



# Solicitors Act 1974

## 1974 CHAPTER 47

### 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 [<sup>F1</sup>Society may] 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 [<sup>F2</sup>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 [<sup>F3</sup>Society] are being complied with.]
- (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.
- [<sup>F4</sup>(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 [<sup>F5</sup>[<sup>F6</sup> Secretary of State] 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.]]
- [<sup>F4</sup>(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

**F1** Words in s. 31(1) substituted (7.3.2008) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 211, [Sch. 16 para. 31\(2\)\(a\)](#) (with ss. 29, 192, 193); S.I. 2008/222, [art. 2\(j\)\(i\)](#)

**F2** 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\(a\)](#)

*Status: Point in time view as at 30/06/2008. This version of this part contains provisions that are not valid for this point in time.*

*Changes to legislation: There are currently no known outstanding effects  
for the Solicitors Act 1974, Part II. (See end of Document for details)*

- F3** Word in s. 31(1) substituted (7.3.2008) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 31(2)(d)** (with ss. 29, 192, 193); S.I. 2008/222, **art. 2(j)(i)**
- F4** 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.**
- F5** 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)
- F6** Words in s. 31 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 3**

**Modifications etc. (not altering text)**

- C1** 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 [<sup>F7</sup>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 . . . <sup>F8</sup>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 [<sup>F7</sup>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;
- and the rules may specify the location of the <sup>F8</sup>. . . 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) <sup>F9</sup>. . . for use in investigating the possible commission of an offence by the solicitor and <sup>F9</sup>. . . 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.

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[<sup>F10</sup>(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

- F7** 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)**
- F8** 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
- F9** 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**
- F10** 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)

- C2** 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.**
- C3** S. 32 extended (22.5.2000) by S.I. 2000/1119, regs. 1, 37(3), **Sch. 4 para. 1(3)**
- C4** 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 [<sup>F11</sup>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 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 [<sup>F11</sup>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; <sup>F12</sup> . . .
  - <sup>F12</sup>(b) . . . . .

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*Changes to legislation: There are currently no known outstanding effects for the Solicitors Act 1974, Part II. (See end of Document for details)*

#### Textual Amendments

- F11** Words inserted by [Building Societies Act 1986 \(c. 53, SIF 16\)](#), **ss. 54(3)(a)(5)**, 120, Sch. 18 para. 11(3)
- F12** [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)

- C5** [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)**)

### [<sup>F13</sup>33A Inspection of practice bank accounts etc.

- (1) The [<sup>F14</sup>Society] may make rules , with the concurrence of the Master of the Rolls , empowering the [<sup>F14</sup>Society] 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 [<sup>F14</sup>Society] pursuant to the rules.
- (2) The [<sup>F15</sup>Society] 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

- F13** [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)**
- F14** Words in [s. 33A\(1\)](#) substituted (7.3.2008) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 211, **Sch. 16 para. 34(2)(a)** (with ss. 29, 192, 193); S.I. 2008/222, **art. 2(j)(i)**
- F15** Word in [s. 33A\(2\)](#) substituted (7.3.2008) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 211, **Sch. 16 para. 34(3)** (with ss. 29, 192, 193); S.I. 2008/222, **art. 2(j)(i)**

#### Modifications etc. (not altering text)

- C6** [S. 33A](#) extended (with modifications) (1.7.2009) by [The Registered Foreign Lawyers Order 2009 \(S.I. 2009/1589\)](#), **art. 3(2)(g)**, **Sch.**
- C7** [S. 33A](#) 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)**)
- C8** [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 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.

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- (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 [<sup>F16</sup>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.
- [<sup>F17</sup>(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;
    - (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

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

**Textual Amendments**

- F16** Words substituted by [Administration of Justice Act 1985 \(c. 61, SIF 34\)](#), s. 8, **Sch. 1 para. 9**  
**F17** [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)**

- C9** [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)**  
**C10** [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

*<sup>F18</sup>Sole solicitors*

**Textual Amendments**

- F18** [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)**

- C11** [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))

**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

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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)**

**C12** 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)**

**C13** 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)**

- C14** 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
- C15** 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.
- C16** 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

**[<sup>F19</sup>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**

**F19** 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)**

**C17** 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\(8\)\(a\)](#))

**C18** 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 [<sup>F20</sup>Society] 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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*Changes to legislation: There are currently no known outstanding effects for the Solicitors Act 1974, Part II. (See end of Document for details)*

- (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 [<sup>F21</sup>Society] to take such steps as [<sup>F22</sup>it considers] necessary or expedient to ascertain whether or not the rules are being [<sup>F23</sup>, or have been,] 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.

