



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 [^{F1}Society may] make rules [^{F2} . . . for regulating in respect of any matter the professional practice, conduct [^{F3}, fitness to practise] and discipline of solicitors [^{F4} 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 [^{F5}Society] are being [^{F6}, or have been,] complied with.]

[^{F7}(1A) The powers conferred on the Society by subsection (1) include power to make, in relation to solicitors, provision of a kind which the Society would be prohibited from making but for section 157(5)(c) of the Legal Services Act 2007 (exception from prohibition on approved regulators making provision for redress).]

(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.

(3) ^{F8}

(4) ^{F8}

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F2 Words in s. 31(1) repealed (1.1.2010) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 210, 211, [Sch. 16 para. 31\(2\)\(b\)](#), [Sch. 23](#) (with ss. 29, 192, 193); S.I. 2009/3250, [art. 2\(f\)\(ii\)\(i\)\(ii\)\(gg\)](#) (with art. 9)

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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)

- F3** Words in s. 31(1) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 31(2)(c)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(i)**
- F4** 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)**
- F5** 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)**
- F6** Words in s. 31(1) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 31(2)(e)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(i)**
- F7** S. 31(1A) inserted (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 31(3)** (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(f)(ii)** (with art. 9)
- F8** S. 31(3)(4) repealed (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 177, 210, 211, Sch. 16 para. 31(4), **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(f)(ii)(i)(ii)(gg)** (with art. 9)

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) (as amended (1.7.2009) by The Legal Services Act 2007 (Registered European Lawyers) Order 2009 (S.I. 2009/1587), **art. 3(4)**)
- C2** S. 31(2) 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)**)

Accounts etc.

32 Accounts rules and trust accounts rules.

- (1) The [^{F9}Society] shall make rules ^{F10} . . . —
- [^{F11}(a) as to the opening and keeping by solicitors of accounts at banks or with building societies for money within subsection (1A);
- (aa) as to the operation by solicitors of accounts kept by their clients or other persons at banks or with building societies or other financial institutions;
- (b) as to the keeping by solicitors of accounts containing information as to money received, held or paid by them for or on account of their clients or other persons (including money received, held or paid under a trust); and]
- (c) empowering the [^{F12}Society] to take such action as may be necessary to enable [^{F13}it] to ascertain whether or not the rules are being [^{F14}, or have been,] complied with;
- ^{F15} . . .
- [^{F16}(1A) The money referred to in subsection (1) is money (including money held on trust) which is received, held or dealt with for clients or other persons.]
- (2) ^{F17}
- (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 [^{F18}Society] 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) ^{F19} . . . ^{F20} . . . for use in investigating the possible commission of an offence by the solicitor [^{F21}or any of his employees] and ^{F20} . . . for use in connection

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with any prosecution of the solicitor [^{F21}or any of his employees] 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 [^{F22}or a part of the rules.]

(6) ^{F23}

Textual Amendments

- F9** Word in s. 32(1) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 32(2)(a)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(i)**
- F10** Words in s. 32(1) repealed (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 177, 210, 211(2), Sch. 16 para. 32(2)(b), **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(f)(ii)**
- F11** S. 32(1)(a)(aa)(b) substituted (31.3.2009) for s. 32(1)(a)(b) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 32(2)(c)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(i)**
- F12** Word in s. 32(1)(c) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 32(2)(d)(i)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(i)**
- F13** Word in s. 32(1)(c) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 32(2)(d)(ii)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(i)**
- F14** Words in s. 32(1)(c) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 32(2)(d)(iii)** (ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(i)**
- F15** Words in s. 32(1) repealed (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 210, 211, Sch. 16 para. 32(2)(e), **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(i)(f)(ii)(aa)**
- F16** S. 32(1A) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), (c. 29), ss. 177, 211, {Sch. 16 para. 32(3)} (ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(i)**
- F17** S. 32(2) repealed (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 210, 211, Sch. 16 para. 32(4), **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(i)(f)(ii)**
- F18** Word in s. 32(4) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 32(5)(a)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(i)**
- F19** Words in s. 32(4) repealed (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 210, 211, Sch. 16 para. 32(5)(b), **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(i)(f)(ii)(aa)**
- F20** 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**
- F21** Words in s. 32(4) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 32(5)(c)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(i)**
- F22** Words in s. 32(5) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 32(6)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(i)**
- F23** S. 32(6) repealed (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 210, 211, Sch. 16 para. 32(7), **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(i)**

Modifications etc. (not altering text)

- C3** 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.**
- C4** S. 32 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)**)
- C5** S. 32(3)(4) 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)**)
- C6** S. 32(4) extended (with modifications) (1.7.2009) by The Registered Foreign Lawyers Order 2009 (S.I. 2009/1589), **art. 3(2)(f), Sch.**

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C7 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.

