999) by 1999 c. 22, ss. 76, 108(3)(c), **Sch. 10 para. 32(a)** (with Sch. 14 para. 7(2))

F83 Words in s. 38(2) substituted (27.9.1999) by 1999 c. 22, ss. 76, 108(3)(c), **Sch. 10 para. 32(b)** (with Sch. 14 para. 7(2))

F84 In s. 38(3) words substituted (19.6.1997) by 1997 c. 25, s. 73(2), **Sch. 5 para. 16(a)** (with Sch. 4 para. 27)

F85 S. 38(4) repealed (27.9.1999) by 1999 c. 22, ss. 106, 108(3)(f), **Sch. 15 Pt. V(1)** (with Sch. 14 paras. 7(2), 36(9))

Modifications etc. (not altering text)

C59 S. 38 modified (1.1.1992) by Administration of Justice Act 1985 (c.61,SIF 34), s. 9, **Sch.2 para.7**; S.I. 1991/2683, **art. 2**

Marginal Citations

M7 1977 c. 25

[F86]**39** . . . . . .

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Textual Amendments

F86 S. 39 repealed by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), ss. 59(1), 66(1)(2), 125(7), **Sch. 20**

40 Solicitor not to commence or defend actions while in prison.

(1) No solicitor while a prisoner in any prison shall as a solicitor, in his own name or in the name of any other solicitor, issue any writ or process, or commence, prosecute or defend any action or any matter in bankruptcy.

(2) If any solicitor commences, prosecutes or defends any action or any matter in bankruptcy in contravention of subsection (1)—

(a) he shall be incapable of maintaining an action for the recovery of any costs in respect of any business so done by him; and

(b) he and any other solicitor in whose name he is permitted to commence, prosecute or defend the action or matter shall be guilty of contempt of the court in which it is commenced, prosecuted or defended and may be punished accordingly.

Modifications etc. (not altering text)

C60 S. 40 extended (22.5.2000) by S.I. 2000/1119, regs.1, 37(3), **Sch. 4 para. 7(2)**

Restrictions on employment of certain persons

41 Employment by solicitor of person struck off or suspended.

(1) No solicitor shall, except in accordance with a written permission granted under this section, employ or remunerate in connection with his practice as a solicitor any person who to his knowledge is disqualified from practising as a solicitor by reason of the fact that—

(a) his name has been struck off the roll, or

(b) he is suspended from practising as a solicitor, or

(c) his practising certificate is suspended while he is an undischarged bankrupt.

[[F87](1A) No solicitor shall, except in accordance with a written permission granted under this section, employ or remunerate in connection with his practice as a solicitor any person if, to his knowledge, there is a direction in force under section 47(2)(g) in relation to that person.**]**

(2) The Society may grant a permission under this section for such period and subject to such conditions as the Society thinks fit.

(3) A solicitor aggrieved by the refusal of the Society to grant a permission under subsection (2), or by any conditions attached by the Society to the grant of any such permission, may appeal to the Master of the Rolls who may—

(a) confirm the refusal or the conditions, as the case may be; or

(b) grant a permission under this section for such period and subject to such conditions as he thinks fit.

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(4) If any solicitor acts in contravention of this section or of any conditions subject to which a permission has been granted under it, the Tribunal or, as the case may be, the High Court shall order—
  (a) that his name be struck off the roll; or
  (b) that he be suspended from practice for such period as the Tribunal or the court thinks fit.

(5) The Master of the Rolls may make regulations about appeals to him under subsection (3).

Textual Amendments

F87 S. 41(1A) inserted by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 125(3), **Sch. 18 para. 14**

Modifications etc. (not altering text)

C61 S. 41 (except subsection (4)) extended (1.1.1992) by Administration of Justice Act 1985 (c. 61, SIF 34), s. 9, **Sch. 2 para. 9**; S.I. 1991/2683, **art. 2**

C62 S. 41 extended (22.5.2000) by S.I. 2000/1119, regs. 1, 37(3), **Sch. 4 para. 7(3)**

42 Failure to disclose fact of having been struck off or suspended.

(1) Any person who, while he is disqualified from practising as a solicitor by reason of the fact that—
  (a) his name has been struck off the roll, or
  (b) he is suspended from practising as a solicitor, or
  (c) his practising certificate is suspended while he is an undischarged bankrupt,

seeks or accepts employment by a solicitor in connection with that solicitor's practice without previously informing him that he is so disqualified shall be guilty of an offence and liable on summary conviction to a fine not exceeding **[**[F88]level 3 on the standard scale**]**.

[[F89](1A) Any person—
  (a) with respect to whom a direction is in force under section 47(2)(g); and
  (b) who seeks or accepts employment by a solicitor in connection with that solicitor's practice without previously informing him of the direction,

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

(2) Notwithstanding anything in **[**[F90]the [M8]Magistrates' Courts Act 1980**]**, proceedings under this section may be commenced at any time before the expiration of six months from the first discovery of the offence by the prosecutor, but no such proceedings shall be commenced except by, or with the consent of, the Attorney General.

Textual Amendments

F88 Words substituted by virtue of Criminal Justice Act 1982 (c. 48, SIF 39:1), **ss. 38**, 46

F89 S. 42(1A) inserted by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 125(3), **Sch. 18 para. 15**

F90 Words substituted by Magistrates' Courts Act 1980 (c. 43, SIF 82), s. 154, **Sch. 7 para. 132**

Status: *Point in time view as at 31/03/2000. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Solicitors Act 1974 is up to date with all changes known to be in force on or before 07 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Modifications etc. (not altering text)

C63 S. 42 extended (with modifications) (1.7.2009) by The Registered Foreign Lawyers Order 2009 (S.I. 2009/1589), **art. 5(c)**

C64 S. 42 extended (22.5.2000) by S.I. 2000/1119, regs. 1, 37(3), Sch. 4 para. 7(3) (as amended (1.7.2009) by The Legal Services Act 2007 (Registered European Lawyers) Order 2009 (S.I. 2009/1587), **art. 3(7)(e)**)

C65 S. 42(1) extended (1.1.1992) by Administration of Justice Act 1985 (c. 61, SIF 34), s. 9, **Sch. 2 para. 10**; S.I. 1991/2683, **art. 2**

Marginal Citations

M8 1980 c. 43.

43 Control of [F91solicitors' employees and consultants].

(1) Where a person who is or was [F92employed or remunerated by a solicitor in connection with his practice] but is not himself a solicitor—

(a) has been convicted of a criminal offence which discloses such dishonesty that in the opinion of the Society it would be undesirable for him to be employed [F93or remunerated] by a solicitor in connection with his practice; or

(b) has, in the opinion of the Society, occasioned or been a party to, with or without the connivance of the solicitor [F94by whom he is or was employed or remunerated], an act or default in relation to that solicitor's practice [F95which involved conduct on his part of such a nature that in the opinion of the Society it would be undesirable for him to be employed [F93or remunerated] by a solicitor in connection with his practice,]

[F96the Society may either make, or make an application to the Tribunal for it to make, an order under subsection (2) with respect to him.]

[F97(1A) Where the Society investigates whether there are grounds for making, or making an application to the Tribunal for it to make, an order under subsection (2) with respect to a person, the Council may direct him to pay to the Council an amount which—

(a) is calculated by the Council as the cost to the Society of investigating the matter; or

(b) in the opinion of the Council represents a reasonable contribution towards that cost.]

(2) [F98An order under this subsection made by the Society or the Tribunal shall state] that as from such date as may be specified in the order no solicitor shall, except in accordance with permission in writing granted by the Society for such period and subject to such conditions as the Society may think fit to specify in the permission, employ or remunerate, in connection with his practice as a solicitor, the person with respect to whom the [F99order is] made.

[F100(3) Where an order has been made under subsection (2) with respect to a person by the Society or the Tribunal—

(a) that person or the Society may make an application to the Tribunal for it to be reviewed, and

(b) whichever of the Society and the Tribunal made it may at any time revoke it.

(3A) On the review of an order under subsection (3) the Tribunal may order—

(a) the quashing of the order;

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(b) the variation of the order; or

(c) the confirmation of the order;

and where in the opinion of the Tribunal no prima facie case for quashing or varying the order is shown, the Tribunal may order its confirmation without hearing the applicant.**]**

(4) The Tribunal, on the hearing of any application under this section, may make an order as to the payment of costs by any party to the application.

(5) Orders made under **[**[F101]subsection (2) by the Society, or made, varied or confirmed under this section by the Tribunal and filed with the Society,**]** may be inspected by any solicitor during office hours without payment but shall not be open to the inspection of any person other than a solicitor.

(6) . . . . . [F102]

(7) For the purposes of this section an order under Part I of the [M9]Powers of Criminal Courts Act 1973 **[**[F103]discharging a person**]** absolutely or conditionally shall, notwithstanding anything in **[**[F103]section 1C**]**of that Act, be deemed to be a conviction of the offence for which the order was made.

Textual Amendments

F91 Words in s. 43 sidenote substituted (27.9.1999) by 1999 c. 22, s. 48, **Sch. 7 para. 7(7)** (with Sch. 14 para. 7(2)); S.I. 1999/2657, **art. 2(a)**

F92 Words in s. 43(1) substituted (27.9.1999) by 1999 c. 22, s. 48, **Sch. 7 para. 7(2)(a)** (with Sch. 14 para. 7(2)); S.I. 1999/2657, **art. 2(a)**

F93 Words in s. 43(1) inserted (27.9.1999) by 1999 c. 22, s. 48, **Sch. 7 para. 7(2)(b)** (with Sch. 14 para. 7(2)); S.I. 1999/2657, **art. 2(a)**

F94 Words in s. 43(1) substituted (27.9.1999) by 1999 c. 22, s. 48, **Sch. 7 para. 7(2)(c)** (with Sch. 14 para. 7(2)); S.I. 1999/2657, **art. 2(a)**

F95 S. 43(1)(*b*): words substituted by Administration of Justice Act 1985 (c. 61, SIF 34), s. 8, **Sch. 1 para. 10**(*a*)

F96 Words in s. 43(1) substituted (27.9.1999) by 1999 c. 22, s. 48, **Sch. 7 para. 7(2)(d)** (with Sch. 14 para. 7(2)); S.I. 1999/2657, **art. 2(a)**

F97 S. 43(1A) inserted (27.9.1999) by 1999 c. 22, s. 48, **Sch. 7 para. 7(3)** (with Sch. 14 para. 7(2)); S.I. 1999/2657, **art. 2(a)**

F98 Words in s. 43(2) substituted (27.9.1999) by 1999 c. 22, s. 48, **Sch. 7 para. 7(4)(a)** (with Sch. 14 para. 7(2)); S.I. 1999/2657, **art. 2(a)**

F99 Words in s. 43(2) substituted (27.9.1999) by 1999 c. 22, s. 48, **Sch. 7 para. 7(4)(b)** (with Sch. 14 para. 7(2)); S.I. 1999/2657, **art. 2(a)**

F100 S. 43(3)(3A) substituted (27.9.1999) for s. 43(3) by 1999 c. 22, s. 48, **Sch. 7 para. 7(5)** (with Sch. 14 para. 7(2)); S.I. 1999/2657, **art. 2(a)**

F101 Words in s. 43(5) substituted (27.9.1999) by 1999 c. 22, s. 48, **Sch. 7 para. 7(6)** (with Sch. 14 para. 7(2)); S.I. 1999/2657, **art. 2(a)**

F102 S. 43(6) repealed by Administration of Justice Act 1985 (c. 61, SIF 34), ss. 8, 67(2), **Sch. 1 para. 10**(*b*), Sch. 8 Pt. III

F103 Words in s. 43(7) substituted (1. 10. 1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 100, **Sch. 11 para. 19**; S.I. 1992/333, art. 2(2), **Sch. 2**.

Modifications etc. (not altering text)

C66 S. 43 extended (1.1.1992) with modifications by Administration of Justice Act 1985 (c. 61, SIF 34), s. 9, **Sch. 2 para 11(2)(3)(5)**; S.I. 1991/2683, **art. 2**
S. 43 extended (22.5.2000) by S.I. 2000/1119, regs. 1, 37(3), **Sch. 4 para. 7(3)**

Status: *Point in time view as at 31/03/2000. This version of this Act contains provisions that are not valid for this point in time.*
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Marginal Citations

M9 1973 c. 62.

44 Offences in connection with orders under section 43(2).

(1) Any person who, while there is in force in respect of him an order under section 43(2), seeks or accepts any employment by or remuneration from a solicitor in connection with that solicitor's practice without previously informing him of that order shall be guilty of an offence and liable on summary conviction to a fine not exceeding **[**[F104]level 3 on the standard scale**]**.

(2) Where **[**[F105]an order under section 43(2) is in force in respect of a person**]** then, if any solicitor knowingly acts in contravention of that order or of any conditions subject to which permission for the employment of that person has been granted under it, a complaint in respect of that contravention may be made to the Tribunal by or on behalf of the Society.

(3) Any document purporting to be an order under section 43(2) and to be duly signed in accordance with section 48(1) shall be received in evidence in any proceedings under this section and be deemed to be such an order without further proof unless the contrary is shown.

(4) Notwithstanding anything in **[**[F106]the [M10]Magistrates' Courts Act 1980**]**, proceedings under subsection (1) may be commenced at any time before the expiration of six months from the first discovery of the offence by the prosecutor, but no such proceedings shall be commenced, except with the consent of the Director of Public Prosecutions, by any person other than the Society or a person acting on behalf of the Society.

Textual Amendments

F104 Words substituted by virtue of Criminal Justice Act 1982 (c. 48, SIF 39:1), **ss. 38**, 46

F105 Words in s. 44(2) substituted (27.9.1999) by 1999 c. 22, s. 48, **Sch. 7 para. 8** (with Sch. 14 para. 7(2)); S.I. 1999/2657, **art. 2(a)**

F106 Words substituted by Magistrates' Courts Act 1980 (c. 43, SIF 82), s. 154, **Sch. 7 para. 132**

Modifications etc. (not altering text)

C67 S. 44 extended (22.5.2000) by S.I. 2000/1119, regs. 1, 37(3), **Sch. 4 para. 7(3)**

C68 S. 44(1) extended (1.1.1992) by Administration of Justice Act 1985 (c. 61, SIF 34), s. 9, **Sch. 2 para. 12**(*a*); S.I. 1991/2683, **art. 2**

C69 S. 44(3) extended (1.1.1992) by Administration of Justice Act 1985 (c. 61, SIF 34), s. 9, **Sch. 2 para. 12**(*b*); S.I. 1991/2683, **art. 2**

Marginal Citations

M10 1980 c. 43.

Status: *Point in time view as at 31/03/2000. This version of this Act contains provisions that are not valid for this point in time.*
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[F107 Imposition by Council of disciplinary sanctions for inadequate professional services

Textual Amendments

F107 S. 44A added by Administration of Justice Act 1985 (c. 61, SIF 34), ss. 1, 69(5), **Sch. 9 para. 1**

F108 44A] . . . . . .

Textual Amendments

F108 Ss. 37A and 44A: by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), **ss. 93(1)(2)**, 125(6) (with Sch. 19 para. 14); S.I. 1991/608, art. 2, **Sch.**, it is provided (1.4.1991) that s. 44A shall cease to have effect and that in its place shall be inserted s. 37A and cross-heading
S. 44A repealed (1.4.1991) and superseded by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), ss. 93(1)(2), 125(6)(7), **Sch. 20** (with Sch. 19 para. 14); S.I. 1991/608, art. 2, **Sch.**

[F109 Examination of files]

Textual Amendments

F109 S. 44B added by Administration of Justice Act 1985 (c. 61, SIF 34), ss. 2, 69(5), **Sch. 9 para. 2**

44B [F110Examination of files.]

(1) Where the Council are satisfied that it is necessary to do so for the purpose of **[F111**investigating—

(a) whether there has been professional misconduct by a solicitor;

(b) whether a solicitor has failed to comply with any requirement imposed by or by virtue of this Act or any rules made by the Council;

(c) whether any professional services provided by a solicitor were not of the quality which it is reasonable to expect of him as a solicitor; or

(d) whether there are grounds for making, or making an application to the Tribunal for it to make, an order under section 43(2) with respect to a person who is or was employed or remunerated by a solicitor in connection with his practice,**]**

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 **[F112**all relevant documents in the possession of the solicitor or his firm.**]**

(2) Sub–paragraphs (2) to (12) of paragraph 9 of Schedule 1, together with paragraphs 12 to 16 of that Schedule, shall apply in relation to the powers conferred by subsection (1) as they apply in relation to the powers conferred by sub–paragraph (1) of paragraph 9, and accordingly in those provisions—

(a) any reference to a person appointed, or to a requirement, under that sub–paragraph shall be construed as including a reference to a person appointed, or to a requirement, under subsection (1); and

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(b) any reference to any such documents as are mentioned in that sub–paragraph shall be construed as including a reference to any such documents as are mentioned in subsection (1).

Textual Amendments

F110 S. 44B sidenote substituted (27.9.1999) by 1999 c. 22, s. 48, **Sch. 7 para. 11(3)** (with Sch. 14 para. 7(2)); S.I. 1999/2657, **art. 2(a)**

F111 Words in s. 44B(1) substituted (27.9.1999) by 1999 c. 22, s. 48, **Sch. 7 para. 11(2)** (with Sch. 14 para. 7(2)); S.I. 1999/2657, **art. 2(a)**

F112 Words in s. 44B(1) substituted (27.9.1999) by 1999 c. 22, s. 48, **Sch. 7 para. 11(2)** (with Sch. 14 para. 7(2)); S.I. 1999/2657, **art. 2(a)**

Modifications etc. (not altering text)

C70 S. 44B extended (22.5.2000) by S.I. 2000/1119, regs. 1, 37(3), **Sch. 4 para. 7(2)**

VALID FROM 31/03/2009

[F113 44BA Power to require explanation of document or information

(1) The Society may, by notice, require a person to whom a notice is given under section 44B (or a representative of the person) to attend at a time and place specified in the notice to provide an explanation of any information provided or document produced pursuant to the notice.

(2) The Society may pay to any person such reasonable costs as may be incurred by that person in connection with that person's compliance with a requirement imposed under subsection (1).