#### Textual Amendments

- F20** Words in s. 37(1) substituted (7.3.2008 in so far as the amending Act substitutes the word "Society" for the word "Council" and 1.10.2010 otherwise) by [Legal Services Act 2007 \(c. 29\), ss. 177, 211, Sch. 16 para. 38\(a\)](#) (with ss. 29, 192, 193); S.I. 2008/222, [art. 2\(j\)\(i\)](#); S.I. 2009/3250, [art. 2\(f\)\(ii\)](#) (with art. 9)
- F21** Word in s. 37(3)(h) substituted (7.3.2008) by [Legal Services Act 2007 \(c. 29\), ss. 177, 211, Sch. 16 para. 38\(b\)\(i\)](#) (with ss. 29, 192, 193); S.I. 2008/222, [art. 2\(j\)\(i\)](#)
- F22** Words in s. 37(3)(h) substituted (7.3.2008) by [Legal Services Act 2007 \(c. 29\), ss. 177, 211, Sch. 16 para. 38\(b\)\(ii\)](#) (with ss. 29, 192, 193); S.I. 2008/222, [art. 2\(j\)\(i\)](#)
- F23** Words in s. 37(3)(h) inserted (30.6.2008) by [Legal Services Act 2007 \(c. 29\), ss. 177, 211, Sch. 16 para. 38\(b\)\(iii\)](#) (with ss. 29, 192, 193); S.I. 2008/1436, [art. 2\(d\)\(i\)](#)

#### Modifications etc. (not altering text)

- C19** 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\(4\)](#))

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*Changes to legislation: There are currently no known outstanding effects for the Solicitors Act 1974, Part II. (See end of Document for details)*

[<sup>F24</sup> *Inadequate professional services*]

**Textual Amendments**

- F24** 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

[<sup>F25</sup> **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.]

**Textual Amendments**

- F25** 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)**

- C20** 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)(e))

*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 [<sup>F26</sup> assigned to any local justice area, or for any partner of his, to act in connection with proceedings before any justice of the peace acting in that area] as solicitor or agent for the solicitor of any person concerned in those proceedings.

(2) <sup>F27</sup> .....

(3) <sup>F27</sup> .....

[<sup>F28</sup>(3A) Subsection (1) does not apply where a solicitor is a Deputy District Judge (Magistrates' Courts); but where a solicitor is acting as a Deputy District Judge (Magistrates' Courts) [<sup>F29</sup> in any local justice] area it shall not be lawful for him, or for any partner of his, to act in connection with proceedings before any justice of the peace [<sup>F30</sup> acting in] that area as solicitor or agent for the solicitor of any person concerned in those proceedings.]

<sup>F31</sup>(4) .....

**Textual Amendments**

- F26** Words in s. 38(1) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, Sch. 8 para. 176(2); S.I. 2005/910, art. 3

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- F27** S. 38(2)(3) repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1)(3), 110, Sch. 8 para. 176(3), **Sch. 10**; S.I. 2005/910, **art. 3**
- F28** S. 38(3A) inserted (31.8.2000) by 1999 c. 22, s. 78, **Sch. 11 para. 23** (with Sch. 14 para. 7(2)); S.I. 2000/1920, **art. 3**
- F29** Words in s. 38(3A) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 176(4)(a)**; S.I. 2005/910, **art. 3**
- F30** Words in s. 38(3A) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 176(4)(b)**; S.I. 2005/910, **art. 3**
- F31** 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)**

- C21** S. 38 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)**)
- C22** 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**

**F32**<sup>39</sup> .....

**Textual Amendments**

- F32** 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)**

- C23** S. 40 extended (22.5.2000) by S.I. 2000/1119, regs.1, 37(3), **Sch. 4 para. 7(2)**

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### *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.