[^{F24}(1) Rules under section 32 may require a solicitor to pay interest, or sums in lieu of and equivalent to interest, to a client, any other person or any trust, for whom the solicitor holds money.]

(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; ^{F25} . . .

[^{F26}(3) Except as provided by the rules, a solicitor is not liable to account to any client, other person or trust for interest received by the solicitor 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) the solicitor's clients, other persons or trusts, generally, or
- (b) that client, person or trust, separately.]

[^{F27}(4) Rules under section 32 may—

- (a) prescribe the circumstances in which a solicitor may make arrangements to limit or exclude an obligation imposed on the solicitor by rules made by virtue of this section, and
- (b) prescribe the requirements to be met by and in relation to those arrangements.]

Textual Amendments

F24 S. 33(1) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, Sch. 16 para. 33(2) (with ss. 29, 192, 193); S.I. 2009/503, art. 2(b)(i)

F25 Words in s. 33(2) repealed (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 210, 211, Sch. 16 para. 33(3), Sch. 23 (with ss. 29, 192, 193); S.I. 2009/503, art. 2(b)(i)

F26 S. 33(3) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, Sch. 16 para. 33(4) (with ss. 29, 192, 193); S.I. 2009/503, art. 2(b)(i)

F27 S. 33(4) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, Sch. 16 para. 33(5) (with ss. 29, 192, 193); S.I. 2009/503, art. 2(b)(i)

Modifications etc. (not altering text)

C8 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))

[^{F28}33A Inspection of practice bank accounts etc.

(1) The [^{F29}Society] may make rules ^{F30} . . . empowering the [^{F29}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 [^{F29}Society] pursuant to the rules.

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- (2) The [^{F31}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

- F28** 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)**
- F29** 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)**
- F30** Words in s. 33A(1) repealed (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 177, 210, 211, Sch. 16 para. 33(2)(b), **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(i)(ii)(hh)** (with art. 9)
- F31** 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)

- C9** S. 33A extended (with modifications) (1.7.2009) by The Registered Foreign Lawyers Order 2009 (S.I. 2009/1589), **art. 3(2)(g)**, Sch.
- C10** S. 33A 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)**)
- C11** 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)**)

34 Accountants' reports.

[^{F32}(1) The Society may make rules requiring solicitors to provide the Society with reports signed by an accountant (in this section referred to as an “accountant's report”) at such times or in such circumstances as may be prescribed by the rules.

(2) The rules may specify requirements to be met by, or in relation to, an accountant's report (including requirements relating to the accountant who signs the report).]

(6) If any solicitor fails to comply with the provisions of [^{F33}any rules made under this section], a complaint in respect of that failure may be made to the Tribunal by or on behalf of the Society.

(7) ^{F34}

(8) ^{F34}

[^{F35}(9) Where an accountant, during the course of preparing an accountant's report—

- (a) discovers evidence of fraud or theft in relation to money held by a solicitor for a client or any other person (including money held on trust) or money held in an account of a client of a solicitor, or an account of another person, which is operated by the solicitor, or
- (b) obtains information which the accountant has reasonable cause to believe is likely to be of material significance in determining whether a solicitor is a fit and proper person to hold money for clients or other persons (including

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money held on trust) or to operate an account of a client of the solicitor or an account of another person,

the accountant must immediately give a report of the matter to the Society.

(10) No duty to which an accountant is subject is to be regarded as contravened merely because of any information or opinion contained in a report under subsection (9).]