(3) Paragraphs 9(3) and (4) and 13, 15 and 16 of Schedule 1 apply in relation to a notice under this section, except that for this purpose—

(a) paragraph 9 of that Schedule has effect as if—

(i) in sub-paragraph (3) for "having" to "sub-paragraph (1)" there were substituted " refuses, neglects or otherwise fails to comply with a requirement under section 44BA(1) ", and

(ii) in sub-paragraph (4) for "produce" (in the first place) to the end there were substituted " provide an explanation of any information provided or document produced pursuant to a notice under section 44B (or a representative of such a person) to attend at a time and place specified in the order to provide an explanation of any information so provided or document so produced. ", and

(b) the reference to the solicitor or his personal representative in paragraph 13 of that Schedule is to be construed as a reference to the person to whom the notice was given under this section.

Textual Amendments

F113 Ss. 44B-44BC substituted (31.3.2009) for s. 44B by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 44** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(i)** (subject to art. 4)

Status: *Point in time view as at 31/03/2000. This version of this Act contains provisions that are not valid for this point in time.*
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Modifications etc. (not altering text)

C71 S. 44BA extended (with modifications) (1.7.2009) by The Registered Foreign Lawyers Order 2009 (S.I. 2009/1589), **art. 5(d)**

C72 S. 44BA applied by Administration of Justice Act 1985 (c. 61), Sch. 2 para. 14(6) (as substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 101** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(iii)** (subject to art. 4))

VALID FROM 31/03/2009

44BB Provision of information and documents by other persons

(1) The High Court, on the application of the Society, may order a person to whom section 44B does not apply—

(a) to provide information, or information of a description, specified in the notice, or

(b) to produce documents, or documents of a description, specified in the notice.

(2) The High Court may make an order under this section only if it is satisfied—

(a) that it is likely that the information or document is in the possession or custody of, or under the control of, the person, and

(b) that there is reasonable cause to believe that the information or document is likely to be of material significance to an investigation into any of the matters mentioned in section 44B(3)(a) to (d).

(3) An order under this section may direct the Society to pay to a person specified in the order such reasonable costs as may be incurred by that person in connection with the provision of any information, or production of any document, by that person pursuant to the order.

(4) Section 44B(4) applies in relation to an order under this section as it applies in relation to a notice under section 44B.

(5) Paragraphs 9(5A) and (7) to (12), 12, 13, 15 and 16 of Schedule 1 apply in relation to an order under this section as they apply in relation to an order under paragraph 9(4) of that Schedule, except that for this purpose—

(a) the reference to the solicitor or personal representative in paragraph 9(7) of that Schedule is to be construed as a reference to the person in respect of whom the order under this section is made,

(b) the reference in paragraph 9(12) of that Schedule to the Society is to be read as including a reference to a person specified under section 44B(4)(c) (as applied by subsection (4) of this section), and

(c) the reference to the solicitor or his personal representative in paragraph 13 of that Schedule is to be construed as a reference to the person to whom the notice was given under this section.

Textual Amendments

F113 Ss. 44B-44BC substituted (31.3.2009) for s. 44B by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 44** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(i)** (subject to art. 4)

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VALID FROM 31/03/2009

44BC Information offences

(1) It is an offence for a person who knows or suspects an investigation into any of the matters mentioned in section 44B(3)(a) to (d) is being or is likely to be conducted—
- (a) to falsify, conceal, destroy or otherwise dispose of a document which the person knows or suspects is or would be relevant to the investigation, or
- (b) to cause or permit the falsification, concealment, destruction or disposal of such a document.

(2) In proceedings for an offence under subsection (1) it is a defence for the accused to show that the accused had no intention of concealing facts disclosed by the documents from the person conducting the investigation.

(3) It is an offence for a person, in purported compliance with a requirement imposed on the person under section 44B, 44BA or 44BB—
- (a) to provide information which the person knows to be false or misleading in a material particular, or
- (b) recklessly to provide information which is false or misleading in a material particular.

(4) A person who is guilty of an offence under subsection (1) or (3) is liable—
- (a) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum, or both;
- (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine, or both.

(5) In relation to an offence under subsection (1) or (3) committed before the commencement of section 154(1) of the Criminal Justice Act 2003 the reference in subsection (4)(a) to 12 months is to be read as a reference to 6 months.]

Textual Amendments

F113 Ss. 44B-44BC substituted (31.3.2009) for s. 44B by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 44** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(i)** (subject to art. 4)

Modifications etc. (not altering text)

C73 S. 44BC extended (with modifications) (1.7.2009) by S.I. 2000/1119, Sch. 4 para. 7(2)Table (as amended by The Legal Services Act 2007 (Registered European Lawyers) Order 2009 (S.I. 2009/1587), **art. 3(7)(c)**)
S. 44BC extended (with modifications) (1.7.2009) by The Registered Foreign Lawyers Order 2009 (S.I. 2009/1589), **art. 5(e)**

C74 S. 44BC(1) applied by Administration of Justice Act 1985 (c. 61), Sch. 2 para. 14(7) (as substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 101** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(i)** (subject to art. 4))

C75 S. 44BC(2)(4)(5) applied by Administration of Justice Act 1985 (c. 61), Sch. 2 para. 14(7) (as substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 101** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(ii)** (subject to art. 4))

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C76 S. 44BC(3) applied by Administration of Justice Act 1985 (c. 61), Sch. 2 para. 14(8) (as substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 101** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(ii)** (subject to art. 4))

C77 S. 44BC(4)(5) applied by Administration of Justice Act 1985 (c. 61), Sch. 2 para. 14(8) (as substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 101** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(ii)** (subject to art. 4))

[F114 Costs of investigations]

Textual Amendments

F114 S. 44C and cross-heading inserted (27.9.1999) by 1999 c. 22, s. 48, **Sch. 7 para. 13** (with Sch. 14 para. 7(2)); S.I. 1999/2657, **art. 2(a)**

F115 44C Payment of costs of investigations.

Where the Society investigates possible professional misconduct by a solicitor, or a failure or apprehended failure by a solicitor to comply with any requirement imposed by or by virtue of this Act or any rules made by the Council, the Council may direct him to pay to the Council an amount which—

(a) is calculated by the Council as the cost to the Society of investigating and dealing with the matter; or

(b) in the opinion of the Council represents a reasonable contribution towards that cost.

Textual Amendments

F115 S. 44C and cross-heading inserted (27.9.1999) by 1999 c. 22, s. 48, **Sch. 7 para. 13** (with Sch. 14 para. 7(2)); S.I. 1999/2657, **art. 2(a)**

Modifications etc. (not altering text)

C78 S. 44C extended (22.5.2000) by S.I. 2000/1119, regs. 1, 37(3), Sch. 4 para. 7(2) (as amended (1.7.2009) by The Legal Services Act 2007 (Registered European Lawyers) Order 2009 (S.I. 2009/1587), **art. 3(7)(c)**)

F116 45 . . . . . .

Textual Amendments

F116 S. 45 repealed by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 125(7), **Sch. 20**

Status: *Point in time view as at 31/03/2000. This version of this Act contains provisions that are not valid for this point in time.*
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VALID FROM 31/03/2009

[F117 Disciplinary powers of the Society

Textual Amendments

F117 Ss. 44D, 44E and cross-heading inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 46** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(i)** (subject to art. 4)

44D Disciplinary powers of the Society

(1) This section applies where the Society is satisfied—

(a) that a solicitor or an employee of a solicitor has failed to comply with a requirement imposed by or by virtue of this Act or any rules made by the Society, or

(b) that there has been professional misconduct by a solicitor.

(2) The Society may do one or both of the following—

(a) give the person a written rebuke;

(b) direct the person to pay a penalty not exceeding £2,000.

(3) The Society may publish details of any action it has taken under subsection (2)(a) or (b), if it considers it to be in the public interest to do so.

(4) Where the Society takes action against a person under subsection (2)(b), or decides to publish under subsection (3) details of any action taken under subsection (2)(a) or (b), it must notify the person in writing that it has done so.

(5) A penalty imposed under subsection (2)(b) does not become payable until—

(a) the end of the period during which an appeal against the decision to impose the penalty, or the amount of the penalty, may be made under section 44E, or

(b) if such an appeal is made, such time as it is determined or withdrawn.

(6) The Society may not publish under subsection (3) details of any action under subsection (2)(a) or (b)—

(a) during the period within which an appeal against—

(i) the decision to take the action,

(ii) in the case of action under subsection (2)(b), the amount of the penalty, or

(iii) the decision to publish the details,

may be made under section 44E, or

(b) if such an appeal has been made, until such time as it is determined or withdrawn.

(7) The Society must make rules—

(a) prescribing the circumstances in which the Society may decide to take action under subsection (2)(a) or (b);

(b) about the practice and procedure to be followed by the Society in relation to such action;

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Changes to legislation: *Solicitors Act 1974 is up to date with all changes known to be in force on or before 07 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(c) governing the publication under subsection (3) of details of action taken under subsection (2)(a) or (b);

and the Society may make such other rules in connection with the exercise of its powers under this section as it considers appropriate.

(8) Before making rules under subsection (7), the Society must consult the Tribunal.

(9) A penalty payable under this section may be recovered as a debt due to the Society, and is to be forfeited to Her Majesty.

(10) The Lord Chancellor may, by order, amend paragraph (b) of subsection (2) so as to substitute for the amount for the time being specified in that paragraph such other amount as may be specified in the order.

(11) Before making an order under subsection (10), the Lord Chancellor must consult the Society.

(12) An order under subsection (10) is to be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

(13) This section is without prejudice to any power conferred on the Society or any other person to make an application or complaint to the Tribunal.

Modifications etc. (not altering text)

C79 S. 44D extended (with modifications) (1.7.2009) by The Registered Foreign Lawyers Order 2009 (S.I. 2009/1589), **art. 3(2)(k)**, Sch.

C80 S. 44D extended (with modifications) (1.7.2009) by S.I. 2000/1119, Sch. 4 para. 7(2)Table (as amended by The Legal Services Act 2007 (Registered European Lawyers) Order 2009 (S.I. 2009/1587), **art. 3(7)(c)**)

44E Appeals against disciplinary action under section 44D

(1) A person may appeal against—

(a) a decision by the Society to rebuke that person under section 44D(2)(a) if a decision is also made to publish details of the rebuke;

(b) a decision by the Society to impose a penalty on that person under section 44D(2)(b) or the amount of that penalty;

(c) a decision by the Society to publish under section 44D(3) details of any action taken against that person under section 44D(2)(a) or (b).

(2) Subsections (9)(b), (10)(a) and (b), (11) and (12) of section 46 (Tribunal rules about procedure for hearings etc) apply in relation to appeals under this section as they apply in relation to applications or complaints, except that subsection (11) of that section is to be read as if for “the applicant” to “application)” there were substituted any party to the appeal.

(3) Rules under section 46(9)(b) may, in particular, make provision about the period during which an appeal under this section may be made.

(4) On an appeal under this section, the Tribunal has power to make such order as it thinks fit, and such an order may in particular—

(a) affirm the decision of the Society;

(b) revoke the decision of the Society;

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(c) in the case of a penalty imposed under section 44D(2)(b), vary the amount of the penalty;

(d) in the case of a solicitor, contain provision for any of the matters mentioned in paragraphs (a) to (d) of section 47(2);

(e) in the case of an employee of a solicitor, contain provision for any of the matters mentioned in section 47(2E);

(f) make such provision as the Tribunal thinks fit as to payment of costs.

(5) Where by virtue of subsection (4)(e) an order contains provision for any of the matters mentioned in section 47(2E)(c), section 47(2F) and (2G) apply as if the order had been made under section 47(2E)(c).

(6) An appeal from the Tribunal shall lie to the High Court, at the instance of the Society or the person in respect of whom the order of the Tribunal was made.

(7) The High Court shall have power to make such order on an appeal under this section as it may think fit.

(8) Any decision of the High Court on an appeal under this section shall be final.

(9) This section is without prejudice to any power conferred on the Tribunal in connection with an application or complaint made to it.**]**

Modifications etc. (not altering text)

C81 S. 44E extended (with modifications) (1.7.2009) by S.I. 2000/1119, Sch. 4 para. 7(2)Table (as amended by The Legal Services Act 2007 (Registered European Lawyers) Order 2009 (S.I. 2009/1587), **art. 3(7)(c)**)
S. 44E extended in part (with modifications) (1.7.2009) by The Registered Foreign Lawyers Order 2009 (S.I. 2009/1589), **art. 3(2)(l)**, Sch.

Disciplinary proceedings before Solicitors Disciplinary Tribunal

46 Solicitors Disciplinary Tribunal.

(1) Applications and complaints made by virtue of any provision of this Act shall be made, except so far as other provision is made by this Act or by any regulations under it, to the tribunal known as the "Solicitors Disciplinary Tribunal".

(2) The Master of the Rolls shall appoint the members of the Tribunal.

(3) The Tribunal shall consist—

(a) of practising solicitors of not less than ten years' standing (in this section referred to as "solicitor members"); and

(b) of persons who are neither solicitors nor barristers (in this section referred to as "lay members").

(4) A member of the Tribunal shall hold and vacate his office in accordance with the terms of his appointment and shall, on ceasing to hold office, be eligible for re–appointment.

(5) There shall be paid to the lay members out of money provided by Parliament such fees and allowances as the Lord Chancellor may, with the approval of the Minister for the Civil Service, determine.

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(6) Subject to subsections (7) and (8), the Tribunal shall be deemed to be properly constituted if—
  (a) at least three members are present; and
  (b) at least one lay member is present; and
  (c) the number of solicitor members present exceeds the number of lay members present.

(7) For the purpose of hearing and determining applications and complaints the Tribunal shall consist of not more than three members.

(8) A decision of the Tribunal on an application or complaint may be announced by a single member.

(9) Subject to subsections (6) to (8), the Tribunal, with the concurrence of the Master of the Rolls, may make rules—
  (a) empowering the Tribunal to elect a solicitor member to be its president; and
  (b) about the procedure and practice to be followed in relation to the making, hearing and determination of applications and complaints.

(10) Without prejudice to the generality of subsection (9)(b), rules made by virtue of that paragraph may in particular—
  (a) empower the president of the Tribunal to appoint a chairman for the hearing and determination of any application or complaint;
  (b) provide that, if the president does not appoint a chairman, a solicitor member shall act as chairman; and
  (c) provide, in relation to any application or complaint relating to a solicitor, that, where in the opinion of the Tribunal no prima facie case in favour of the applicant or complainant is shown in the application or complaint, the Tribunal may make an order refusing the application or dismissing the complaint without requiring the solicitor to whom it relates to answer the allegations and without hearing the applicant or complainant.

(11) For the purposes of any application or complaint made to the Tribunal under this Act, the Tribunal may administer oaths, and the applicant or complainant and any person with respect to whom the application or complaint is made (or, in the case of an application under section 47(1)(b), any of the parties to the application) may issue writs of subpoena ad testificandum and duces tecum, but no person shall be compelled under any such writ to produce any document which he could not be compelled to produce on the trial of an action.

(12) The power to make rules conferred by subsection (9) shall be exercisable by statutory instrument, and the [M11]Statutory Instruments Act 1946 shall apply to a statutory instrument containing such rules in like manner as if the rules had been made by a Minister of the Crown.

Modifications etc. (not altering text)

C82 S. 46 applied (with modifications) (14.10.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 89, **Sch. 14 Pt. II para. 15(1)**; S.I. 1991/1883, **art. 3**,Sch.

C83 S. 46(7)-(10) extended by Administration of Justice Act 1985 (c. 61, SIF 34), ss. 43(2), 69(5), **Sch. 9 para. 9** and (1.1.1992) by s. 9, Sch. 2 para. 17(a) of that Act; S.I. 1991/2683, **art. 2**

C84 S. 46(10)(c) extended (1.1.1992) by Administration of Justice Act 1985 (c. 61, SIF 34), s. 9, **Sch. 2 para. 17(c)**; S.I. 1991/2683, **art. 2**

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S. 46(10)(c) extended (22.5.2000) by S.I. 2000/1119, regs. 1, 37(3), Sch. 4 para. 10 (as amended by The Legal Services Act 2007 (Registered European Lawyers) Order 2009 (S.I. 2009/1587), **art. 3(10)**)

C85 S. 46(11) extended by Administration of Justice Act 1985 (c. 61, SIF 34), ss. 43(2), 69(5), **Sch. 9 para. 9** and (1.1.1992) by s. 9, Sch. 2 para. 17(a) of that Act; S.I. 1991/2683, **art. 2**

C86 S. 46(12) applied (14.10.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 89, **Sch. 14 Pt.II para. 16(3)**; S.I. 1991/1883, **art. 3**,Sch.

Marginal Citations

M11 1946 c. 36.

VALID FROM 30/06/2008

[F118 46A Funding of the Tribunal

(1) The Tribunal must submit to the Society in respect of each year a budget for the year approved by the Legal Services Board.

(2) A budget for a year is a statement of the amount of money which the Tribunal estimates is required to enable it to meet all of its expenditure in that year (having regard to any amounts received but not spent in previous years).

(3) Before approving a statement for the purposes of subsection (1) the Legal Services Board must consult the Society.

(4) The budget for a year must be submitted to the Society under subsection (1) no later than the date in the preceding year specified by the Society for the purposes of this subsection.

(5) Before specifying a date for this purpose the Society must consult the Tribunal.

(6) The amount specified in a budget submitted under subsection (1) must be paid by the Society to the Tribunal—

(a) in such instalments and at such times as may be agreed between the Society and the Tribunal, or

(b) in the absence of such agreement, before the beginning of the year to which the budget relates.

(7) The Society may pay the Tribunal such other amounts as the Society considers appropriate.

(8) In this section "year" means a calendar year.]

Textual Amendments

F118 S. 46A inserted (30.6.2008) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 48** (with ss. 29, 192, 193); S.I. 2008/1436, **art. 2(d)(i)** (subject to art. 4)

47 Jurisdiction and powers of Tribunal.

[F119 (1) Any application—

(a) to strike the name of a solicitor off the roll;

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(b) to require a solicitor to answer allegations contained in an affidavit;

(c) to require a former solicitor whose name has been removed from or struck off the roll to answer allegations contained in an affidavit relating to a time when he was a solicitor;

(d) by a solicitor who has been suspended from practice for an unspecified period, by order of the Tribunal, for the termination of that suspension;

(e) by a former solicitor whose name has been struck off the roll to have his name restored to the roll;

(f) by a former solicitor in respect of whom a direction has been given under subsection (2)(g) to have his name restored to the roll,

shall be made to the Tribunal; but nothing in this susbsection shall affect any jurisdiction over solicitors exercisable by the Master of the Rolls, or by any judge of the High Court, by virtue of section 50.