[<sup>F33</sup>(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.

(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**

**F33** 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)**

**C24** 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**

**C25** 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

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(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 [<sup>F34</sup>level 3 on the standard scale].

[<sup>F35</sup>(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 [<sup>F36</sup>the <sup>M1</sup>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

**F34** Words substituted by virtue of Criminal Justice Act 1982 (c. 48, SIF 39:1), ss. 38, 46

**F35** S. 42(1A) inserted by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 125(3), Sch. 18 para. 15

**F36** Words substituted by Magistrates' Courts Act 1980 (c. 43, SIF 82), s. 154, Sch. 7 para. 132

#### Modifications etc. (not altering text)

**C26** S. 42 extended (with modifications) (1.7.2009) by The Registered Foreign Lawyers Order 2009 (S.I. 2009/1589), art. 5(c)

**C27** 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))

**C28** 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

**M1** 1980 c. 43.

### 43 Control of [<sup>F37</sup>solicitors' employees and consultants].

- (1) Where a person who is or was [<sup>F38</sup>employed 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 [<sup>F39</sup>or 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 [<sup>F40</sup>by whom he is or was employed or remunerated], an act or default in relation to that solicitor's practice [<sup>F41</sup>which 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 [<sup>F39</sup>or remunerated] by a solicitor in connection with his practice,]

[<sup>F42</sup>the Society may either make, or make an application to the Tribunal for it to make, an order under subsection (2) with respect to him.]

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- [<sup>F43</sup>(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) [<sup>F44</sup>An 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 [<sup>F45</sup>order is] made.
- [<sup>F46</sup>(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;
  - (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 [<sup>F47</sup>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.
- <sup>F48</sup>(6) . . . . .
- (7) For the purposes of this section an order [<sup>F49</sup>discharging a person absolutely or conditionally in respect of an offence shall, notwithstanding anything in section 14 of the Powers of Criminal Courts (Sentencing) Act 2000,] be deemed to be a conviction of the offence for which the order was made.

#### Textual Amendments

- F37** 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)**
- F38** 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)**
- F39** 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)**
- F40** 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)**



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**Changes to legislation:** There are currently no known outstanding effects for the Solicitors Act 1974, Part II. (See end of Document for details)

- F41** S. 43(1)(b): words substituted by Administration of Justice Act 1985 (c. 61, SIF 34), s. 8, **Sch. 1 para. 10(a)**
- F42** 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)**
- F43** 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)**
- F44** 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)**
- F45** 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)**
- F46** 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)**
- F47** 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)**
- F48** 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
- F49** Words in s. 43(7) substituted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), **Sch. 9 para. 46**

**Modifications etc. (not altering text)**

- C29** 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)**

**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 [<sup>F50</sup>level 3 on the standard scale].
- (2) Where [<sup>F51</sup>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 [<sup>F52</sup>the <sup>M2</sup>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**

- F50** Words substituted by virtue of Criminal Justice Act 1982 (c. 48, SIF 39:1), **ss. 38, 46**

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*Changes to legislation: There are currently no known outstanding effects for the Solicitors Act 1974, Part II. (See end of Document for details)*

**F51** 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)**

**F52** Words substituted by Magistrates' Courts Act 1980 (c. 43, SIF 82), s. 154, **Sch. 7 para. 132**

**Modifications etc. (not altering text)**

**C30** S. 44 extended (22.5.2000) by S.I. 2000/1119, regs. 1, 37(3), **Sch. 4 para. 7(3)**

**C31** 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**

**C32** 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**

**M2** 1980 c. 43.

*[<sup>F53</sup> Imposition by Council of disciplinary sanctions for inadequate professional services*

**Textual Amendments**

**F53** S. 44A added by Administration of Justice Act 1985 (c. 61, SIF 34), ss. 1, 69(5), **Sch. 9 para. 1**

<sup>F54</sup>44A] .....