Textual Amendments

- F32** S. 34(1)(2) substituted (31.3.2009) for s. 34(1)-(5A) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 35(2)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(i)**
- F33** Words in s. 34(6) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 35(3)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(i)**
- F34** S. 34(7)(8) repealed (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 210, 211, Sch. 16 para. 35(4), **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(i)(f)(ii)(aa)**
- F35** S. 34(9)(10) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 35(5)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(i)**

Modifications etc. (not altering text)

- C12** 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) (as amended (1.7.2009) by The Legal Services Act 2007 (Registered European Lawyers) Order 2009 (S.I. 2009/1587), **art. 3(4)**)
- C13** S. 34 applied by Courts and Legal Services Act 1990 (c. 41), Sch. 14 para. 8 (as substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 134** (with ss. 29, 192, 193)); S.I. 2009/503, **art. 2(b)(iii)**
- C14** S. 34(6) 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)**)
- C15** S. 34(9) extended (with modifications) (1.7.2009) by The Registered Foreign Lawyers Order 2009 (S.I. 2009/1589), **art. 3(2)(h)**, Sch.
- C16** S. 34(9) 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)(i)**)
- C17** S. 34(9) applied by Administration of Justice Act 1985 (c. 61), Sch. 2 paras. 5, 5A (as substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 paras. 92, 93** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(ii)**)
- C18** S. 34(10) modified (1.7.2009) by S.I. 2000/1119, Sch. 4 para. 7(2A) (as inserted by The Legal Services Act 2007 (Registered European Lawyers) Order 2009 (S.I. 2009/1587), **art. 3(7)(d)**)
- C19** S. 34(10) extended (with modifications) (1.7.2009) by The Registered Foreign Lawyers Order 2009 (S.I. 2009/1589), **art. 5(a)**
- C20** S. 34(10) applied by Administration of Justice Act 1985 (c. 61), Sch. 2 paras. 5, 5A (as substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 paras. 92, 93** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(ii)**)

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f^{F36} *Sole solicitors*

Textual Amendments

F36 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)

C21 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 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—

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- (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)

C22 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)

C23 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))

[^{F37}36 Compensation grants.

- (1) The Society may make rules concerning the grant of compensation by the Society in respect of loss that a person has suffered, or is likely to suffer, as a result of—
- (a) an act or omission of a solicitor or former solicitor;
 - (b) an act or omission of an employee or former employee of a solicitor or former solicitor;
 - (c) the exercise by the Society of any of its powers under Part 2 of Schedule 1.
- (2) The rules may (among other things) make provision—
- (a) as to the circumstances in which such grants may and may not be made;
 - (b) as to the form and manner in which a compensation claim is to be made;
 - (c) as to the procedure for determining compensation claims;
 - (d) for the making of grants in respect of a compensation claim before it is finally determined;
 - (e) for a grant to be made by way of loan in such circumstances and on such terms as may be prescribed in, or determined in accordance with, the rules;
 - (f) for a grant to be made by way of making good a deficiency in monies held in trust by the Society under paragraph 6 or 6A of Schedule 1;
 - (g) as to the minimum and maximum grants payable in respect of a compensation claim (or a claim of a prescribed description);

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- (h) for the Society to be subrogated, to such extent as may be prescribed, to any rights and remedies of a person to whom a grant is made in relation to the loss in respect of which the grant is made.
- (3) The circumstances which may be prescribed by virtue of subsection (2)(a) include in particular—
- (a) the nature of the loss;
 - (b) in a case within subsection (1)(a) or (b), the nature of the act or omission.
- (4) For the purposes of subsection (2)(f), there is a deficiency if the monies mentioned in that subsection are insufficient to satisfy the claims of all persons with a beneficial interest in the monies.
- (5) The Society may prepare and publish guidance as to the criteria it will apply in deciding whether to make a grant in respect of a compensation claim, or any part of a compensation claim.
- (6) Where the Society decides—
- (a) not to make a grant in respect of a compensation claim or any part of a compensation claim, or
 - (b) to make a grant of less than the amount claimed,
- it must give reasons for its decision.
- (7) Rules under subsection (1) which are not regulatory arrangements within the meaning of the Legal Services Act 2007 are to be treated as such arrangements for the purposes of that Act.
- (8) In this section—
- “compensation claim” means a claim for the Society to make a grant of the kind mentioned in subsection (1);
 - “prescribed” means prescribed in rules under subsection (1).]