(2) Subject to subsection (3) and to section 54, on the hearing of any application or complaint made to the Tribunal under this Act, other than an application under section 43, the Tribunal shall have power to make such order as it may think fit, and any such order may in particular include provision for any of the following matters—

(a) the stiking off the roll of the name of the solicitor to whom the application or complaint relates;

(b) the suspension of that solicitor from practice indefinitely or for a specified period;

(c) the payment by that solicitor or former solicitor of a penalty not exceeding £5,000, which shall be forfeit to Her Majesty;

(d) in the circumstances referred to in subsection (2A), the exclusion of that solicitor from legal aid work (either permanently or for a specified period);

(e) the termination of that solicitor's unspecified period of suspension from practice;

(f) the restoration to the roll of the name of a former solicitor whose name has been struck off the roll and to whom the application relates;

(g) in the case of a former solicitor whose name has been removed from the roll, a direction prohibiting the restoration of his name to the roll except by order of the Tribunal;

(h) in the case of an application under subsection (1)(f), the restoration of the applicant's name to the roll;

(i) the payment by any party of costs or a contribution towards costs of such amount as the Tribunal may consider reasonable.**]**

[[F120](2A) An order of the Tribunal may make provision for the exclusion of a solicitor from legal aid work as mentioned in subsection **[**[F121](2)(d)**]**where the Tribunal determines that there is good reason for doing so arising out of—

(a) his conduct, including conduct in the capacity of agent for another solicitor, in connection with the provision for any person of services under the Legal Aid Act 1988; or

(b) his professional conduct generally.

(2B) Where the Tribunal makes any such order as is re–referred to in subsection (2A) in the case of a solicitor who is a member of a firm of solicitors, the Tribunal may, if it thinks fit, order that any other person who is for the time being a member of the firm shall be excluded (either permanently or for a specified period) from legal aid work.

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(2C) The Tribunal shall not make an order under subsection (2B) excluding any person from legal aid work unless an opportunity is given to him to show cause why the order should not be made.

(2D) Any person excluded from legal aid work by an order under this section may make an application to the Tribunal for an order terminating his exclusion from such work.**]**

(3) On proof of the commission of an offence with respect to which express provision is made by any section of this Act, the Tribunal shall, without prejudice to its power of making an order as to costs, impose the punishment, or one of the punishments, specified in that section.

[[F122](3A) Where, on the hearing of any application or complaint under this Act, the Tribunal is satisfied that more than one allegation is proved against the person to whom the application or complaint relates it may impose a separate penalty (by virtue of subsection (2)(*c*)) with respect to each such allegation.**]**

[[F123](4) If it appears to the Lord Chancellor that there has been a change in the value of money since the relevant date, he may by order made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament substitute for the sum for the time being specified in subsection (2)(*c*) above such other sum as appears to him to be justified by the change.

(5) In subsection (4) above "the relevant date" means—

(a) in relation to the first order under that subsection, the date of the coming into force of section 56 of the Administration of Justice Act 1982; and

(b) in relation to each subsequent order, the last occasion when the sum specified in subsection (2)(*c*) above was altered.**]**

[[F124](6) In this section references to a person being excluded from legal aid work are references to his being excluded from those who may be selected or assigned for the purpose of providing for any person services under the Legal Aid Act 1988.**]**

Subordinate Legislation Made

P1 S. 47: power previously exercised by S.I. 1990/1011

Textual Amendments

F119 S. 47(1)(2) substituted by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), **s. 92(2)**

F120 S. 47(2A)–(2D) added by Administration of Justice Act 1985 (c. 61, SIF 34), ss. 44(3), 69(5), **Sch. 9 para. 9** (as amended by Legal Aid Act 1988 (c. 34, SIF 77:1), s. 45, **Sch. 5 para. 19(a)**)

F121 Words substituted by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), **s. 92(3)**

F122 S. 47(3A) inserted by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), **s. 92(4)**

F123 S. 47(4)(5) added by Administration of Justice Act 1982 (c. 53, SIF 37), **s. 56**(*b*)

F124 S. 47(6) inserted by Administration of Justice Act 1985 (c. 61, SIF 34), ss. 44(4), 69(5), **Sch. 9 para. 9** (as amended by Legal Aid Act 1988 (c. 34, SIF 77:1), s. 45, **Sch. 5 para. 19(b)**

Modifications etc. (not altering text)

C87 S. 47(2) extended by Administration of Justice Act 1985 (c. 61, SIF 34), ss. 43(2), 69(5), **Sch. 9 para. 9**

C88 S. 47(4) amended (14.10.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 89, **Sch. 14 Pt. II para. 15(5)**; S.I. 1991/1883, art. 3, **Sch.**

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C89 S. 47(4)(5) extended (1.1.1992) by Administration of Justice Act 1985 (c. 61, SIF 34), s. 9, **Sch. 2 para. 18(4)**; S.I. 1991/2683, **art. 2**

C90 S. 47(6) applied (1.1.1992) by Administration of Justice Act 1985 (c. 61, SIF 34), s. 9, **Sch. 2 para. 20(2)**; S.I. 1991/2683, **art. 2**

[F125]47A . . . . . .

Textual Amendments

F125 S. 47A repealed (1. 4. 1991) by Courts and Legal Services Act 1990 (c. 41, SIF 34), ss. 93(4), 125(6)(7), Sch. 19 para. 14(b), **Sch. 20** (with saving in Sch. 19 para. 14(b)); S.I. 1991/608, art. 2, **Sch.**

48 Orders of Tribunal.

(1) An order of the Tribunal shall be filed with the Society, and a statement of the Tribunal's findings, signed by the chairman or by some other member of the Tribunal authorised by him in that behalf, shall either be prefaced to the order or added to the file containing the order as soon as may be after the order has been made.

(2) Where an order which has been filed includes provision for any of the matters referred to in paragraphs **[**[F126](a) to (i)**]**of **[**[F127]section 47(2)**][**[F127]subsection (2) of section 47, or was made under subsection (2B) of that section or under section 47A,**]**, the Society—

(a) shall cause a note of the effect of the order to be entered on the roll against the name of the solicitor **[**[F128]or former solicitor**]**with respect to whom the application or complaint was made; and

(b) except where it only makes provision for matters referred to in **[**[F129]paragraph (e), (f), (h) or (i) of section 47(2)**]**, shall forthwith upon filing the order cause a notice stating its effect to be published in the London Gazette.

(3) Subject to section 43(5), any file kept by the Society under this section may be inspected during office hours without payment.

(4) An order which has been filed shall be treated, for the purpose of enforcement, as if it had been made by the High Court.

Textual Amendments

F126 In s. 48(2), "(a) to (i)" substituted for "(a) to (e)" by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), **s. 92(5)(a)**

F127 In s. 48(2), for "section 47(2)" there is substituted (*prosp.*) "subsection (2) of section 47, or was made under subsection (2B) of that section or under section 47A," by Administration of Justice Act 1985 (c. 61, SIF 34), ss. 67(1), 69(2), **Sch. 7 para. 5**

F128 S. 48(2)(*a*): words inserted by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), **s. 92(5)(b)**

F129 S. 48(2)(*b*): words substituted by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), **s. 92(5)(c)**

Modifications etc. (not altering text)

C91 S. 48 extended (22.5.2000) by S.I. 2000/1119, regs. 1, 37(3), **Sch. 4 para. 10**

Status: *Point in time view as at 31/03/2000. This version of this Act contains provisions that are not valid for this point in time.*
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49 Appeals from Tribunal.

(1) An appeal from the Tribunal shall lie—
  (a) in the case of an order on an application under section 43(3) or **[**[F130]47(1)(d), (e) or (f)**]**or the refusal of any such application, to the Master of the Rolls;
  (b) in any other case, to the High Court.

(2) Subject to subsection (3), an appeal shall lie at the instance of the applicant or complainant or of the person with respect to whom the application or complaint was made.

(3) An appeal against an order under section **[**[F131]43(3A)**]** shall lie only at the instance of the person with respect to whom the **[**[F132]order**]** was made.

(4) The High Court and the Master of the Rolls shall have power to make such order on an appeal under this section as they may think fit.

(5) Subject to any rules of court, on an appeal against an order made by virtue of rules under section 46(10)(c) without hearing the applicant or complainant, the court—
  (a) shall not be obliged to hear the appellant, and
  (b) may remit the matter to the Tribunal instead of dismissing the appeal,

(6) Any decision of the Master of the Rolls on an appeal under this section and any decision of the High Court on an appeal against an order under section **[**[F133]43(3A)**]** shall be final.

(7) The Master of the Rolls may make regulations about appeals to him under this section.

Textual Amendments

F130 S. 49(1)(*a*): words substituted by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), **s. 92(6)**

F131 Figure in s. 49(3) substituted (27.9.1999) by 1999 c. 22, s. 48, **Sch. 7 para. 9(2)(a)** (with Sch. 14 para. 7(2)); S.I. 1999/2657, **art. 2(a)**

F132 Word in s. 49(3) substituted (27.9.1999) by 1999 c. 22, s. 48, **Sch. 7 para. 9(2)(b)** (with Sch. 14 para. 7(2)); S.I. 1999/2657, **art. 2(a)**

F133 Word in s. 49(6) substituted (27.9.1999) by 1999 c. 22, s. 48, **Sch. 7 para. 9(3)** (with Sch. 14 para. 7(2)); S.I. 1999/2657, **art. 2(a)**

Modifications etc. (not altering text)

C92 S. 49 extended by Administration of Justice Act 1985 (c. 61, SIF 34), ss. 43(5), 69(5), **Sch. 9 para. 9**
S. 49 extended (22.5.2000) by S.I. 2000/1119, regs. 1, 37(3), **Sch. 4 para. 10**

VALID FROM 01/07/2009

[F134]49A Appeals to the Tribunal instead of the High Court

(1) The Society may, with the approval of the Tribunal, make rules which provide that in such circumstances as may be prescribed by the rules an appeal under any of the provisions listed in subsection (2) lies to the Tribunal and not to the High Court.

(2) Those provisions are—
  (a) section 8(4);

Status: *Point in time view as at 31/03/2000. This version of this Act contains provisions that are not valid for this point in time.*
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(b) section 13A(6);
(c) section 16(5);
(d) section 28(3D);
(e) section 41(3);
(f) paragraph 14 of Schedule 14 to the Courts and Legal Services Act 1990 (foreign lawyers: appeals against conditions or refusals).

(3) Any decision of the Tribunal on an appeal by virtue of rules made under this section shall be final.**]**

Textual Amendments

F134 S. 49A inserted (1.7.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 52** (with ss. 29, 192, 193); S.I. 2009/1365, **art. 2(a)(i)**

Disciplinary proceedings before Supreme Court

50 Jurisdiction of Supreme Court over solicitors.

(1) Any person duly admitted as a solicitor shall be an officer of the Supreme Court; [F135]. . .

(2) Subject to the provisions of this Act, the High Court, the Crown Court and the Court of Appeal respectively, or any division or judge of those courts, may exercise the same jurisdiction in respect of solicitors as any one of the superior courts of law or equity from which the Supreme Court was constituted might have exercised immediately before the passing of the [M12]Supreme Court of Judicature Act 1873 in respect of any solicitor, attorney or proctor admitted to practise there.

[[F136](3) An appeal shall lie to the Court of Appeal from any order made against a solicitor by the High Court or the Crown Court in the exercise of its jurisdiction in respect of solicitors under subsection (2).**]**

Textual Amendments

F135 Words repealed by Supreme Court Act 1981 (c. 54, SIF 37), s. 152(4), **Sch. 7**
F136 S. 50(3) inserted by Supreme Court Act 1981 (c. 54, SIF 37), **s. 147**

Modifications etc. (not altering text)

C93 S. 50(2)(3) extended (22.5.2000) by S.I. 2000/1119, regs. 1, 37(3), **Sch. 4 para. 10**

Marginal Citations

M12 1873 c. 66.

51 Procedure upon certain applications to High Court.

(1) Where an application to strike the name of a solicitor off the roll or to require a solicitor to answer allegations contained in an affidavit is made to the High Court, then, subject to section 54, the following provisions of this section shall have effect in relation to that application.

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(2) The court shall not entertain the application except on production of an affidavit proving that the applicant has served on the Society fourteen clear days' notice of his intention to make the application, together with copies of all affidavits intended to be used in support of the application.

(3) The Society may appear by counsel on the hearing of the application and any other proceedings arising out of or in reference to the application, and may apply to the court—

(a) to make absolute any order nisi which the court may have made on the application;

(b) to make an order that the name of the solicitor be struck off the roll; or

(c) to make such other order as the court may think fit.

(4) The court may order the costs of the Society of or relating to any of the matters mentioned in subsections (2) and (3) to be paid by the solicitor against whom, or by the person by whom, the application was made, or was intended to be made, or partly by one and partly by the other of them.

Modifications etc. (not altering text)

C94 S. 51 extended (22.5.2000) by S.I. 2000/1119, regs. 1, 37(3), Sch. 4 para. 10 (as amended (1.7.2009) by The Legal Services Act 2007 (Registered European Lawyers) Order 2009 (S.I. 2009/1587), **art. 3(10)**)

52 Power of Society to draw up order of court.

Where an order, whether nisi or absolute, is made by the High Court or the Court of Appeal on a motion to strike the name of a solicitor off the roll, or to require a solicitor to answer allegations contained in an affidavit, and that order is not drawn up by the applicant within one week of its being made, the Society may cause the order to be drawn up, and all future proceedings on the order shall be taken as if the motion had been made by the Society.

Modifications etc. (not altering text)

C95 S. 52 extended (22.5.2000) by S.I. 2000/1119, regs. 1, 37(3), Sch. 4 para. 10 (as amended (1.7.2009) by The Legal Services Act 2007 (Registered European Lawyers) Order 2009 (S.I. 2009/1587), **art. 3(10)**)

53 Production of order of court to Society.

Where an order is made by the High Court or the Court of Appeal that the name of a solicitor be struck off the roll, or that a solicitor be suspended from practice, the proper officer of the court shall forthwith send a copy of the order to the Society, and the Society shall enter a note of the order on the roll against the name of the solicitor and, where the order so directs, shall strike that name off the roll.

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Modifications etc. (not altering text)

C96 S. 53 extended (22.5.2000) by S.I. 2000/1119, regs. 1, 37(3), Sch. 4 para. 10 (as amended (1.7.2009) by The Legal Services Act 2007 (Registered European Lawyers) Order 2009 (S.I. 2009/1587), **art. 3(10)**)

Disciplinary proceedings—general

54 Restrictions on powers to strike names off roll.

(1) No solicitor shall be liable to have his name struck off the roll on account of any failure to comply with the requirements with respect to service under articles of any training regulations or on account of any defect in his admission and enrolment, unless—

(a) the application to strike his name off the roll is made within twelve months of the date of his enrolment; or

(b) fraud is proved to have been committed in connection with the failure or defect.

(2) No solicitor shall be liable to have his name struck off the roll by reason only—

(a) that a solicitor whom he has served for the whole or any part of the term of articled service required in his case by training regulations has neglected or omitted to take out a practising certificate; or

(b) that the name of a solicitor whom he has served for any period has after the termination of that period been removed from or struck off the roll.

55 Applications to require solicitor to answer allegations.

For the avoidance of doubt it is hereby declared that an application by any person to require a solicitor to answer allegations contained in an affidavit, whether that application is made to the Tribunal or to the High Court, may be treated as an application to strike the name of that solicitor off the roll on the grounds of the matters alleged.

Modifications etc. (not altering text)

C97 S. 55 extended (22.5.2000) by S.I. 2000/1119, regs. 1, 37(3), Sch. 4 para. 9, 10 (as amended (1.7.2009) by The Legal Services Act 2007 (Registered European Lawyers) Order 2009 (S.I. 2009/1587), **art. 3(9)**)

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PART III

REMUNERATION OF SOLICITORS

Non–contentious business

56 Orders as to remuneration for non–contentious business.

(1) For the purposes of this section there shall be a committee consisting of the following persons—
- (a) the Lord Chancellor;
- (b) the Lord Chief Justice;
- (c) the Master of the Rolls;
- (d) the President of the Society;
- (e) a solicitor, being the president of a local law society, nominated by the Lord Chancellor to serve on the committee during his tenure of office as president; and
- (f) for the purpose only of prescribing and regulating the remuneration of solicitors in respect of business done under the [M13]Land Registration Act 1925, the Chief Land Registrar appointed under that Act.

(2) The committee, or any three members of the committee (the Lord Chancellor being one), may make general orders prescribing and regulating in such manner as they think fit the remuneration of solicitors in respect of non–contentious business.

(3) The Lord Chancellor, before any order under this section is made, shall cause a draft of the order to be sent to the Council; and the committee shall consider any observations of the Council submitted to them in writing within one month of the sending of the draft, and may then make the order, either in the form of the draft or with such alterations or additions as they may think fit.

(4) An order under this section may prescribe the mode of remuneration of solicitors in respect of non–contentious business by providing that they shall be remunerated—
- (a) according to a scale of rates of commission or a scale of percentages, varying or not in different classes of business; or
- (b) by a gross sum; or
- (c) by a fixed sum for each document prepared or perused, without regard to length; or
- (d) in any other mode; or
- (e) partly in one mode and partly in another.

(5) An order under this section may regulate the amount of such 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 he is vendor or purchaser, lessor or lessee, mortgagor or mortgagee, or the like;
- (b) the place where, and the circumstances in which, the business or any part of it is transacted;
- (c) the amount of the capital money or rent to which the business relates;
- (d) the skill, labour and responsibility on the part of the solicitor which the business involves;

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(e) the number and importance of the documents prepared or perused, without regard to length.

(6) An order under this section 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.

(7) So long as an order made under this section is in operation the taxation of bills of costs of solicitors in respect of non–contentious business shall, subject to the provisions of section 57, be regulated by that order.

(8) Any order made under this section may be varied or revoked by a subsequent order so made.

(9) The power to make orders under this section shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament; and the [M14]Statutory Instruments Act 1946 shall apply to a statutory instrument containing such an order in like manner as if the order had been made by a Minister of the Crown.