**Textual Amendments**

**F54** 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.**

*[<sup>F55</sup> Examination of files]*

**Textual Amendments**

**F55** S. 44B added by Administration of Justice Act 1985 (c. 61, SIF 34), ss. 2, 69(5), **Sch. 9 para. 2**

**44B** [<sup>F56</sup>Examination of files.]

(1) Where the Council are satisfied that it is necessary to do so for the purpose of [<sup>F57</sup>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

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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 [<sup>F58</sup>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
  - (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

- F56** 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)**
- F57** 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)**
- F58** 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)

- C33** 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

#### [<sup>F59</sup>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

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- 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

**F59** 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)

**C34** S. 44BA extended (with modifications) (1.7.2009) by [The Registered Foreign Lawyers Order 2009 \(S.I. 2009/1589\)](#), [art. 5\(d\)](#)

**C35** 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,

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- (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

**F59** 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)

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

**F59** 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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#### Modifications etc. (not altering text)

- C36** 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)**
- C37** 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))
- C38** 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))
- C39** 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))
- C40** 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))

#### [<sup>F60</sup> Costs of investigations]

#### Textual Amendments

- F60** 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)**

#### <sup>F61</sup>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

- F61** 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)

- C41** 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)**)

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**Changes to legislation:** There are currently no known outstanding effects for the Solicitors Act 1974, Part II. (See end of Document for details)

### Textual Amendments

**F62** S. 45 repealed by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 125(7), Sch. 20

VALID FROM 31/03/2009

## <sup>F63</sup>Disciplinary powers of the Society

### Textual Amendments

**F63** 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—

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- (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;
- (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)**

- C42** S. 44D extended (with modifications) (1.7.2009) by [The Registered Foreign Lawyers Order 2009 \(S.I. 2009/1589\)](#), [art. 3\(2\)\(k\)](#), Sch.
- C43** 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.



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- (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;
  - (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)**

- C44** 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)(I)**, 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”).

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- (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.
- [<sup>F64</sup>(5) The Tribunal may pay its members such remuneration, fees or allowances as it may determine with the approval of the Legal Services Board.]
- [<sup>F65</sup>(5A) The Tribunal may do anything calculated to facilitate, or incidental or conducive to, the carrying out of any of its functions.]
- (6) <sup>F66</sup> .....
- (7) <sup>F66</sup> .....
- (8) <sup>F66</sup> .....
- (9) [<sup>F67</sup>The] Tribunal <sup>F68</sup> . . . 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 [<sup>F69</sup>(including provision about the composition of the Tribunal)].
- (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 <sup>M3</sup>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.

#### **Textual Amendments**

**F64** S. 46(5) substituted (30.6.2008) by *Legal Services Act 2007 (c. 29)*, ss. 177, 211, **Sch. 16 para. 47(2)** (with ss. 29, 192, 193); *S.I. 2008/1436*, **art. 2(d)(i)** (subject to art. 4)

**F65** S. 46(5A) inserted (30.6.2008) by *Legal Services Act 2007 (c. 29)*, ss. 177, 211, **Sch. 16 para. 47(3)** (with ss. 29, 192, 193); *S.I. 2008/1436*, **art. 2(d)(i)** (subject to art. 4)

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**Changes to legislation:** There are currently no known outstanding effects for the Solicitors Act 1974, Part II. (See end of Document for details)

- F66** S. 46(6)-(8) repealed (30.6.2008) by Legal Services Act 2007 (c. 29), ss. 177, 210, 211, **Sch. 16 para. 47(4), Sch. 23** (with ss. 29, 192, 193); S.I. 2008/1436, **art. 2(d)(i)(g)** (subject to art. 4)
- F67** Words in s. 46(9) substituted (30.6.2008) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 47(5)(a)** (with ss. 29, 192, 193); S.I. 2008/1436, **art. 2(d)(i)** (subject to art. 4)
- F68** Words in s. 46(9) repealed (30.6.2008) by Legal Services Act 2007 (c. 29), ss. 177, 210, 211, **Sch. 16 para. 47(5)(b), Sch. 23** (with ss. 29, 192, 193); S.I. 2008/1436, **art. 2(d)(i)** (subject to art. 4)
- F69** Words in s. 46(9)(b) inserted (30.6.2008) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 47(5)(c)** (with ss. 29, 192, 193); S.I. 2008/1436, **art. 2(d)(i)** (subject to art. 4)

#### **Modifications etc. (not altering text)**

- C45** 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.
- C46** 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**
- C47** 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**  
S. 46(10)(c) 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)**)
- C48** 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**
- C49** 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**

- M3** 1946 c. 36.