Textual Amendments

F37 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)

C24 S. 36 modified (13.7.2011) by [Legal Services Act 2007 \(The Law Society and The Council for Licensed Conveyancers\) \(Modification of Functions\) Order 2011 \(S.I. 2011/1716\)](#), art. 2(1), [Sch. para. 3](#)

C25 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](#) (as amended (1.7.2009) by [The Legal Services Act 2007 \(Registered European Lawyers\) Order 2009 \(S.I. 2009/1587\)](#), [art. 3\(8\)\(a\)\(i\)](#))

S. 36 extended (22.5.2000) by [S.I. 2000/1119](#), regs. 1, 37(3), [Sch. 4 paras. 1\(3\), 8](#) (as amended (1.7.2009) by [The Legal Services Act 2007 \(Registered European Lawyers\) Order 2009 \(S.I. 2009/1587\)](#), [art. 3\(4\)](#))

C26 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.](#) (as substituted (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 211, [Sch. 16 para. 132](#) (with ss. 29, 192, 193); [S.I. 2009/503](#), [art. 2\(b\)\(iii\)](#) (subject to art. 5))

Status: Point in time view as at 01/10/2012.

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

C27 S. 36 applied (with modifications) by Administration of Justice Act 1985 (c. 61), Sch. 2 para. 6(1) (as substituted (31.3.2004) 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)

[^{F38}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;
 - (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).]

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Textual Amendments

F38 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)

C28 [S. 36A](#) modified (13.7.2011) by [Legal Services Act 2007 \(The Law Society and The Council for Licensed Conveyancers\) \(Modification of Functions\) Order 2011 \(S.I. 2011/1716\)](#), [art. 2\(1\)](#), [Sch. para. 4](#)

C29 [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\(8\)\(a\)](#))

C30 [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 [^{F39}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—
- by a solicitor or former solicitor in connection with his practice or with any trust of which he is or formerly was a trustee;
 - 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—
- may authorise or require the Society to establish and maintain a fund or funds;
 - may authorise or require the Society to take out and maintain insurance with authorised insurers;
 - 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—
- 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;
 - 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;
 - 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);
 - may prescribe the conditions which an insurance policy must satisfy for the purposes of subsection (2)(c);
 - 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;

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- (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 [^{F40}Society] to take such steps as [^{F41}it considers] necessary or expedient to ascertain whether or not the rules are being [^{F42}, 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

- F39** 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)
- F40** 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)**
- F41** 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)**
- F42** 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)

- C31** 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)**)

[^{F43} Inadequate professional services]

Textual Amendments

- F43** 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

^{F44} [^{F45}
37A] Redress for inadequate professional services.
.....

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Textual Amendments

- F44** S. 37A repealed (6.10.2010) by [Legal Services Act 2007 \(c. 29\), s. 211\(2\), Sch. 16 para. 39, 23](#) (with ss. 29, 192, 193); [S.I. 2010/2089, art. 2\(b\)\(e\)\(ii\)](#) (with art. 6)
- F45** 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)

- C32** S. 37A amendment to earlier affecting provision [SI 2000/1119 Sch. 4 para. 7\(2\)](#) (6.10.2010 being the day on which [2007 c. 29, Sch. 16 para. 39](#) comes into force by virtue of [S.I. 2010/2089, art. 2\(b\)](#)) by [Legal Services Act 2007 \(Registered European Lawyers\) Order 2009 \(S.I. 2009/1587\), arts. 1\(1\)\(b\), 3\(7\)\(c\)\(ii\)](#)
- C33** S. 37A extended (22.5.2000) by [S.I. 2000/1119, regs. 1, 37\(3\), Sch. 4 para. 7\(2\)](#) (as amended (1.7.2009) by [The Legal Services Act 2007 \(Registered European Lawyers\) Order 2009 \(S.I. 2009/1587\), art. 3\(7\)\(c\)](#))

Restrictions on practice as solicitor

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

(1) Subject to the provisions of this section, it shall not be lawful for any solicitor who is one of the justices of the peace [^{F46}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) ^{F47}

(3) ^{F47}

[^{F48}(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) [^{F49}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 [^{F50}acting in] that area as solicitor or agent for the solicitor of any person concerned in those proceedings.]

^{F51}(4)

Textual Amendments

- F46** 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](#)
- F47** 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](#)
- F48** 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](#)
- F49** 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](#)
- F50** 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](#)

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F51 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)

C34 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)**)

C35 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**

F52³⁹

Textual Amendments

F52 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.