Subordinate Legislation Made

P2 S. 56: power previously exercised by S.I. 1983/370

Modifications etc. (not altering text)

C98 S. 56 (except subsection (1)(e) and (5)) extended (1.1.1992) by Administration of Justice Act 1985 (c. 61, SIF 34), s. 9, **Sch. 2 para. 22(2)**; S.I. 1991/2683, **art. 2**

C99 S. 56(2)(7) extended (22.5.2000) by S.I. 2000/1119, regs. 1, 37(3), **Sch. 4 para. 7(2)**

C100 S. 56(5)(a)(d) modified (1.1.1992) by Administration of Justice Act 1985 (c. 61, SIF 34), s. 9, **Sch. 2 para. 23**; S.I. 1991/2683, **art. 2**

Marginal Citations

M13 1925 c. 21.

M14 1946 c. 36.

57 Non–contentious business agreements.

(1) Whether or not any order is in force under section 56, a solicitor and his client may, before or after or in the course of the transaction of any non–contentious business by the solicitor, make an agreement as to his remuneration in respect of that business.

(2) The agreement may provide for the remuneration of the solicitor by a gross sum **[**[F137]or by reference to an hourly rate**]**, or by a commission or percentage, or by a salary, or otherwise, and it may be made on the terms that the amount of the remuneration stipulated for shall or shall not include all or any disbursements made by the solicitor in respect of searches, plans, travelling, stamps, fees or other matters.

(3) The agreement shall be in writing and signed by the person to be bound by it or his agent in that behalf.

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(4) **[**[F138]Subject to subsections (5) and (7)**]**, the agreement may be sued and recovered on or set aside in the like manner and on the like grounds as an agreement not relating to the remuneration of a solicitor.

(5) If on any taxation of costs the agreement is relied on by the solicitor and objected to by the client as unfair or unreasonable, the taxing officer may enquire into the facts and certify them to the court, and if from that certificate it appears just to the court that the agreement should be set aside, or the amount payable under it reduced, the court may so order and may give such consequential directions as it thinks fit.

[[F139](6) Subsection (7) applies where the agreement provides for the remuneration of the solicitor to be by reference to an hourly rate.

(7) If, on the taxation of any costs, the agreement is relied on by the solicitor and the client objects to the amount of the costs (but is not alleging that the agreement is unfair or unreasonable), the taxing officer may enquire into—

(a) the number of hours worked by the solicitor; and

(b) whether the number of hours worked by him was excessive.**]**

Textual Amendments

F137 S. 57(2) words inserted by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), **s. 98(2)**

F138 S. 57(4) words substituted by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), **s. 98(3)**

F139 S. 57(6)(7) inserted by Courts and Legal Service Act 1990 (c. 41, SIF 76:1), **s. 98(4)**

Modifications etc. (not altering text)

C101 S. 57 extended (1.1.1992) by Administration of Justice Act 1985 (c. 61, SIF 34), s. 9, **Sch. 2 para. 22(2)**; S.I. 1991/2683, **art. 2**
S. 57 extended (22.5.2000) by S.I. 2000/1119, regs. 1, 37(3), Sch. 4 para. 7(2) (as amended (1.7.2009) by The Legal Services Act 2007 (Registered European Lawyers) Order 2009 (S.I. 2009/1587), **art. 3(7)(c)**)

58 Remuneration of a solicitor who is a mortgagee.

(1) Where a mortgage is made to a solicitor, either alone or jointly with any other person, he or the firm of which he is a member shall be entitled to recover from the mortgagor in respect of all business transacted and acts done by him or them in negotiating the loan, deducing and investigating the title to the property, and preparing and completing the mortgage, such usual costs as he or they would have been entitled to receive if the mortgage had been made to a person who was not a solicitor and that person had retained and employed him or them to transact that business and do those acts.

(2) Where a mortgage has been made to, or has become vested by transfer or transmission in, a solicitor, either alone or jointly with any other person, and any business is transacted or acts are done by that solicitor or by the firm of which he is a member in relation to that mortgage or the security thereby created or the property thereby charged, he or they shall be entitled to recover from the person on whose behalf the business was transacted or the acts were done, and to charge against the security, such usual costs as he or they would have been entitled to receive if the mortgage had been made to and had remained vested in a person who was not a solicitor and that person had retained and employed him or them to transact that business and do those acts.

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(3) In this section "mortgage" includes any charge on any property for securing money or money's worth.

Modifications etc. (not altering text)

C102 S. 58 extended (1.1.1992) by Administration of Justice Act 1985 (c. 61, SIF 34), s. 9, **Sch. 2 para. 22(2)**; S.I. 1991/2683, **art. 2**

C103 S. 58 extended (22.5.2000) by S.I. 2000/1119, regs. 1, 37(3), **Sch. 4 para. 7(2)**

Contentious business

59 Contentious business agreements.

(1) Subject to subsection (2), a solicitor may make an agreement in writing with his client as to his remuneration in respect of any contentious business done, or to be done, by him (in this Act referred to as a "contentious business agreement") providing that he shall be remunerated by a gross sum **[**[F140]or by reference to an hourly rate**]**, 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 this section or in sections 60 to 63 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, suit or other contentious proceeding; or

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

Textual Amendments

F140 Words inserted by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), **s. 98(5)**

Modifications etc. (not altering text)

C104 S. 59 extended (1.1.1992) by Administration of Justice Act 1985 (c. 61, SIF 34), s. 9, **Sch. 2 para. 22(2)**; S.I. 1991/2683, **art. 2**

C105 S. 59 extended (22.5.2000) by S.I. 2000/1119, regs. 1, 37(3), **Sch. 4 para. 7(2)**

60 Effect of contentious business agreements.

(1) Subject to the provisions of this section and to sections 61 to 63, the costs of a solicitor in any case where a contentious business agreement has been made shall not be subject to taxation or **[**[F141](except in the case of an agreement which provides for the solicitor to be remunerated by reference to an hourly rate)**]** to the provisions of section 69.

(2) Subject to subsection (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

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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.

Textual Amendments

F141 Words inserted by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), **s. 98(6)**

Modifications etc. (not altering text)

C106 S. 60 (except (5)) extended (1.1.1992) by Administration of Justice Act 1985 (c. 61, SIF 34), s. 9, **Sch. 2 para. 22(2)**; S.I. 1991/2683, **art. 2**

C107 S. 60 extended (22.5.2000) by S.I. 2000/1119, regs. 1, 37(3), **Sch. 4 para. 7(2)**

61 Enforcement of contentious business agreements.

(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 subsection (1), the court—
  (a) if it is of the opinion that the agreement is in all respects 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 section 62 applies) is business done, or to be done, in any action, a client who is a party to the agreement may make application to a taxing officer of the court for the agreement to be examined.

(4) A taxing officer before whom an agreement is laid under subsection (3) shall examine it and may either allow it, or, if he is of the opinion that the agreement is unfair or

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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.

[[F142](4A) Subsection (4B) applies where a contentious business agreement provides for the remuneration of the solicitor to be by reference to an hourly rate.

(4B) If on the taxation of any costs the agreement is relied on by the solicitor and the client objects to the amount of the costs (but is not alleging that the agreement is unfair or unreasonable), the taxing officer may enquire into—

(a) the number of hours worked by the solicitor; and

(b) whether the number of hours worked by him was excessive.**]**

(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 twelve 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 section and in sections 62 and 63 "the court" means—

(a) in relation to an agreement under which any business has been done in any court having jurisdiction to enforce and set aside agreements, any such court in which any of that business has been done;

(b) in relation to an agreement under which no business has been done in any such court, and under which more than £50 is payable, the High Court;

(c) in relation to an agreement under which no business has been done in any such court and under which not more than £50 is payable, any county court which would, but for the provisions of subsection (1) prohibiting the bringing of an action on the agreement, have had jurisdiction in any action on it;

and for the avoidance of doubt it is hereby declared that in paragraph (a) "court having jurisdiction to enforce and set aside agreements" includes a county court.

Textual Amendments

F142 S. 61(4A)(4B) inserted by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), **s. 98(7)**

Modifications etc. (not altering text)

C108 S. 61 extended (1.1.1992) by Administration of Justice Act 1985 (c. 61, SIF 34), s. 9, **Sch. 2 para. 22(2)**; S.I. 1991/2683, **art. 2**
S. 61 extended (22.5.2000) by S.I. 2000/1119, regs. 1, 37(3), **Sch. 4 para. 7(2)**

62 Contentious business agreements by certain representatives.

(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 laid before a taxing officer of the court before payment.

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(2) A taxing officer before whom an agreement is laid under subsection (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 subsection (1) and pays the whole or any part of the amount payable under the agreement without it being allowed by the 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 his receiver **[**[F143]appointed under Part VII of the Mental Health Act 1983**]**, or
   (d) as a person other than a receiver authorised under that Part of that Act to act on his behalf.

Textual Amendments

F143 Words substituted by Mental Health Act 1983 (c. 20, SIF 85), s. 148, **Sch. 4 para. 38(b)**

Modifications etc. (not altering text)

C109 S. 62 extended (1.1.1992) by Administration of Justice Act 1985 (c. 61, SIF 34), s. 9, **Sch. 2 para. 22(2)**; S.I. 1991/2683, **art. 2**
S. 62 extended (22.5.2000) by S.I. 2000/1119, regs. 1, 37(3), **Sch. 4 para. 7(2)**

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

(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),

   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.

(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 completely performed.

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(3) If in such a case as is mentioned in subsection (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.

Modifications etc. (not altering text)
C110 S. 63 extended (22.5.2000) by S.I. 2000/1119, regs. 1, 37(3), **Sch. 4 para. 7(2)**

64 Form of bill of costs for contentious business.

(1) Where the remuneration of a solicitor in respect of contentious business done by him is not the subject of a contentious business agreement, then, subject to subsections (2) to (4), the solicitor's bill of costs may at the option of the solicitor be either a bill containing detailed items or a gross sum bill.

(2) The party chargeable with a gross sum bill may at any time—
   (a) before he is served with a writ or other originating process for the recovery of costs included in the bill, and
   (b) before the expiration of three months from the date on which the bill was delivered to him,

   require the solicitor to deliver, in lieu of that bill, a bill containing detailed items; and on such a requirement being made the gross sum bill shall be of no effect.

(3) Where an action is commenced on a gross sum bill, the court shall, if so requested by the party chargeable with the bill before the expiration of one month from the service on that party of the writ or other originating process, order that the bill be taxed.

(4) If a gross sum bill is taxed, whether under this section or otherwise, nothing in this section shall prejudice any rules of court with respect to taxation, and the solicitor shall furnish the taxing officer with such details of any of the costs covered by the bill as the taxing officer may require.

Modifications etc. (not altering text)
C111 S. 64 extended (1.1.1992) by Administration of Justice Act 1985 (c. 61, SIF 34), s. 9, **Sch. 2 para. 22(2)**; S.I. 1991/2683, **art. 2**
S.64 extended (22.5.2000) by S.I. 2000/1119, regs. 1, 37(3), **Sch. 4 para. 7(2)**

65 Security for costs and termination of retainer.

(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

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shall be deemed to be a good cause whereby the solicitor may, upon giving reasonable notice to the client, withdraw from the retainer.

Modifications etc. (not altering text)

C112 S. 65 extended (1.1.1992) by Administration of Justice Act 1985 (c. 61, SIF 34), s. 9, **Sch. 2 para. 22(2)**; S.I. 1991/2683, **art.2**
S. 65 extended (22.5.2000) by S.I. 2000/1119, regs. 1, 37(3), **Sch. 4 para. 7(2)**

66 Taxations with respect to contentious business.

Subject to the provisions of any rules of court, 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.

Modifications etc. (not altering text)

C113 S. 66 extended (22.5.2000) by S.I. 2000/1119, regs. 1, 37(3), **Sch. 4 para. 7(2)**

Remuneration—general

67 Inclusion of disbursements in bill of costs.

A solicitor's bill of costs may include costs payable in discharge of a liability properly incurred by him on behalf of the party to be charged with the bill (including counsel's fees) notwithstanding that those costs have not been paid before the delivery of the bill to that party; but those costs—

(a) shall be described in the bill as not then paid; and

(b) if the bill is taxed, shall not be allowed by the taxing officer unless they are paid before the taxation is completed.

Modifications etc. (not altering text)

C114 S. 67 extended (1.1.1992) by Administration of Justice Act 1985 (c. 61, SIF 34), s. 9, **Sch. 2 para. 22(2)**; S.I. 1991/2683, **art. 2**
S. 67 extended (22.5.2000) by S.I. 2000/1119, regs. 1, 37(3), **Sch. 4 para. 7(2)**

68 Power of court to order solicitor to deliver bill, etc.

(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.

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(2) A county court shall have the same jurisdiction as the High Court to make orders making such provision as is mentioned in subsection (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 section and in sections 69 to 71 "solicitor" includes the executors, administrators and assignees of a solicitor.

Modifications etc. (not altering text)

C115 S. 68 extended (with modifications) (1.7.2009) by The Registered Foreign Lawyers Order 2009 (S.I. 2009/1589), **art. 3(2)(n)**, Sch.

C116 S. 68 extended (22.5.2000) by S.I. 2000/1119, regs. 1, 37(3), **Sch. 4 para. 7(2)**

69 Action to recover solicitor's costs.

(1) Subject to the provisions of this Act, no action shall be brought to recover any costs due to a solicitor before the expiration of one month from the date on which a bill of those costs is delivered in accordance with the requirements mentioned in subsection (2); but if there is probable cause for believing that the party chargeable with the costs—

(a) is about to quit England and Wales, to become bankrupt or to compound with his creditors, or

(b) is about to do any other act which would tend to prevent or delay the solicitor obtaining payment,

the High Court may, notwithstanding that one month has not expired from the delivery of the bill, order that the solicitor be at liberty to commence an action to recover his costs and may order that those costs be taxed.

(2) The requirements referred to in subsection (1) are that the bill—

(a) must 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) must be delivered to the party to be charged with the bill, either personally or by being sent to him by 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 bona fide complying with this Act.

(3) Where a bill of costs relates wholly or partly to contentious business done in a county court and the amount of the bill does not exceed **[**[F144]£5,000**]**, the powers and duties of the High Court under this section and sections 70 and 71 in relation to that bill may be exercised and performed by any county court in which any part of the business was done.

[F145](4) . . . . . .

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Textual Amendments

F144 Words in s. 69(3) substituted by S.I. 1991/724, art. 2(8), **Sch**edule Part I

F145 S. 69(4) omitted by S.I. 1991/724, art. 2(8), **Sch**edule Part I

Modifications etc. (not altering text)

C117 Ss. 69-71 extended by S.I. 1991/724, **art. 2(7)**
S. 69 extended (22.5.2000) by S.I. 2000/1119, regs. 1, 37(3), **Sch. 4 para. 7(2)**

C118 S. 69(1) extended (1.1.1992) by Administration of Justice Act 1985 (c. 61, SIF 34), s. 9, **Sch. 2 para. 22(2)**; S.I. 1991/2683, **art. 2**

C119 S. 69(2) modified (1.1.1992) by Administration of Justice Act 1985 (c. 61, SIF 34), s. 9, **Sch. 2 para. 29**; S.I. 1991/2683, **art. 2**

70 Taxation on application of party chargeable or solicitor.

(1) Where before the expiration of one month from the delivery of a solicitor's bill an application is made by the party chargeable with the bill, the High Court shall, without requiring any sum to be paid into court, order that the bill be taxed and that no action be commenced on the bill until the taxation is completed.

(2) Where no such application is made before the expiration of the period mentioned in subsection (1), then, on an application being made by the solicitor or, subject to subsections (3) and (4), by the party chargeable with the bill, the court may on such terms, if any, as it thinks fit (not being terms as to the costs of the taxation), order—

(a) that the bill be taxed; and

(b) that no action be commenced on the bill, and that any action already commenced be stayed, until the taxation is completed.

(3) Where an application under subsection (2) is made by the party chargeable with the bill—

(a) after the expiration of 12 months from the delivery of the bill, or

(b) after a judgment has been obtained for the recovery of the costs covered by the bill, or

(c) after the bill has been paid, but before the expiration of 12 months from the payment of the bill.

no order shall be made except in special circumstances and, if an order is made, it may contain such terms as regards the costs of the taxation as the court may think fit.

(4) The power to order taxation conferred by subsection (2) shall not be exercisable on an application made by the party chargeable with the bill after the expiration of 12 months from the payment of the bill.

(5) An order for the taxation of a bill made on an application under this section by the party chargeable with the bill shall, if he so requests, be an order for the taxation of the profit costs covered by the bill.

(6) Subject to subsection (5), the court may under this section order the taxation of all the costs, or of the profit costs, or of the costs other than profit costs and, where part of the costs is not to be taxed, may allow an action to be commenced or to be continued for that part of the costs.

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(7) Every order for the taxation of a bill shall require the taxing officer to tax not only the bill but also the costs of the taxation and to certify what is due to or by the solicitor in respect of the bill and in respect of the costs of the taxation.

(8) If after due notice of any taxation either party to it fails to attend, the officer may proceed with the taxation ex parte.

(9) Unless—

(a) the order for taxation was made on the application of the solicitor and the party chargeable does not attend the taxation, or

(b) the order for taxation or an order under subsection (10) otherwise provides,

the costs of a taxation shall be paid according to the event of the taxation, that is to say, if one–fifth of the amount of the bill is taxed off, the solicitor shall pay the costs, but otherwise the party chargeable shall pay the costs.

(10) The taxing officer may certify to the court any special circumstances relating to a bill or to the taxation of a bill, and the court may make such order as respects the costs of the taxation as it may think fit.

(11) Subsection (9) shall have effect in any case where the application for an order for taxation was made before the passing of the [M15]Solicitors (Amendment) Act 1974 and—

(a) the bill is a bill for contentious business, or

(b) more than half of the amount of the bill before taxation consists of costs for which a scale charge is provided by an order for the time being in operation under section 56,

as if for the reference to one–fifth of the amount of the bill there were substituted a reference to one–sixth of that amount.

(12) In this section "profit costs" means costs other than counsel's fees or costs paid or payable in the discharge of a liability incurred by the solicitor on behalf of the party chargeable, and the reference in subsection (9) to the fraction of the amount of the bill taxed off shall be taken, where the taxation concerns only part of the costs covered by the bill, as a reference to that fraction of the amount of those costs which is being taxed.

Modifications etc. (not altering text)

C120 S. 70 extended (1.1.1992) by Administration of Justice Act 1985 (c. 61, SIF 34), s. 9, **Sch. 2 para. 22(2)**; S.I. 1991/2683, **art. 2**
Ss. 69-71 extended by S.I. 1991/724, **art. 2(7)**
S. 70 extended (22.5.2000) by S.I. 2000/1119, regs. 1, 37(3), **Sch. 4 para. 7(2)**

Marginal Citations

M15 1974 c. 26.