### [<sup>F70</sup> **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.

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

#### Textual Amendments

**F70** 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.

[<sup>F71</sup>(1) Any application—

- (a) to strike the name of a solicitor off the roll;
- (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 subsection 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 striking 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 [<sup>F72</sup>providing representation funded by the Legal Services Commission as part of the Criminal Defence Service] (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;

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- (i) the payment by any party of costs or a contribution towards costs of such amount as the Tribunal may consider reasonable.]
- [<sup>F73</sup>(2A) An order of the Tribunal may make provision for the exclusion of a solicitor from [<sup>F74</sup>providing representation] as mentioned in subsection [<sup>F75</sup>(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 [<sup>F76</sup>funded by the Legal Services Commission as part of the Community Legal Service or Criminal Defence Service]; 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 [<sup>F77</sup>providing representation funded by the Legal Services Commission as part of the Criminal Defence Service].
- (2C) The Tribunal shall not make an order under subsection (2B) <sup>F78</sup>. . . unless an opportunity is given to him to show cause why the order should not be made.
- (2D) Any person excluded from [<sup>F79</sup>providing representation funded by the Legal Services Commission as part of the Criminal Defence Service] by an order under this section may make an application to the Tribunal for an order terminating his exclusion <sup>F80</sup>. . . .]
- (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.
- [<sup>F81</sup>(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.]
- [<sup>F82</sup>(4) If it appears to the [<sup>F83</sup> Secretary of State] 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.]

<sup>F84</sup>(6) . . . . .

**Textual Amendments**

- F71** S. 47(1)(2) substituted by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 92(2)
- F72** Words in s. 47(2)(d) substituted (2.4.2001) by 1999 c. 22, s. 24, Sch. 4 para. 10(2) (with Sch. 14 para. 7(2)); S.I. 2001/916, art. 3(a)(ii) (with transitional provisions and savings in Sch. 2 para. 2)

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- F73** 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)**)
- F74** Words in s. 47(2A) substituted (2.4.2001) by 1999 c. 22, s. 24, **Sch. 4 para. 10(3)(a)** (with Sch. 14 para. 7(2)); S.I. 2001/916, **art. 3(a)(ii)** (with transitional provisions and savings in Sch. 2 para. 2)
- F75** Words substituted by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), **s. 92(3)**
- F76** Words in s. 47(2A)(a) substituted (1.4.2000 subject to the transitional provision in art. 3 of the commencing S.I.) by 1999 c. 22, s. 24, **Sch. 4 para. 10(3)(b)** (with Sch. 14 para. 7(2)); S.I. 2000/744, **arts. 2, 3**
- F77** Words in s. 47(2B) substituted (2.4.2001) by 1999 c. 22, s. 24, **Sch. 4 para. 10(4)** (with Sch. 14 para. 7(2)); S.I. 2001/916, **art. 3(a)(ii)** (with transitional provisions and savings in Sch. 2 para. 2)
- F78** Words in s. 47(2C) repealed (2.4.2001) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2001/916, **art. 3(b)** (with transitional provisions and savings in Sch. 2 para. 2)
- F79** Words in s. 47(2D) substituted (2.4.2001) by 1999 c. 22, s. 24, **Sch. 4 para. 10(5)** (with Sch. 14 para. 7(2)); S.I. 2001/916, **art. 3(a)(ii)** (with transitional provisions and savings in Sch. 2 para. 2)
- F80** Words in s. 47(2D) repealed (2.4.2001) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2001/916, **art. 3(b)** (with transitional provisions and savings in Sch. 2 para. 2)
- F81** S. 47(3A) inserted by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), **s. 92(4)**
- F82** S. 47(4)(5) added by Administration of Justice Act 1982 (c. 53, SIF 37), **s. 56(b)**
- F83** Words in s. 47 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), **art. 9, Sch. 2 para. 3**
- F84** S. 47(6) repealed (2.4.2001) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2001/916, **art. 3(b)** (with transitional provisions and savings in Sch. 2 para. 2)