71 Taxation on application of third parties.

(1) Where a person other than the party chargeable with the bill for the purposes of section 70 has paid, or is or was liable to pay, a bill either to the solicitor or to the party chargeable with the bill, that person, or his executors, administrators or assignees may apply to the High Court for an order for the taxation of the bill as if he were the party

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chargeable with it, and the court may make the same order (if any) as it might have made if the application had been made by the party chargeable with the bill.

(2) Where the court has no power to make an order by virtue of subsection (1) except in special circumstances it 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 party chargeable with the bill.

(3) Where a trustee, executor or administrator has become liable to pay a bill of a solicitor, then, on the application of any person interested in any property out of which the trustee, executor or administrator has paid, or is entitled to pay, the bill, the court may order—

(a) that the bill be taxed on such terms, if any, as it thinks fit; and

(b) that such payments, in respect of the amount found to be due to or by the solicitor and in respect of the costs of the taxation, be made to or by the applicant, to or by the solicitor, or to or by the executor, administrator or trustee, as it thinks fit.

(4) In considering any application under subsection (3) the court shall have regard—

(a) to the provisions of section 70 as to applications by the party chargeable for the taxation of a solicitor's bill so far as they are capable of being applied to an application made under that subsection;

(b) to the extent and nature of the interest of the applicant.

(5) If an applicant under subsection (3) pays any money to the solicitor, he shall have the same right to be paid that money by the trustee, executor or administrator chargeable with the bill as the solicitor had.

(6) Except in special circumstances, no order shall be made on an application under this section for the taxation of a bill which has already been taxed.

(7) If the court on an application under this section orders a bill to be taxed, it may order the solicitor to deliver to the applicant a copy of the bill on payment of the costs of that copy.

Modifications etc. (not altering text)

C121 S. 71 extended (1.1.1992) by Administration of Justice Act 1985 (c. 61, SIF 34), s. 9, **Sch. 2 para. 22(2)**; S.I. 1991/2683, **art. 2**
Ss. 69-71 extended by S.I. 1991/724, **art. 2(7)**
S. 71 extended (22.5.2000) by S.I. 2000/1119, regs. 1, 37(3), **Sch. 4 para. 7(2)**

72 Supplementary provisions as to taxations.

(1) Every application for an order for the taxation of a solicitor's bill or for the delivery of a solicitor's bill and for the delivery up by a solicitor of any documents in his possession, custody or power shall be made in the matter of that solicitor.

(2) Where a taxing officer is in the course of taxing a bill of costs, he may request the taxing officer of any other court to assist him in taxing any part of the bill, and the taxing officer so requested shall tax that part of the bill and shall return the bill with his opinion on it to the taxing officer making the request.

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(3) Where a request is made as mentioned in subsection (2), the taxing officer who is requested to tax part of a bill shall have such powers, and may take such fees, in respect of that part of the bill, as he would have or be entitled to take if he were taxing that part of the bill in pursuance of an order of the court of which he is an officer; and the taxing officer who made the request shall not take any fee in respect of that part of the bill.

(4) The certificate of the taxing officer by whom any bill has been taxed shall, unless it is set aside or altered by the court, be final as to the amount of the costs covered by it, and the court may make such order in relation to the certificate as it thinks fit, including, in a case where the retainer is not disputed, an order that judgment be entered for the sum certified to be due with costs.

Modifications etc. (not altering text)

C122 S. 72 extended (1.1.1992) by Administration of Justice Act 1985 (c. 61, SIF 34), s. 9, **Sch. 2 para. 22(2)**; S.I. 1991/2683, **art. 2**
S. 72 extended (22.5.2000) by S.I. 2000/1119, regs. 1, 37(3), **Sch. 4 para. 7(2)**

73 Charging orders.

(1) Subject to subsection (2), any court in which a solicitor has been employed to prosecute or defend any suit, matter or proceedings may at any time—

(a) declare the solicitor entitled to a charge on any property recovered or preserved through his instrumentality for his taxed costs in relation to that suit, matter or proceeding; and

(b) make such orders for the taxation of those costs and for raising money to pay or for paying them out of the property recovered or preserved 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 subsection (1) if the right to recover the costs is barred by any statute of limitations.

Modifications etc. (not altering text)

C123 S. 73 extended (1.1.1992) by Administration of Justice Act 1985 (c. 61, SIF 34), s. 9, **Sch. 2 para. 22(2)**; s.I. 1991/2683, art. 2
S. 73 extended (31.1.1997) by 1996 c. 23, ss. 75, 93(6), **Sch. 2 para. 12** (with ss. 1, 2, 5, 81, 84, 93(6), 94, 95, 106);S.I. 1996/3146, **art. 3**
S. 73 extended (22.5.2000) by S.I. 2000/1119, regs. 1, 37(3), **Sch. 4 para. 7(2)**

74 Special provisions as to contentious business done in county courts.

(1) The remuneration of a solicitor in respect of contentious business done by him in a county court shall be regulated in accordance with sections 59 to 73, and for that purpose those sections shall have effect subject to the following provisions of this section.

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(2) The registrar of a county court shall be the taxing officer of that court but any taxation of costs by him may be reviewed by a judge assigned to the county court district, or by a judge acting as a judge so assigned, on the application of any party to the taxation.

(3) The amount which may be allowed on the taxation of any costs or bill of costs in respect of any item relating to proceedings in a county court shall not, except in so far as rules of court may otherwise provide, exceed the amount which could have been allowed in respect of that item as between party and party in those proceedings, having regard to the nature of the proceedings and the amount of the claim and of any counterclaim.

Modifications etc. (not altering text)

C124 S. 74 extended (1.1.1992) by Administration of Justice Act 1985 (c. 61, SIF 34), s. 9, **Sch. 2 para. 22(2)**; S.I. 1991/2683, **art. 2**

C125 S. 74 extended (22.5.2000) by S.I. 2000/1119, regs. 1, 37(3), **Sch. 4 para. 7(2)**

C126 Power to apply conferred by Matrimonial and Family Proceedings Act 1984 (c. 42, SIF 49:3), **s. 42(2)**

C127 S. 74(3) extended by S.I. 1988/1328, **reg. 22**

75 Saving for certain enactments.

Nothing in this Part of this Act shall affect the following enactments, that is to say—

(a) . . . . . [F146]

(b) section 144 of the [M16]Land Registration Act 1925 (which enables rules to be made regulating, among other things, the taxation and incidence of the costs of the registration of land and other matters done under that Act);

(c) any of the provisions of the [M17]Costs in Criminal Cases Act 1973;

(d) . . . . . [F147]

(e) any other enactment not expressly repealed by this Act which authorises the making of rules or orders or the giving of directions with respect to costs, or which provides that any such rule, order or direction made or given under a previous enactment shall continue in force.

Textual Amendments

F146 S. 75(a) repealed by Statute Law (Repeals) Act 1989 (c. 43), s. 1(1), **Sch. 1 Pt. I** Gp. 5

F147 S. 75(d) repealed by Legal Aid Act 1988 (c. 34, SIF 77:1), s. 45, **Sch. 6**

Modifications etc. (not altering text)

C128 S. 75 extended (22.5.2000) by S.I. 2000/1119, regs. 1, 37(3), **Sch. 4 para. 7(2)**

Marginal Citations

M16 1925 c. 21.

M17 1973 c. 14.

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PART IV

MISCELLANEOUS AND GENERAL

The Society

76 Non–practising solicitors eligible for membership of Society.

(1) Notwithstanding anything in the Charter, the Council may appoint and elect to be a member of the Society any person whose name is for the time being on the roll, whether or not he has held a practising certificate.

(2) Where a person is appointed and elected under subsection (1), he shall, on payment of the annual subscription payable by him under section 77,—
- (a) become a member of the Society;
- (b) be subject to any byelaw or regulation for the time being affecting members of the Society; and
- (c) while he remains a member of the Society, be eligible for election as a member of the Council.

77 Annual subscription to Society.

(1) The amount of the annual subscription payable by members of the Society shall be fixed from time to time by the Council.

(2) In fixing the amount of the annual subscription, the Council shall be at liberty—
- (a) to divide members into classes;
- (b) to provide that different amounts shall be paid by different classes and shall extend over different periods; and
- (c) generally to regulate, and from time to time vary, as they think fit, the amounts payable by members or by different classes of members.

78 Cessation and suspension of membership of Society.

(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) Subject to subsection (4), the Council may suspend any member of the Society—
- (a) from using the hall and library and any of the rooms belonging to the Society; and
- (b) from exercising all other rights and privileges of a member,

during such period as they may think fit for any cause which, in their opinion, renders such suspension necessary or expedient but is not of a nature to justify the making of a complaint to the Tribunal by or on behalf of the Society.

(4) A member shall not be suspended under subsection (3) unless—
- (a) at least sixteen members of the Council are present at the meeting at which it is resolved to suspend him; and

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(b) at least twelve of those members consent to his suspension.

(5) Any member of the Society who has been suspended under subsection (3) may, on giving the notice required by any byelaw or regulation of the Society, appeal against the suspension to the next available general meeting of members of the Society, and that meeting may confirm, rescind or vary the period of the suspension in any manner they think fit.

Modifications etc. (not altering text)
C129 S. 78(1)(2) extended (22.5.2000) by S.I. 2000/1119, regs. 1, 37(3), **Sch. 4 para. 10**

[F148 79 Committees and Sub–Committees of the Council.

(1) Subject to any provision to the contrary made by or under any enactment, the Council may arrange for any of its functions (other than reserved functions) to be discharged by—
(a) a committee of the Council;
(b) a sub–committee of such a committee; or
(c) an individual (whether or not a member of the Society's staff).

(2) Where, by virtue of subsection (1)(a), any of the Council's functions may be discharged by a committee, the committee may arrange for the discharge of any of those functions by—
(a) a sub–committee of that committee; or
(b) an individual (whether or not a member of the Society's staff).

(3) Where, by virtue of subsection (1) or (2), any of the Council's functions may be discharged by a sub–committee, the sub–committee may arrange for the discharge of any of those functions by a member of the Society's staff.

(4) Subsections (2) and (3) shall have effect subject to any contrary direction given by the Council.

(5) Subject to any direction given by the Council under subsection (4), subsection (3) shall have effect subject to any contrary direction given by the committee concerned.

(6) Any power given by subsection (1), (2) or (3) may be exercised so as to impose restrictions or conditions on the body or individual by whom the functions concerned are to be discharged.

(7) A committee of the Council, and any sub–committee of such a committee, discharging functions delegated under this section may include persons other than—
(a) members of the Council;
(b) members of the Society;
(c) solicitors.

(8) The majority of the members of any such committee or sub–committee may be persons who may be included by virtue of subsection (7).

(9) The number and term of office of the members of such a committee and the number of those members necessary to form a quorum, shall be fixed by the Council.

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(10) Subject to any restriction or condition imposed by the Council, the number and term of office of the members of such a sub–committee and the number of those members necessary to form a quorum, shall be fixed by the committee concerned.

(11) The validity of any proceedings of such a committee or sub–committee shall not be affected by any casual vacancy among its members.

(12) In this section "reserved functions" means—

(a) the function of making rules or regulations under section 2, 31, 32, 34, 36, or 37 or under section 9 of the [M18]Administration of Justice Act 1985 (incorporated practices);

(b) the function of setting fees or financial contributions under paragraph 2(1) of Schedule 2 or section 8(2) or under paragraph 6 of Schedule 2 to the Administration of Justice Act 1985.**]**

Textual Amendments

F148 S. 79 substituted by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), **s. 97**

Marginal Citations

M18 1985 c.61 (**76:1**).

80 Powers to act on behalf of Society.

(1) Anything authorised or required to be done by the Society under or in pursuance of this Act or of any instrument made under it may be done on behalf of the Society by the Council; and the power to delegate functions **[**[F149]conferred**]** by section 79 shall include power to delegate functions exercisable by the Council by virtue of this subsection.

(2) Any document issued by the Society or the Council for any purpose whatsoever may be signed on behalf of the Society or the Council, as the case may be, by the Secretary of the Society or by such other officer of the Society, or by the person holding such office in the Society, as may from time to time be prescribed either generally or specially by resolution of the Council.

(3) In any proceedings a document purporting to be certified by the Secretary of the Society as a copy of a resolution passed by the Council or a committee of the Council **[**[F150]or sub–committee**]** on a specified date shall be evidence that that resolution was duly passed by the Council **[**[F151], committee or sub–committee**]** on that date.

Textual Amendments

F149 Word substituted by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 125(3), **Sch. 18 para. 16(2)**

F150 Words inserted by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 125(3), **Sch. 18 para. 16(3)(a)**

F151 Words substituted by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 125(3), **Sch. 18 para. 16(3)(b)**

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Miscellaneous

81 Administration of oaths and taking of affidavits.

(1) Subject to the provisions of this section, every solicitor who holds a practising certificate which is in force shall have the powers conferred on a commissioner for oaths by the [M19]Commissioners for Oaths Acts 1889 and [M20]1891 and section 24 of the [M21]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 Act) shall include a reference to such a solicitor unless the context otherwise requires.

(2) A solicitor shall not exercise the powers conferred by this section 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.

[F152](5) . . . . . .

Textual Amendments

F152 S. 81(5) repealed (*1. 4. 1991*) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 125(7), **Sch. 20** ; S.I. 1991/608, art. 2, **Sch.**

Modifications etc. (not altering text)

C130 S. 81 extended (22.5.2000) by S.I. 2000/1119, regs. 1, 37(3), Sch. 4 para. 7(2) (as amended (1.7.2009) by The Legal Services Act 2007 (Registered European Lawyers) Order 2009 (S.I. 2009/1587), **art. 3(7)(c)**)

Marginal Citations

M19 1889 c. 10
M20 1891 c. 50
M21 1891 c. 38

[[F153]81A Fees for administering oaths and taking affidavits.

(1) The Lord Chancellor may, with the concurrence of the Lord Chief Justice and the Master of the Rolls, by order prescribe the fees to be charged by—
   (a) commissioners for oaths; and
   (b) solicitors exercising the powers of commissioners for oaths by virtue of section 81,

   in respect of the administration of an oath or the taking of an affidavit.

(2) Any order under this section shall be made by statutory instrument, which shall be laid before Parliament after being made.

Status: *Point in time view as at 31/03/2000. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Solicitors Act 1974 is up to date with all changes known to be in force on or before 07 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(3) In this section "affidavit" has the same meaning as in the Commissioners for Oaths Act 1889.**]**

Textual Amendments

F153 S. 81A inserted by Supreme Court Act 1981 (c. 54, SIF 37), s. 152(1), **Sch. 5**

Modifications etc. (not altering text)

C131 S. 81A extended (22.5.2000) by S.I. 2000/1119, regs. 1, 37(3), Sch. 4 para. 7(2) (as amended by The Legal Services Act 2007 (Registered European Lawyers) Order 2009 (S.I. 2009/1587), **art. 3(7)(c)**)

F154 82 . . . . . .

Textual Amendments

F154 S. 82 repealed by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 125(7), **Sch. 20**

83 Power of Society to inspect file of proceedings in bankruptcy of solicitor.

Where proceedings in bankruptcy have been taken against any solicitor, the Society shall be entitled—

(a) to inspect the file of those proceedings without payment of any fee; and

(b) to be supplied with office copies of those proceedings on payment of the usual charge.

Modifications etc. (not altering text)

C132 S. 83 extended (with modifications) (1.7.2009) by The Registered Foreign Lawyers Order 2009 (S.I. 2009/1589), **art. 3(2)(o)**, Sch.

C133 S. 83 extended (1.1.1992) by Administration of Justice Act 1985 (c. 61, SIF 34), s. 9, **Sch. 2 para. 30**; S.I. 1991/2683, **art. 2**

S. 83 extended (22.5.2000) by S.I. 2000/1119, arts. 1, 37(3), Sch. 4 para. 7(2) (as amended (1.7.2009) by The Legal Services Act 2007 (Registered European Lawyers) Order 2009 (S.I. 2009/1587), **art. 3(7)(c)**)

84 Service of documents at solicitor's place of business.

(1) For the purpose of facilitating the service of notices and other documents, every solicitor who has in force, or has applied for, a practising certificate shall give notice to the Society of any change in his place or places of business before the expiration of 14 days from the date on which the change takes effect.

(2) Any notice or other document required or authorised by or by virtue of this Act to be served on any person may be served on him by delivering it to him, by leaving it at his proper address or by sending it by post.

(3) Any such notice or document may be served on a practising solicitor, without prejudice to any other method of service, by sending it in a registered letter addressed to him at

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any place specified as his place of business, or one of his places of business, in his latest application for a practising certificate or in any subsequent notice under subsection (1).

Modifications etc. (not altering text)

C134 S. 84 extended (with modifications) (1.7.2009) by The Registered Foreign Lawyers Order 2009 (S.I. 2009/1589), **art. 3(2)(p)**, Sch.

C135 S. 84 extended (22.5.2000) by S.I. 2000/1119, regs. 1, 37(3), Sch. 4 para. 7(1) (as amended (1.7.2009) by The Legal Services Act 2007 (Registered European Lawyers) Order 2009 (S.I. 2009/1587), **art. 3(7)(a)**)

85 Bank accounts.

Where a solicitor keeps an account with a bank **[**[F155]or a building society**]** in pursuance of rules under section 32—

(a) the bank **[**[F156]or society**]** shall not 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 the 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 it; and

(b) the bank **[**[F156]or society**]** shall not have any recourse or right against money standing to the credit of the account, in respect of any liability of the solicitor to the bank, other than a liability in connection with the account.

Textual Amendments

F155 Words inserted by Building Societies Act 1986 (c. 53, SIF 16), **ss. 54(3)**(*a*)(5), 120, Sch. 18 Pt. I para. 11(4)(*a*)

F156 Words inserted by Building Societies Act 1986 (c. 53, SIF 16), **ss. 54(3)**(*a*)(5), 120, Sch. 18 Pt. I para. 11(4)(*b*)

Modifications etc. (not altering text)

C136 S. 85 extended (1.1.1992) by Administration of Justice Act 1985 (c. 61, SIF 34), s. 9, **Sch. 2 para. 31**; S.I. 1991/2683, **art. 2**

C137 S. 85 extended (1.1.1992) by S.I. 1991/2831, **art. 1**, 2
S. 85 extended (22.5.2000) by S.I. 2000/1119, regs. 1, 37(3), Sch. 4 para. 7(4) (as amended (1.7.2009) by The Legal Services Act 2007 (Registered European Lawyers) Order 2009 (S.I. 2009/1587), **art. 3(7)(f)**)

C138 S. 85 applied by Administration of Justice Act 1985 (c. 61), Sch. 2 para. 31A (as inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 118** (with ss. 29, 192, 193)); S.I. 2009/503, **art. 2(b)(ii)**

[F157]86 Bankers' books.

. . . . . .

Textual Amendments

F157 S. 86 repealed (1.12.1997) by 1997 c. 32, s. 46(2), **Sch. 9**; S.I. 1997/2668, art. 2(1), **Sch. Pt.I**

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Supplementary

VALID FROM 31/03/2009

[[F158]86A Rules

(1) Rules made by the Society under this Act may —

(a) make provision generally or subject to exceptions or only in relation to specified cases;

(b) make different provision for different cases or circumstances or for different purposes.

(2) Without prejudice to the generality of subsection (1), any rules prescribing a fee may provide for that fee to be reduced or waived in such circumstances as may be specified in the rules.**]**

Textual Amendments

F158 S. 86A inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 74** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(i)**

Modifications etc. (not altering text)

C139 S. 86A applied by Administration of Justice Act 1985 (c. 61), s. 9(2J) (as inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 81(5)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(ii)** (subject to art. 4)

87 Interpretation.

(1) In this Act, except where the context otherwise requires,—

"articles" means written articles of clerkship binding a person to serve a solicitor as an articled clerk;

[[F159]"authorised insurer" means a person who—

(a) is permitted under the Insurance Companies Act 1982 to carry on insurance business of class 13 in Schedule 2 to that Act or, being an insurance company the head office of which is in a member State, is permitted under the law of a member State other than the United Kingdom to carry on insurance business of a corresponding class; or

(b) is permitted under the Insurance Companies Act 1982 to carry on insurance business of classes 1, 2, 14, 15, 16 and 17 in that Schedule or, being an insurance company the head office of which is in a member State, is permitted under the law of a member State other than the United Kingdom to carry on insurance business of corresponding classes.**]**

"bank" means—

(a) the Bank of England **[**[F160]the Post Office, in the exercise of its powers to provide banking services, or **[**[F161]an institution authorised under the Banking Act 1987**]]**; [F162]. . .

(b) [F163]. . . . . .

(c) [F164]. . . . . .

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[[F165]"building society" means a building society within the meaning of the Building Societies Act 1986 [F166]. . ..

"the Charter" means the Royal Charter dated 26th February 1845, whereby the Society was incorporated, together with the Royal Charters supplemental to it dated respectively 26th November 1872, 4th June 1903, 2nd June 1909 and 10th March 1954;

"client" includes—

(a) in relation to contentious business, 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;

(b) in relation to non–contentious business, 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 for the time being liable to pay to a solicitor for his services any costs;

"client account" means an account in the title of which the word "client" is required by rules under section 32;

"contentious business" means business done, whether as solicitor or advocate, in or for the purposes of proceedings begun before a court or before an arbitrator [F167]. . ., not being business which falls within the definition of non–contentious or common form probate business contained in **[**[F168]section 128 of the [M22] Supreme Court Act 1981**]**;

"contentious business agreement" means an agreement made in pursuance of section 59;

"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;

"costs" includes fees, charges, disbursements, expenses and remuneration;

"the Council" means the Council of the Society elected in accordance with the provisions of the Charter and this Act;

"duly certificated notary public" means a notary public who either—

(a) has in force a practising certificate as a solicitor issued under this Act, and duly entered in the court of faculties of the Archbishop of Canterbury in accordance with rules made by the master of faculties; or

(b) has in force a practising certificate as a notary public issued by the s aid court of faculties in accordance with rules so made;

"employee" includes an articled clerk;

"indemnity conditions" has the meaning assigned to it by section 28(2)(b);

"indemnity rules" means rules under section 37;

[F169] . . . . . .

"local law society" means a society which is for the time being recognised by the Council as representative of solicitors in some particular part of England and Wales;

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

[F169] . . . . . .

"practising certificate" has the meaning assigned to it by section 1;

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[[F170]"replacement date", in relation to a practising certificate, means the date prescribed under section 14(2)(a) or specified by the Society under any regulation made by virtue of section 14(4)(b);

"the roll" means the list of solicitors of the Supreme Court kept by the Society under section 6;

"Secretary" of the Society includes any deputy or person appointed temporarily to perform the duties of that office;

"the Society" means the Law Society, that is to say, the Society incorporated and regulated by the Charter;

"sole solicitor" means a solicitor who is the sole principal in a practice;

"solicitor" means solicitor of the Supreme Court;

"solicitor in Scotland" means a person enrolled or deemed to have been enrolled as a solicitor in pursuance of the [M23]Solicitors (Scotland) Act 1933;

[F171] . . . . . .

"training conditions" has the meaning assigned to it by section 28(2)(a);

"training regulations" means regulations under section 2;

"the Tribunal" means the Solicitors Disciplinary Tribunal;

"trust" includes an implied or constructive trust and a trust where the trustee has a beneficial interest in the trust property, and also includes the duties incident to the office of a personal representative, and "trustee" shall be construed accordingly;

"unqualified person" means a person who is not qualified under section 1 to act as a solicitor.

(2) In this Act—

(a) references to the removal of a solicitor's name from the roll are references to its removal at his own request **[**[F172]or in pursuance of regulations under section 28(3A);**]**

(b) references to striking a solicitor's name off the roll are references to striking it off **[**[F173]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.

(3) In this Act, except where otherwise indicated—

(a) a reference to a numbered Part, section or Schedule is a reference to the Part or section of, or the Schedule to, this Act so numbered;

(b) a reference in a section to a numbered subsection is a reference to the subsection of that section so numbered;

(c) a reference in a section, subsection or Schedule to a numbered paragraph is a reference to the paragraph of that section, subsection or Schedule so numbered; and

(d) a reference in a paragraph to a numbered sub–paragraph is a reference to the sub–paragraph of that paragraph so numbered.

(4) Except where the context otherwise requires, references in this Act to any enactment shall be construed as references to that enactment as amended or applied by or under any other enactment, including this Act.**]]**

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Textual Amendments

F159 Definition in s. 87(1) substituted (19. 11. 1992) for definition of "authorised insurers" by S.I. 1992/2890, **regs. 1(1)**, 12(1).

F160 Words inserted by Banking Act 1979 (c. 37, SIF 10), s. 52(3)(4), **Sch. 6 para. 9**

F161 Words substituted by Banking Act 1987 (c. 22, SIF 10), s. 108(1), **Sch. 6 para. 5**

F162 Word repealed by Banking Act 1987 (c. 22, SIF 10), s. 108(1)(2), Sch. 6 para. 5, **Sch. 7 Pt. I**

F163 In the definition of "bank", para. (*b*) repealed by Banking Act 1987 (c. 22, SIF 10), s. 108(1)(2), Sch. 6 para. 5, **Sch. 7 Pt. I**

F164 In the definition of "bank" para. (*c*) and the word "and" immediately preceding it repealed by Trustee Savings Banks Act 1985 (c. 58, SIF 110), ss. 4(3), 7(3), **Sch. 4**

F165 Definition of "building society" inserted by Building Societies Act 1986 (c. 53, SIF 16), **ss. 54(3)**(*a*)(5), 120, Sch. 18, para. 11(5)

F166 S. 87(1): words in the definition of "building society" repealed (27.9.1999) by 1999 c. 22, ss. 48, 106, Sch. 7 para. 4, **Sch. 15 Pt. II** (with Sch. 14 paras. 7(2), 36(9)); S.I. 1999/2657, art. 2(a)(d)(ii)(a), **Sch. 2 Pt. I**

F167 Words in s. 87(1) repealed (31.1.1997) by 1996 c. 23, s. 107(2), **Sch. 4**(with s. 81(2));S.I. 1996/3146, **art. 3**

F168 Words substituted by Administration of Justice Act 1985 (c. 61, SIF 34), s. 8, **Sch. 1 para. 12**(*a*)(i)

F169 Definitions in s. 87(1) omitted (19.11.1992) by virtue of S.I. 1992/2890, **regs. 1(1)**, 12(1).

F170 Definition of "replacement date" inserted (1.7.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 125(3), **Sch. 18 para. 17**; S.I. 1991/1364, art. 2, **Sch.**

F171 Definition in s. 87(1) repealed (5.11.1993) by 1993 c. 50, s. 1(1), **Sch. 1 Pt. XIV**.

F172 Words inserted by Administration of Justice Act 1985 (c. 61, SIF 34), s. 8, **Sch. 1 para. 12**(*b*)(i)

F173 Words substituted by Administration of Justice Act 1985 (c. 61, SIF 34), s. 8, **Sch. 8 para. 12**(*b*)(ii)

Modifications etc. (not altering text)

C140 S. 87(1) amended (1.1.1993) by S.I. 1992/3218, reg. 82(1), **Sch. 10 Pt. I para. 8(2)**.

C141 Definition of "replacement date" modified (1.7.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 37, 76:1), s. 125(6), **Sch. 19 para. 12(3)**; S.I. 1991/1364, art. 2, **Sch.**

Marginal Citations

M22 1981 c. 54.

M23 1933 c. 21.

88 Saving for solicitors to public departments and City of London.

(1) Nothing in this Act shall prejudice or affect any rights or privileges of the solicitor to the Treasury, any other public department, the Church Commissioners or the Duchy of Cornwall, or require any such officer 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 Act had not been passed.

[[F174](1A) The exemption from the requirement to hold a practising certificate conferred by subsection (1) above shall not apply to solicitors who are Crown Prosecutors.**]**

(2) Sections 31 and 32(1) shall not apply to, and nothing in this Act shall prejudice or affect any rights or privileges which immediately before the commencement of this Act attached to the office of, the Solicitor of the City of London.

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Textual Amendments

F174 S. 88(1A) inserted by Prosecution of Offences Act 1985 (c. 23, SIF 39:1), **s. 4(4)**

89 Consequential amendments, repeals, savings, etc.

[X1](1) The enactments specified in Schedule 3 shall have effect subject to the amendments there specified, being amendments consequential upon the provisions of this Act.

[X1](2) The enactments specified in Schedule 4 are hereby repealed to the extent specified in the third column of that Schedule.

(3) In so far as any instrument or other document made, issued, served or kept or treated as having been or having effect as if made, issued, served or kept, or other thing done or treated as having been or having effect as if done, under or for the purposes of any of the enactments repealed by this Act (in this section referred to as "the repealed enactments") could have been made, issued, served, kept or done under or for the purposes of a corresponding provision of this Act, it shall not be invalidated by the repeal but shall have effect as if made, issued, served, kept or done under or for the purposes of that corresponding provision; and anything begun under any of the repealed enactments may be continued under any corresponding provision of this Act as if begun under that provision.

(4) Any enactment or other document referring to any of the repealed enactments shall, so far as may be necessary for preserving its effect, be construed as referring to this Act or to the corresponding provision of this Act.

(5) References in any enactment or instrument to the disciplinary committee constituted under section 46 of the [M24]Solicitors Act 1957 shall be construed as references to the Tribunal.

(6) References in any enactment to solicitors, attorneys or proctors, or to the registrar of attorneys and solicitors or the registrar of solicitors, shall be construed as references to solicitors and to the Society respectively.

(7) References in any enactment to a duly certificated notary public shall be construed as references to a duly certificated notary public within the meaning of this Act.

(8) Nothing in this Act shall be taken as prejudicing the operation of **[**[F175]sections 16(1) and 17(2)(a) of the [M25]Interpretation Act 1978**]** (which relates to the effect of repeals).

Editorial Information

X1 The text of ss. 86, 89(1)(2), Sch. 3 paras. 4, 6, 8, and 9, and Sch. 4, is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as indicated, does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Textual Amendments

F175 Words substituted by virtue of Interpretation Act 1978 (c. 30), **s. 25(2)**

Marginal Citations

M24 1957 c. 27.
M25 1978 c. 30.

Status: *Point in time view as at 31/03/2000. This version of this Act contains provisions that are not valid for this point in time.*
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90 Short title, commencement and extent.

(1) This Act may be cited as the Solicitors Act 1974.

(2) This Act shall come into force on such day as the Lord Chancellor may by order made by statutory instrument appoint, not being earlier than the first day on which all the provisions of the [M26]Solicitors (Amendment) Act 1974 are in force.

(3) If any order made under section 19(7) of the [M27]Solicitors (Amendment) Act 1974 makes any savings from the effect of any provision of that Act which it brings into force, the order under subsection (2) may make corresponding savings from the effect of the corresponding provision of this Act.

(4) The provisions of this Act extend to England and Wales only, with the exception of—

(a) section 4(4) and the repeal of section 5(3) of the [M28]Solicitors Act 1957, which extend to Scotland;

(b) section 29 and the repeal of section I of the [M29]Solicitors (Amendment) Act 1974, which extend to Northern Ireland;

(c) sections 5(3) and 86, [F176]. . . and the repeals of section 5(2) of the Solicitors Act 1957 and paragraphs 1 and 5 of Schedule 2 to the [M30]Solicitors (Amendment) Act 1974, all of which extend both to Scotland and to Northern Ireland.

Textual Amendments

F176 Words repealed by House of Commons Disqualification Act 1975 (c. 24), **Sch. 3**

Modifications etc. (not altering text)

C142 1.5.1975 appointed under s. 90(2) by S.I. 1975/534

Marginal Citations

M26 1974 c. 26.
M27 1974 c. 26.
M28 1957 c. 27 (5 & 6 Eliz. 2).
M29 1974 c. 26.
M30 1974 c. 26.

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SCHEDULES

SCHEDULE 1

Section 35.

INTERVENTION IN SOLICITOR'S PRACTICE

Modifications etc. (not altering text)

C143 Sch. 1 applied (with modifications) by S.I. 2000/1119, regs. 1, 37(3), Sch. 4 para. 9 (as amended (1.7.2009) by The Legal Services Act 2007 (Registered European Lawyers) Order 2009 (S.I. 2009/1587), **art. 3(9)**)

PART I

CIRCUMSTANCES IN WHICH SOCIETY MAY INTERVENE

1 (1) Subject to sub–paragraph (2), the powers conferred by Part II of this Schedule shall be exercisable where—

(a) the Council have reason to suspect dishonesty on the part of—

(i) a solicitor, or

(ii) an employee of a solicitor, or

(iii) the personal representatives of a deceased solicitor,

in connection with that solicitor's practice or in connection with any trust of which that solicitor is or formerly was a trustee;

(b) the Council consider that there has been undue delay on the part of the personal representatives of a deceased solicitor who immediately before his death was practising as a sole solicitor in connection with that solicitor's practice or in connection with any controlled trust;

(c) the Council are satisfied that a solicitor has failed to comply with rules made by virtue of section **[**[F177]31,**]** 32 or 37(2)(c);

(d) a solicitor has been adjudged bankrupt or has made a composition or arrangement with his creditors;

(e) a solicitor has been committed to prison in any civil or criminal proceedings;

[[F178](ee) the Council are satisfied that a sole solicitor is incapacitated by illness or accident to such an extent as to be unable to attend to his practice;**]**

(f) the powers conferred by **[**[F179]section 104 of the Mental Health Act 1959 or section 98 of the Mental Health Act 1983 (emergency powers) or section 105 of the said Act of 1959 or section 99 of the said Act of 1983 (appointment of receiver)**]** have been exercised in respect of a solicitor; or

(g) the name of a solicitor has been removed from or struck off the roll or a solicitor has been suspended from practice.

[[F180](h) the Council are satisfied that a sole solicitor has abandoned his practice;

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(i) the Council are satisfied that a sole solicitor is incapacitated by age to such an extent as to be unable to attend to his practice;

(j) any power conferred by this Schedule has been exercised in relation to a sole solicitor by virtue of sub–paragraph (1)(a) and he has acted as a sole solicitor within the period of eighteen months beginning with the date on which it was so exercised;

(k) the Council are satisfied that a person has acted as a solicitor at a time when he did not have a practising certificate which was in force;

(l) the Council are satisfied that a solicitor has failed to comply with any condition, subject to which his practising certificate was granted or otherwise has effect, to the effect that he may act as a solicitor only—

(i) in employment which is approved by the Society in connection with the imposition of that condition;

(ii) as a member of a partnership which is so approved;

(iii) as an officer of a body recognised by the Council of the Law Society under section 9 of the [M31]Administration of Justice Act 1985 and so approved; or

(iv) in any specified combination of those ways.**]**

(2) The powers conferred by Part II of this Schedule shall only be exercisable under sub–paragraph (1)(c) if the Society has given the solicitor notice in writing that the Council are satisfied that he has failed to comply with rules specified in the notice and also (at the same or any later time) notice that the powers conferred by Part II of this Schedule are accordingly exercisable in his case.

Textual Amendments

F177 Words in Sch. 1 para. 1(1)(c) inserted (27.9.1999) by 1999 c. 22, s. 48, **Sch. 7 para. 6** (with Sch. 14 para. 7(2)); S.I. 1999/2657, **art. 2(a)**

F178 Sch. 1 Pt. I para. 1(1)(ee) inserted by Administration of Justice Act 1985 (c. 61, SIF 34), s. 8, **Sch. 1 para. 13(2)**

F179 Words substituted by Mental Health Act 1983 (c. 20, SIF 85), s.148, **Sch. 4 para. 38(c)**

F180 Sch. 1 Pt. I paras. 1(1)(h)–(l) added by Courts and Legal Services Act (c. 41, SIF 76:1), s. 91(1)

Marginal Citations

M31 1985 c.61. (*76:1*).

2 On the death of a sole solicitor paragraphs 6 to 8 shall apply to the client accounts of his practice.

3 The powers conferred by Part II of this Schedule shall also be exercisable, subject to paragraphs 5(4) and 10(3), where—

(a) a complaint is made to the Society that there has been undue delay on the part of a solicitor in connection with any matter in which the solicitor or his firm was instructed on behalf of a client or with any controlled trust; and

(b) the Society by notice in writing invites the solicitor to give an explanation within a period of not less than 8 days specified in the notice; and

(c) the solicitor fails within that period to give an explanation which the Council regard as satisfactory; and

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(d) the Society gives notice of the failure to the solicitor and (at the same or any later time) notice that the powers conferred by Part II of this Schedule are accordingly exercisable.