#### Modifications etc. (not altering text)

- C50** S. 47 extended (22.5.2000) by S.I. 2000/1119, regs. 1, 37(3), **Sch. 4 para. 10**
- C51** S. 47(2) extended by Administration of Justice Act 1985 (c. 61, SIF 34), ss. 43(2), 69(5), **Sch. 9 para. 9**
- C52** 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.**
- C53** 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**

**F85** 47A .....

#### Textual Amendments

- F85** 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 [<sup>F86</sup>(a) to (i)] of section 47(2), the Society—

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- (a) shall cause a note of the effect of the order to be entered on the roll against the name of the solicitor [<sup>F87</sup>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 [<sup>F88</sup>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 <sup>F89</sup> . . . .
- (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

- F86** 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\(5\)\(a\)](#)
- F87** [S. 48\(2\)\(a\)](#): words inserted by [Courts and Legal Services Act 1990 \(c. 41, SIF 76:1\), s. 92\(5\)\(b\)](#)
- F88** [S. 48\(2\)\(b\)](#): words substituted by [Courts and Legal Services Act 1990 \(c. 41, SIF 76:1\), s. 92\(5\)\(c\)](#)
- F89** Words in [s. 48\(2\)\(b\)](#) repealed (7.3.2008) by [Legal Services Act 2007 \(c. 29\), ss. 177, 210, 211, Sch. 16 para. 50\(a\)\(ii\) {Sch. 23}](#) (with ss. 29, 192, 193); [S.I. 2008/222, art. 2\(j\)\(i\)](#)

#### Modifications etc. (not altering text)

- C54** [S. 48](#) extended (22.5.2000) by [S.I. 2000/1119, regs. 1, 37\(3\), Sch. 4 para. 10](#)

## 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 [<sup>F90</sup>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 [<sup>F91</sup>43(3A)] shall lie only at the instance of the person with respect to whom the [<sup>F92</sup>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 [<sup>F93</sup>43(3A)] shall be final.
- (7) The Master of the Rolls may make regulations about appeals to him under this section.

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#### Textual Amendments

- F90** S. 49(1)(a): words substituted by [Courts and Legal Services Act 1990 \(c. 41, SIF 76:1\)](#), **s. 92(6)**
- F91** 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)**
- F92** 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)**
- F93** 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)

- C55** 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

#### [<sup>F94</sup>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);
  - (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

- F94** 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; <sup>F95</sup> . . .
- (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



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from which the Supreme Court was constituted might have exercised immediately before the passing of the <sup>M4</sup>Supreme Court of Judicature Act 1873 in respect of any solicitor, attorney or proctor admitted to practise there.

[<sup>F96</sup>(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

**F95** Words repealed by [Supreme Court Act 1981 \(c. 54, SIF 37\)](#), s. 152(4), [Sch. 7](#)

**F96** [S. 50\(3\)](#) inserted by [Supreme Court Act 1981 \(c. 54, SIF 37\)](#), s. 147

#### Modifications etc. (not altering text)

**C56** [S. 50\(2\)\(3\)](#) extended (22.5.2000) by [S.I. 2000/1119](#), regs. 1, 37(3), [Sch. 4 para. 10](#)

#### Marginal Citations

**M4** [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.
- (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)

**C57** [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\(10\)](#))

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## 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)

**C58** 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.

### Modifications etc. (not altering text)

**C59** 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 [<sup>F97</sup>persons seeking admission as solicitors] 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—
  - [<sup>F98</sup>(a) that a solicitor who undertook a training responsibility for him under training regulations neglected or omitted to take out a practising certificate; or
  - (b) that the name of a solicitor who undertook such a responsibility for a period has been removed from or struck off the roll after the end of that period.]

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#### Textual Amendments

- F97** Words in s. 54(1) substituted (7.3.2008) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 53(a)** (with ss. 29, 192, 193); S.I. 2008/222, **art. 2(j)(i)**
- F98** S. 54(2)(a)(b) substituted (7.3.2008) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 53(b)** (with ss. 29, 192, 193); S.I. 2008/222, **art. 2(j)(i)**

### 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.

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#### Modifications etc. (not altering text)

- C60** 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)**)

**Status:**

Point in time view as at 30/06/2008. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:**

There are currently no known outstanding effects for the Solicitors Act 1974, Part II.