4 (1) Where the powers conferred by Part II of this Schedule are exercisable in relation to a solicitor, they shall continue to be exercisable after his death or after his name has been removed from or struck off the roll.

(2) The references to the solicitor or his firm in paragraphs 5(1), 6(2) and (3), 8, 9(1) and (5) and 10(1) include, in any case where the solicitor has died, references to his personal representatives.

PART II

POWERS EXERCISABLE ON INTERVENTION

Money

5 (1) The High Court, on the application of the Society, may order that no payment shall be made without the leave of the court by any person (whether or not named in the order) of any money held by him (in whatever manner and whether it was received before or after the making of the order) 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 the Society has served a copy of the order on him (whether or not he is named in it) and, in the case of a bank **[**[F181]or other financial institution**]**, has indicated at which of its branches the Society believes that the money to which the order relates is held.

(3) A person shall not be treated as having disobeyed an order under this paragraph by making a payment of money if he satisfies the court that he exercised due diligence to ascertain whether it was money to which the order related but nevertheless failed to ascertain that the order related to it.

(4) This paragraph does not apply where the powers conferred by this Part of this Schedule are exercisable by virtue of paragraph 3.

Textual Amendments

F181 Words inserted by Administration of Justice Act 1985 (c. 61, SIF 34), s. 8, **Sch. 1 para. 13(3)**

Modifications etc. (not altering text)

C144 Sch. 1 Pt. II paras. 5-16 extended (1.1.1992) by Administration of Justice Act 1985 (c. 61, SIF 34), s. 9, Sch. 2 paras. 32-35; S.I. 1991/2683, art. 2 (which extending provisions were amended (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 paras. 119**-123 (with ss. 29, 192, 193)); S.I. 2009/503, **art. 2(b)(i)** (subject to art. 4)

C145 Sch. 1 Pt. II paras. 5;16 extended (with modifications) (14.10.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 89, **Sch. 14 Pt. II para. 5**; S.I. 1991/1883, art. 3, **Sch.**

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6 (1) Without prejudice to paragraph 5, if the Council pass a resolution to the effect that any sums of money to which this paragraph applies, and the right to recover or receive them, shall vest in the Society, all such sums shall vest accordingly (whether they were received by the person holding them before or after the Council's resolution) and shall be held by the Society on trust to exercise in relation to them the powers conferred by this Part of this Schedule and subject thereto upon trust for the persons beneficially entitled to them.

(2) This paragraph applies—

(a) where the powers conferred by this paragraph are exercisable by virtue of paragraph 1, to all sums of money held by or on behalf of the solicitor or his firm in connection with his practice or with any trust of which he is or formerly was a trustee;

(b) where they are exercisable by virtue of paragraph 2, to all sums of money in any client account; and

(c) where they are exercisable by virtue of paragraph 3, to all sums of money held by or on behalf of the solicitor or his firm in connection with the trust or other matter to which the complaint relates.

(3) The Society shall serve on the solicitor or his firm and on any other person having possession of sums of money to which this paragraph applies a certified copy of the Council's resolution and a notice prohibiting the payment out of any such sums of money.

(4) Within **[**[F182]8**]** days of the service of a notice under sub–paragraph (3), the person on whom it was served, on giving not less than 48 hours' notice in writing to the Society and (if the notice gives the name of the solicitor instructed by the Society) to that solicitor, may apply to the High Court for an order directing the Society to withdraw the notice.

(5) If the court makes such an order, it shall have power also to make such other order with respect to the matter as it may think fit.

(6) If any person on whom a notice has been served under sub–paragraph (3) pays out sums of money at a time when such payment is prohibited by the notice, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding **[**[F183]level 3 on the standard scale**]**.

Textual Amendments

F182 Number substituted by Administration of Justice Act 1985 (c. 61, SIF 34), s. 8, **Sch. 1 para. 13(4)**

F183 Words substituted by virtue of Criminal Justice Act 1982 (c. 48, SIF 39:1), **ss. 38**, 46

Modifications etc. (not altering text)

C146 Sch. 1 Pt. II paras. 5-16 extended (1.1.1992) by Administration of Justice Act 1985 (c. 61, SIF 34), s. 9, **Sch. 2 paras. 32-35**; S.I. 1991/2683, **art. 2**

C147 Sch. 1 Pt. II paras. 5–16 extended (with modifications) (14.10.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 89, **Sch. 14 Pt. II para. 5**; S.I. 1991/1883, art. 3, **Sch.**

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VALID FROM 31/03/2009

[F184 6A (1) Without prejudice to paragraph 5, if the Society passes a resolution to the effect that any rights to which this paragraph applies shall vest in the Society, those rights shall vest accordingly.

(2) This paragraph applies to any right to recover or receive debts due to the solicitor or his firm in connection with his practice or former practice.

(3) Any sums recovered by the Society by virtue of the exercise of rights vested under sub-paragraph (1) shall vest in the Society and shall be held by it on trust to exercise in relation to them the powers conferred by this Part of this Schedule and, subject to those powers and to rules under paragraph 6B, upon trust for the persons beneficially entitled to them.

(4) The Society shall serve on the solicitor or his firm, and any person who owes a debt to which the order applies, a certified copy of the Society's resolution.

Textual Amendments

F184 Sch. 1 paras. 6A, 6B inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 77(6)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(i)** (subject to art. 4)

VALID FROM 01/03/2009

6B (1) The Society may make rules governing its treatment of sums vested in it under paragraph 6 or 6A(3).

(2) The rules may in particular make provision in respect of cases where the Society, having taken such steps to do so as are reasonable in all the circumstances of the case, is unable to trace the person or persons beneficially entitled to any sum vested in the Society under paragraph 6 or 6A(3) (including provision which requires amounts to be paid into or out of compensation funds (within the meaning of section 36A)).]

Textual Amendments

F184 Sch. 1 paras. 6A, 6B inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 77(6)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(i)** (subject to art. 4)

7 (1) If the Society takes possession of any sum of money to which paragraph 6 applies, the Society shall pay it into a special account in the name of the Society or of a person nominated on behalf of the Society, [F185 or into a client account of a solicitor nominated on behalf of the society, and any such person or solicitor] shall hold that sum on trust to permit the Society to exercise in relation to it the powers conferred by this Part of this Schedule and subject thereto on trust for the persons beneficially entitled to it.

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(2) A bank **[**[F186]or other financial institution**]**at which a special account is kept shall be under no obligation to ascertain whether it is being dealt with properly.

Textual Amendments

F185 Words substituted by Administration of Justice Act 1985 (c. 61, SIF 34), s. 8, **Sch. 1 para. 13(5)**(*a*)

F186 Words inserted by Administration of Justice Act 1985 (c. 61, SIF 34), s. 8, **Sch. 1 para. 13(5)**(*b*)

Modifications etc. (not altering text)

C148 Sch. 1 Pt. II paras. 5-16 extended (1.1.1992) by Administration of Justice Act 1985 (c. 61, SIF 34), s. 9, **Sch. 2 paras. 32-35**; S.I. 1991/2683, **art. 2**

C149 Sch. 1 Pt. II paras. 5–16 extended (with modifications) (14.10.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 89, **Sch. 14 Pt. II para. 5**; S.I. 1991/1883, art. 3, **Sch.**

8 Without prejudice to paragraphs 5 to 7, if the High Court is satisfied, on an application by the Society, that there is reason to suspect that any person holds money on behalf of the solicitor or his firm, the court may require that person to give the Society information as to any such money and the accounts in which it is held.

Modifications etc. (not altering text)

C150 Sch. 1 Pt. II paras. 5-16 extended (1.1.1992) by Administration of Justice Act 1985 (c. 61, SIF 34), s. 9, Sch. 2 paras. 32-35; S.I. 1991/2683, art. 2 (which extending provisions were amended (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 paras. 119**-123 (with ss. 29, 192, 193)); S.I. 2009/503, **art. 2(b)(ii)**

C151 Sch. 1 Pt. II paras. 5–16 extended (with modifications) (14.10.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 89, **Sch. 14 Pt.II para. 5**; S.I. 1991/1883, art. 3, **Sch.**

Documents

9 (1) 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—

(a) where the powers conferred by this Part of this Schedule are exercisable by virtue of paragraph 1, of all documents in the possession of the solicitor or his firm in connection with his practice or with any controlled trust; and

(b) where they are exercisable by virtue of paragraph 3, of all documents in the possession of the solicitor or his firm in connection with the trust or other matters to which the complaint relates (whether or not they relate also to other matters).

(2) The person appointed by the Society may take possession of any such documents on behalf of the Society.

(3) Except in a case where an application has been made to the High Court under sub–paragraph (4), if any person having possession of any such documents refuses, neglects or otherwise fails to comply with a requirement under sub–paragraph (1), he shall be guilty of an offence and liable on summary conviction to a fine not exceeding **[**[F187]level 3 on the standard scale**]**.

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(4) The High Court, on the application of the Society, may order a person required to produce or deliver documents under sub–paragraph (1) to produce or deliver them to any person appointed by the Society at such time and place as may be specified in the order, and authorise him to take possession of them on behalf of the Society.

(5) If on an application by the Society the High Court is satisfied that there is reason to suspect that documents in relation to which the powers conferred by sub–paragraph (1) are exercisable have come into the possession of some person other than the solicitor or his firm, the court may order that person to produce or deliver the documents to any person appointed by the Society at such time and place as may be specified in the order and authorise him to take possession of them on behalf of the Society.

(6) On making an order under this paragraph, or at any later time, the court, on the application of the Society, may authorise a person appointed by the Society to enter any premises (using such force as is reasonably necessary) to search for and take possession of any documents to which the order relates.

(7) The Society, on taking possession of any documents under this paragraph, shall serve upon the solicitor or personal representatives and upon any other person from whom they were received on the Society's behalf or from whose premises they were taken a notice that possession has been taken on the date specified in the notice.

(8) Subject to sub–paragraph (9) a person upon whom a notice under sub–paragraph (7) is served, on giving not less than 48 hours' notice to the Society and (if the notice gives the name of the solicitor instructed by the Society) to that solicitor, may apply to the High Court for an order directing the Society to deliver the documents to such person as the applicant may require.

(9) A notice under sub–paragraph (8) shall be given within 8 days of the service of the Society's notice under sub–paragraph (7).

(10) Without prejudice to the foregoing provisions of this Schedule, the Society may apply to the High Court for an order as to the disposal or destruction of any documents in its possession by virtue of this paragraph or paragraph 10.

(11) On an application under sub–paragraph (8) or (10), the Court may make such order as it thinks fit.

(12) Except so far as its right to do so may be restricted by an order on an application under sub–paragraph (8) or (10), the Society may take copies of or extracts from any documents in its possession by virtue of this paragraph or paragraph 10 and require any person to whom it is proposed that such documents shall be delivered, as a condition precedent to delivery, to give a reasonable undertaking to supply copies or extracts to the Society.

Textual Amendments

F187 Words substituted by virtue of Criminal Justice Act 1982 (c. 48, SIF 39:1), **ss. 38**, 46

Modifications etc. (not altering text)

C152 Sch. 1 Pt. II paras. 5-16 extended (1.1.1992) by Administration of Justice Act 1985 (c. 61, SIF 34), s. 9, **Sch. 2 paras. 32-35**; S.I. 1991/2683, **art. 2**

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C153 Sch. 1 Pt. II paras. 5–16 extended (with modifications) (14.10.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 89, **Sch. 14 Pt. II para. 5**; S.I. 1991/1883, art. 3, **Sch.**

C154 Sch. 1 Pt. II para. 9(2) extended (1.1.1992) by Administration of Justice Act 1985 (c. 61, SIF 34), s. 9, **Sch. 2 para. 14(2)**; S.I. 1991/2683, **art. 2**

C155 Sch. 1 Pt. II para. 9(3)–(12) extended (1.1.1992) by Administration of Justice Act 1985 (c. 61, SIF 34), s. 9, **Sch. 2 para. 14(2)**; S.I. 1991/2683, **art. 2**

Mail

10 (1) The High Court, on the application of the Society, may from time to time order that for such time not exceeding 18 months as the court thinks fit postal packets (as defined by section 87(1) of the [M32]Post Office Act 1953) addressed to the solicitor or his firm at any place or places mentioned in the order shall be directed to the Society or any person appointed by the Society at any other address there mentioned; and the Society, or that person on its behalf, may take possession of any such packets received at that address.

(2) Where such an order is made the Society shall pay to the Post Office the like charges (if any), as would have been payable for the re–direction of the packets by virtue of any scheme made under section 28 of the [M33]Post Office Act 1969, if the addressee had permanently ceased to occupy the premises to which they were addressed and had applied to the Post Office to redirect them to him at the address mentioned in the order.

(3) This paragraph does not apply where the powers conferred by this Part of this Schedule are exercisable by virtue of paragraph 3.

Modifications etc. (not altering text)

C156 Sch. 1 Pt. II paras. 5–16 extended (1.1.1992) by Administration of Justice Act 1985 (c. 61, SIF 34), s. 9, **Sch. 2 paras. 32–35**; S.I. 1991/2683, **art. 2**

C157 Sch. 1 Pt. II paras. 5–16 extended (with modifications) (14.10.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 89, **Sch. 14 Pt. II para. 5**; S.I. 1991/1883, art. 3, **Sch.**

Marginal Citations

M32 1953 c. 36.

M33 1969 c. 48.

Trusts

11 (1) If the solicitor or his personal representative is a trustee of a controlled trust, the Society may apply to the High Court for an order for the appointment of a new trustee in substitution for him.

(2) The [M34]Trustee Act 1925 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 41 of that Act.

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Modifications etc. (not altering text)

C158 Sch. 1 Pt. II paras. 5-16 extended (1.1.1992) by Administration of Justice Act 1985 (c. 61, SIF 34), s. 9, **Sch. 2 paras. 32-35**; S.I. 1991/2683, **art. 2**

C159 Sch. 1 Pt. II paras. 5–16 extended (with modifications) (14.10.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 89, **Sch. 14 Pt. II para. 5**; S.I. 1991/1883, art. 3, **Sch.**

Marginal Citations

M34 1925 c. 19.

General

12 The powers in relation to sums of money and documents conferred by this Part of this Schedule shall be exercisable notwithstanding any lien on them or right to their possession.

Modifications etc. (not altering text)

C160 Sch. 1 Pt. II paras. 5-16 extended (1.1.1992) by Administration of Justice Act 1985 (c. 61, SIF 34), s. 9, **Sch. 2 paras. 32-35**; S.I. 1991/2683, **art. 2**

C161 Sch. 1 Pt. II paras. 5–16 extended (with modifications) (14.10.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 89, **Sch. 14 Pt.II para. 5**; S.I. 1991/1883, art. 3, **Sch.**

C162 Sch. 1 Pt. II paras. 12–16 extended (1.1.199) by Administration of Justice Act 1985 (c. 61, SIF 34), s. 9, **Sch. 2 para. 14(2)**; S.I. 1991/2683, **art. 2**

13 Subject to any order for the payment of costs that may be made on an application to the court under this Schedule, any costs incurred by the Society for the purposes of this Schedule, including, without prejudice to the generality of this paragraph, the costs of any person exercising powers under this Part of this Schedule on behalf of the Society, shall be paid by the Solicitor or his personal representatives and shall be recoverable from him or them as a debt owing to the Society.

Modifications etc. (not altering text)

C163 Sch. 1 Pt. II paras. 5-16 extended (1.1.1992) by Administration of Justice Act 1985 (c. 61, SIF 34), s. 9, Sch. 2 paras. 32-35; S.I. 1991/2683, art. 2 (as amended (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 paras. 119**-123 (with ss. 29, 192, 193)); S.I. 2009/503, **art. 2(b)(ii)**

C164 Sch. 1 Pt. II paras. 5–16 extended (with modifications) (14.10.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 89, **Sch. 14 Pt. II para. 5**; S.I. 1991/1883, art. 3, **Sch.**

C165 Sch. 1 Pt. II paras. 12–16 extended (1.1.1992) by Administration of Justice Act 1985 (c. 61, SIF 34), s. 9, **Sch. 2 para. 14(2)**; S.I. 1991/2683, **art. 2**

VALID FROM 31/03/2009

[F188 13A (1) The High Court, on the application of the Society, may order a former partner of the solicitor to pay a specified proportion of the costs mentioned in paragraph 13.

(2) The High Court may make an order under this paragraph only if it is satisfied that the conduct (or any part of the conduct) by reason of which the powers conferred

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by this Part were exercisable in relation to the solicitor was conduct carried on with the consent or connivance of, or was attributable to any neglect on the part of, the former partner.

(3) In this paragraph "specified" means specified in the order made by the High Court.**]**

Textual Amendments

F188 Sch. 1 para. 13A inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 77(13)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(i)** (subject to art. 4)

14 Where an offence under this Schedule committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Modifications etc. (not altering text)

C166 Sch. 1 Pt. II paras. 5-16 extended (1.1.1992) by Administration of Justice Act 1985 (c. 61, SIF 34), s. 9, Sch. 2 paras. 32-35; S.I. 1991/2683, art. 2 (which extending provisions were amended (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 paras. 119**-123 (with ss. 29, 192, 193)); S.I. 2009/503, **art. 2(b)(ii)**

C167 Sch. 1 Pt. II paras. 5–16 extended (with modifications) (14.10.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 89, **Sch. 14 Pt. II para. 5**; S.I. 1991/1883, art. 3, **Sch.**

C168 Sch. 1 Pt. II paras. 12–16 extended (1.1.1992) by Administration of Justice Act 1985 (c. 61, SIF 34), s. 9, **Sch. 2 para. 14(2)**; S.I. 1991/2683, **art. 2**

15 Any application to the High Court under this Schedule may be disposed of in chambers.

Modifications etc. (not altering text)

C169 Sch. 1 Pt. II paras. 5-16 extended (1.1.1992) by Administration of Justice Act 1985 (c. 61, SIF 34), s. 9, Sch. 2 paras. 32-35; S.I. 1991/2683, art. 2 (which extending provisions were amended (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 paras. 119**-123 (with ss. 29, 192, 193)); S.I. 2009/503, **art. 2(b)(ii)**

C170 Sch. 1 Pt. II paras. 5–16 extended (with modifications) (14.10.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 89, **Sch. 14 Pt. II para. 5**; S.I. 1991/1883, art. 3, **Sch.**

C171 Sch. 1 Pt. II paras. 12–16 extended (1.1.1992) by Administration of Justice Act 1985 (c. 61, SIF 34), s. 9, **Sch. 2 para. 14(2)**; S.I. 1991/2683, **art. 2**

16 The Society may do all things which are reasonably necessary for the purpose of facilitating the exercise of its powers under this Schedule.

Modifications etc. (not altering text)

C172 Sch. 1 Pt. II paras. 5-16 extended (1.1.1992) by Administration of Justice Act 1985 (c. 61, SIF 34), s. 9, Sch. 2 paras. 32-35; S.I. 1991/2683, art. 2 (which extending provisions were amended (31.3.2009)

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by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 paras. 119**-123 (with ss. 29, 192, 193)); S.I. 2009/503, **art. 2(b)(ii)**)

C173 Sch. 1 Pt. II paras. 5–16 extended (with modifications) (14.10.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 89, **Sch. 14 Pt. II para. 5**; S.I. 1991/1883, art. 3, **Sch.**

C174 Sch. 1 Pt. II paras. 12–16 extended (1.1.1992) by Administration of Justice Act 1985 (c. 61, SIF 34), s. 9, **Sch. 2 para. 14(2)**; S.I. 1991/2683, **art. 2**

[F189F190SCHEDULE 1A

INADEQUATE PROFESSIONAL SERVICES

Textual Amendments

F189 Sch. 1A inserted (1.4.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), ss. 93(3), 125(6), **Sch. 15** (with saving in Sch. 19 para. 14); S.I. 1991/608, art. 2, **Sch.**

F190 Sch. 1A repealed (prosp.) by Legal Services Act 2007 (c. 29), ss. 177, 210, 211, Sch. 16 para. 78, **Sch. 23** (with ss. 29, 192, 193)

Modifications etc. (not altering text)

C175 Sch. 1A extended (22.5.2000) by S.I. 2000/1119, regs. 1, 37(3), Sch. 4 para. 7(2) (which amendment was omitted (6.10.2010) by virtue of The Legal Services Act 2007 (Registered European Lawyers) Order 2009 (S.I. 2009/1587), **art. 3(7)(c)**)

Circumstances in which Council's powers may be exercised

F191 1 (1) The Council may take any of the steps mentioned in paragraph 2 ("the steps") with respect to a solicitor where it appears to them that the professional services provided by him in connection with any matter in which he or his firm have been instructed by a client have, in any respect, not been of the quality which it is reasonable to expect of him as a solicitor.

(2) The Council shall not take any of the steps unless they are satisfied that in all the circumstances of the case it is appropriate to do so.

(3) In determining in any case whether it is appropriate to take any of the steps, the Council may—

(a) have regard to the existence of any remedy which it is reasonable to expect to be available to the client in civil proceedings; and

(b) where proceedings seeking any such remedy have not been begun by him, have regard to whether it is reasonable to expect him to begin them.

Textual Amendments

F191 Sch. 1A inserted (1. 4. 1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), ss. 93(3), 125(6), **Sch. 15** (with saving in Sch. 19 para. 14); S.I. 1991/608, art. 2, **Sch.**

Directions which may be given

F192 2 (1) The steps are—

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(a) determining that the costs to which the solicitor is entitled in respect of his services ("the costs") are to be limited to such amount as may be specified in the determination and directing him to comply, or to secure compliance, with such one or more of the permitted requirements as appear to the Council to be necessary in order for effect to be given to their determination;

(b) directing him to secure the rectification, at his expense or at that of his firm, of any such error, omission or other deficiency arising in connection with the matter in question as they may specify;

(c) directing him to pay such compensation to the client as the Council sees fit to specify in the direction;

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

(2) The "permitted requirements" are—

(a) that the whole or part of any amount already paid by or on behalf of the client in respect of the costs be refunded;

(b) that the whole or part of the costs be remitted;

(c) that the right to recover the costs be waived, whether wholly or to any specified extent.

(3) The power of the Council to take any such steps is not confined to cases where the client may have a cause of action against the solicitor for negligence.

Textual Amendments

F192 Sch. 1A inserted (1. 4. 1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), ss. 93(3), 125(6), **Sch. 15** (with saving in Sch. 19 para. 14); S.I. 1991/608, art. 2, **Sch.**

Modifications etc. (not altering text)

C176 Sch. 1A para. 2(1)(a) modified (1.1.1992) by Administration of Justice Act 1985 (c. 61, SIF 76:1), s. 9, **Sch. 2 para. 13(2)**; S.I. 1991/2683, **art. 2** (which amending Sch. 2 para. 13(2) was amended (1.4.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 37), ss. 124(3), 125(3), **Sch. 18 para. 56(b)**; S.I. 1991/608, art. 2, **Sch.**)

Compensation

F193 3 (1) The amount specified in a direction by virtue of paragraph 2(1)(c) shall not exceed [F194 £5000].

(2) The Lord Chancellor may by order made by statutory instrument amend sub–paragraph (1) by substituting for the sum of £1,000 such other sum as he considers appropriate.

(3) Before making any such order the Lord Chancellor shall consult the Law Society.

(4) Any statutory instrument made under this paragraph shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Textual Amendments

F193 Sch. 1A inserted (1.4.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), ss. 93(3), 125(6), **Sch. 15** (with saving in Sch. 19 para. 14); S.I. 1991/608, art. 2, **Sch.**

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F194 Words in Sch. 1A para. 3(1) substituted (31.3.2000) by S.I. 2000/644, **art. 2**

Taxation of costs

F195 4 (1) Where the Council have given a direction under paragraph 2(1)(a), then—

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

(b) where a bill covering the costs has not been taxed, the client shall, for the purposes of their recovery (by whatever means and notwithstanding any statutory provision or agreement) be deemed to be liable to pay in respect of them only the amount specified in the determination.

(2) Where a bill covering the costs has been taxed, the direction shall, so far as it related to the costs, cease to have effect.

Textual Amendments

F195 Sch. 1A inserted (1. 4. 1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), ss. 93(3), 125(6), **Sch. 15** (with saving in Sch. 19 para. 14); S.I. 1991/608, art. 2, **Sch.**

Failure to comply with direction

F196 5 (1) If a solicitor fails to comply with a direction given under this Schedule, 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.

(2) On the hearing of such a complaint the Tribunal may, if it thinks fit (and whether or not it makes any order under section 47(2)), direct that the direction be treated, for the purpose of enforcement, as if it were contained in an order made by the High Court.

Textual Amendments

F196 Sch. 1A inserted (1. 4. 1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), ss. 93(3), 125(6), **Sch. 15** (with saving in Sch. 19 para. 14); S.I. 1991/608, art. 2, **Sch.**

Fees

F197 6 (1) The council may, by regulations made with the concurrence of the Lord Chancellor and the Master of the Rolls, make provision for the payment, by any client with respect to whom the Council are asked to consider whether to take any of the steps, of such fee as may be prescribed.

(2) The regulations may provide for the exemption of such classes of client as may be prescribed.

(3) Where a client pays the prescribed fee it shall be repaid to him if the Council take any of the steps in the matter with respect to which the fee was paid.

(4) In this paragraph "prescribed" means prescribed by the regulations.

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Textual Amendments

F197 Sch. 1A inserted (1. 4. 1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), ss. 93(3), 125(6), **Sch. 15** (with saving in Sch. 19 para. 14); S.I. 1991/608, art. 2, **Sch.**

Costs

F198 7 Where the Council take any of the steps with respect to a solicitor they may also direct him to pay to the Council—

(a) the amount of the fee repayable by the Council to the client under paragraph 6(3); and

(b) an amount which is calculated by the Council as the cost to them of dealing with the complaint, or which in their opinion represents a reasonable contribution towards that cost.

Textual Amendments

F198 Sch. 1A inserted (1. 4. 1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), ss. 93(3), 125(6), **Sch. 15** (with saving in Sch. 19 para. 14); S.I. 1991/608, art. 2, **Sch.**

Duty of Tribunal

F199 8 Where the Tribunal—

(a) is considering, or has considered, an application or complaint with respect to a solicitor; and

(b) is of the opinion that the Council should consider whether to take any of the steps with respect of that solicitor,

it shall inform the Council.

Textual Amendments

F199 Sch. 1A inserted (1. 4. 1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), ss. 93(3), 125(6), **Sch. 15** (with saving in Sch. 19 para. 14); S.I. 1991/608, art. 2, **Sch.**

Interpretation

F200 9 The Council's powers under this Schedule are exercisable in relation to a person though his name has been removed from, or struck off, the roll and references to a solicitor in this Schedule, so far as they relate to the exercise of those powers, shall be construed accordingly.**]**

Textual Amendments

F200 Sch. 1A inserted (1. 4. 1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), ss. 93(3), 125(6), **Sch. 15** (with saving in Sch. 19 para. 14); S.I. 1991/608, art. 2, **Sch.**

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SCHEDULE 2

Section 36.

THE COMPENSATION FUND

Modifications etc. (not altering text)

C177 Sch. 2 extended (1.1.1992) by Administration of Justice Act 1985 (c. 61, SIF 34), s. 9, **Sch. 2 para. 6(1)**; S.I. 1991/2683, **art.2**

C178 Sch. 2 applied by Administration of Justice Act 1985 (c. 61, SIF 76:1), s. 9, **Sch. 2 para. 6(1D)** (as substituted by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), **s. 90**)

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 section 36 and this Schedule.

2 (1) Subject to **[**[F201]sub–paragraphs (2) and (2A)**]**, every solicitor—

(a) shall on each occasion on which he applies for a practising certificate pay to the Society with the fee payable in respect of that certificate under section 11 a contribution (in this Schedule referred to as an "annual contribution") of such amount as the Council may from time to time determine; and

(b) where it appears from his application for a practising certificate that he has held or received clients' money at any time during the period specified in the application, shall also, if so required by the Society, pay to the Society, before the issue of the certificate, a further contribution (in this Schedule referred to as a "special levy") of such amount . . . [F202]as the Council may from time to time determine.

(2) An annual contribution and a special levy—

(a) shall not be payable in respect of the first three practising certificates to be issued to a solicitor after his admission; and

(b) shall be payable in the reduced amount mentioned in sub–paragraph (3) in respect of the next three certificates to be so issued.

[[F203](2A) Sub–paragraph (1) above shall not apply to any solicitor who is a Crown Prosecutor.**]**

(3) The reduced amount referred to in sub–paragraph (2)(b) is one–half of the amount which would otherwise be payable.

[[F204](3A) The Council may require a solicitor to pay an annual contribution of a reduced amount where that payment is made with respect to a practising certificate which has a replacement date which is less than 12 months after the replacement date of the solicitor's previous practising certificate.

(3B) Where it appears from his application for a practising certificate that a solicitor has not held or received clients' money at any time during the period specified in the application, the Council may require him—

(a) to pay an annual contribution of a specified reduced amount on that application, or

(b) to pay no annual contribution on that application.**]**

(4) All annual contributions and special levies received by the Society under this paragraph shall be paid into the fund.

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Textual Amendments

F201 Words substituted by Prosecution of Offences Act 1985 (c. 23, SIF 39:1), **s. 4(6)**

F202 Words repealed by Administration of Justice Act 1985 (c. 61, SIF 34), ss. 8, 67(2), Sch. 1 para. 14, **Sch. 8 Pt. II**

F203 Sch. 2 para. 2(2A) inserted by Prosecution of Offences Act 1985 (c. 23, SIF 39:1), **s. 4(6)**

F204 Sch. 2 para. 2(3A)(3B) inserted (1.7.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 125(3), **Sch. 18 para. 18**; S.I. 1991/1364, art. 2, **Sch.**

Modifications etc. (not altering text)

C179 Sch. 2 para. 2(1) extended (1.1.1992) by Administration of Justice Act 1985 (c. 61, SIF 34), s. 9, **Sch. 2 para. 6(1)** (as amended (1.1.91) by Courts and Legal Services Act 1990 (c. 40, SIF 76:1), **s. 90**); S.I. 1991/2683, **art. 2**
Sch. 2 para. 2(1)(2)(2A)(3)(3A)(3B) excluded (22.5.2000) by S.I. 2000/1119, reg. 37(3), **Sch. 4 para. 6(3)**

C180 Sch. 2 para. 2(1)(*a*) extended (1.1.1992) by Administration of Justice Act 1985 (c. 61, SIF 34), s. 9, **Sch. 2 para. 6(1)** (as amended (1.1.91) by Courts and Legal Services Act 1990 (c. 40, SIF 76:1), **s. 90**); S.I. 1991/2683, **art. 2**

3 The Society may invest in securities in which trustees are authorised by law to invest trust funds in their hands any money which forms part of the fund.

4 **[**[F205] . . . **]**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; but the aggregate sum owing at any one time in respect of such loans shall not exceed £100,000.

Textual Amendments

F205 Words in Sch. 2 para. 4 repealed (11.2.1991) by Government Trading Act 1990 (c. 30, SIF 99:1), ss. 4, 5(3), **Sch. 2**; S.I. 1991/132, **art. 2**

5 The Society may insure with authorised insurers for such purposes and on such terms as the Council may deem expedient in relation to the fund.

6 There shall be carried to the credit of the fund—

(a) all annual contributions and special levies paid to the Society in pursuance of paragraph 2;

(b) all interest, dividends and other income and accretions of capital arising from the investment of the fund or any part of it;

(c) the proceeds of any realisation of any investments of the fund;

(d) all money borrowed for the purposes of the fund;

(e) all sums received by the Society under any insurance effected by the society under paragraph 5;

(f) all sums received by the Society under section 36(4); and

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(g) any other money which may belong or accrue to the fund or be received by the Society in respect of the fund.

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 affected 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 section 36;

(e) for payment of all costs, charges and expenses incurred by the Society by virtue of paragraph 1(1)(a) of Schedule 1 and of any costs or damages incurred by the Society or its employees or agents as a result of proceedings against the Society or its employees or agents for any act or omission done or made by it or them in good faith and in the execution or purported execution of the powers conferred by Part II of Schedule 1;

(f) for payment of any other sums properly payable out of the fund by virtue of section 36 or this Schedule.

SCHEDULES 3

Section 89.

CONSEQUENTIAL AMENDMENTS

F206 1 . . . . . .

Textual Amendments

F206 Sch. 3 para. 1 repealed by Forgery and Counterfeiting Act 1981 (c. 45, SIF 39:7), s. 30, **Sch. Pt. I**

F207 2 . . . . . .

Textual Amendments

F207 Sch. 3 para. 2 repealed by Supreme Court Act 1981 (c. 54, SIF 37), s. 152(4), **Sch. 7**

F208 3 . . . . . .

Textual Amendments

F208 Sch. 3 para. 3 repealed by Patents Act 1977 (c. 37), **Sch. 6**

X2 4 In section 20(3) of the M35 Justices of the Peace Act 1949—

(a) for the words "subsection (1) of section 2 of the Solicitors (Amendment) Act 1956", and

(b) for the words "the Solicitors Acts 1932 to 1956",

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substitute, in place of the words substituted for those words by Schedule 2 to the Solicitors (Amendment) Act 1974, the words " the Solicitors Act 1974 ".

Editorial Information

X2 The text of ss. 86, 89(1)(2), Sch. 3 paras. 4, 6, 8, and 9, and Sch. 4, is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as indicated, does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Marginal Citations

M35 1949 c. 101.

[F209]5 . . . . . .

Textual Amendments

F209 Sch. 3 para. 5 repealed by House of Commons Disqualification Act 1975 (c. 24), **Sch. 3**

[X3]6 In section 192(2) of the [M36] County Courts Act 1959 (as substituted by section 10(2) of the [M37] Administration of Justice Act 1969), for paragraph (c) substitute the following paragraph:—

"(c) section 69(3) of the Solicitors Act 1974"

Editorial Information

X3 The text of ss. 86, 89(1)(2), Sch. 3 paras. 4, 6, 8, and 9, and Sch. 4, is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as indicated, does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Marginal Citations

M36 1959 c. 22.
M37 1969 c. 58.

[F210]7 . . . . . .

Textual Amendments

F210 Sch. 3 para. 7 repealed by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 125(7), **Sch. 20**

[X4]8 In section 4(2) of the [M38] Matrimonial Causes Act 1967, for the words "section 73(4) of the Solicitors Act 1957" substitute the words " section 74(3) of the Solicitors Act 1974 ".

Editorial Information

X4 The text of ss. 86, 89(1)(2), Sch. 3 paras. 4, 6, 8, and 9, and Sch. 4, is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as indicated, does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

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Marginal Citations

M38 1967 c. 56.

[X5]9 In section 223(1) of the [M39] Local Government Act 1972, for the words "the Solicitors Acts 1957 to 1965" substitute the words " the Solicitors Act 1974 ".

Editorial Information

X5 The text of ss. 86, 89(1)(2), Sch. 3 paras. 4, 6, 8, and 9, and Sch. 4, is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as indicated, does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Marginal Citations

M39 1972 c. 70.

[F211]10 . . . . . .

Textual Amendments

F211 Sch. 3 para. 10 repealed by Legal Aid Act 1988 (c. 34, SIF 77:1), s. 45, **Sch. 6**

[X6]SCHEDULE 4

Section 89.

ENACTMENTS REPEALED

Editorial Information

X6 The text of ss. 86, 89(1)(2), Sch. 3 paras. 4, 6, 8, and 9, and Sch. 4, is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as indicated, does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

SCHEDULE 4 — Section 89.

ENACTMENTS REPEALED

Chapter	Short Title	Extent of Repeal
12 & 13 Geo. 6. c. 21.	The Solicitors, Public Notaries, &c., Act 1949.	The whole Act.
5 & 6 Eliz. 2. c. 27.	The Solicitors Act 1957.	The whole Act.
1965 c. 31.	The Solicitors Act 1965.	The whole Act.
1969 c. 58.	The Administration of Justice Act 1969.	In Schedule 1, the entry relating to the Solicitors Act 1957.
1973 c. 14.	The Costs in Criminal Cases Act 1973.	In Schedule 1, paragraph 2.
1973 c. 15.	The Administration of Justice Act 1973.	Section 4. In Schedule 1, paragraph 9(2).
1973 c. 62.	The Powers of Criminal Courts Act 1973.	In Schedule 5, paragraph 9.
1974 c. 26.	The Solicitors (Amendment) Act 1974.	The whole Act.

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