F53

Textual Amendments

F53 S. 40 repealed (1.7.2009) by Legal Services Act 2007 (c. 29), ss. 177, 210, 211, Sch. 16 para. 40, **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/1365, **art. 2(a)(i)(c)(i)**

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.

[^{F54}(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.]

[^{F55}(1B) Where—

- (a) a solicitor (“the employed solicitor”) is employed by another solicitor in accordance with a written permission granted under this section, and
- (b) the employed solicitor is disqualified from practising as a solicitor by reason of a fact mentioned in subsection (1)(b) or (c),

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section 20(1) does not apply in relation to anything done by the employed solicitor in the course of that employment.]

- (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 [^{F56}High Court which] 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 [^{F57}it] 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 [^{F58} may—
 - (a) order that his name be struck off the roll,
 - (b) order that he be suspended from practice for such period as the Tribunal or court thinks fit, or
 - (c) make such other order in the matter as it thinks fit.]
- [^{F59}(4A) In relation to an appeal under subsection (3) the High Court may make such order as it thinks fit as to payment of costs.
- (4B) The decision of the High Court on an appeal under subsection (3) shall be final.]
- (5) ^{F60}

Textual Amendments

- F54** S. 41(1A) inserted by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 125(3), **Sch. 18 para. 14**
- F55** S. 41(1B) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 210, **Sch. 16 para. 41(2)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(i)**
- F56** Words in s. 41(3) substituted (1.7.2009) by Legal Services Act 2007 (c. 29), ss. 177, 210, **Sch. 16 para. 41(3)(a)** (with ss. 29, 192, 193); S.I. 2009/1365, **art. 2(a)(iii)** (subject to art. 4)
- F57** Word in s. 41(3)(b) substituted (1.7.2009) by Legal Services Act 2007 (c. 29), ss. 177, 210, **Sch. 16 para. 41(3)(b)** (with ss. 29, 192, 193); S.I. 2009/1365, **art. 2(a)(iii)** (subject to art. 4)
- F58** Words in s. 41(4) substituted (1.7.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 41(4)** (with ss. 29, 192, 193); S.I. 2009/1365, **art. 2(a)(iii)** (subject to art. 4)
- F59** S. 41(4A)(4B) inserted (1.7.2009) by Legal Services Act 2007 (c. 29), ss. 177, 210, **Sch. 16 para. 41(5)** (with ss. 29, 192, 193); S.I. 2009/1365, **art. 2(a)(iii)** (subject to art. 4)
- F60** S. 41(5) repealed (1.7.2009) by Legal Services Act 2007 (c. 29), ss. 177, 210, 211, **Sch. 16 para. 41(6), Sch. 23** (with ss. 29, 192, 193); S.I. 2009/1365, **art. 2(c)(i)** (subject to art. 4)

Modifications etc. (not altering text)

- C36** S. 41 extended (with modifications) (1.7.2009) by The Registered Foreign Lawyers Order 2009 (S.I. 2009/1589), **art. 5(b)**
- C37** 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**
- C38** S. 41 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)**)

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

(1) Any person who, while he is disqualified from practising as a solicitor by reason of the fact that—

- (a) his name has been struck off the roll, or
 - (b) he is suspended from practising as a solicitor, or
 - (c) his practising certificate is suspended while he is an undischarged bankrupt,
- seeks or accepts employment by a solicitor in connection with that solicitor's practice without previously informing him that he is so disqualified shall be guilty of an offence and liable on summary conviction to a fine not exceeding [^{F61}level 3 on the standard scale].

[^{F62}(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 [^{F63}the ^{M1}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

- F61** Words substituted by virtue of [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **ss. 38, 46**
- F62** [S. 42\(1A\)](#) inserted by [Courts and Legal Services Act 1990 \(c. 41, SIF 37\)](#), s. 125(3), **Sch. 18 para. 15**
- F63** Words substituted by [Magistrates' Courts Act 1980 \(c. 43, SIF 82\)](#), s. 154, **Sch. 7 para. 132**

Modifications etc. (not altering text)

- C39** [S. 42](#) extended (with modifications) (1.7.2009) by [The Registered Foreign Lawyers Order 2009 \(S.I. 2009/1589\)](#), **art. 5(c)**
- C40** [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)**
- C41** [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 [^{F64}solicitors' employees and consultants].

[^{F65}(1) Where a person who is or was involved in a legal practice but is not a solicitor—

- (a) has been convicted of a criminal offence which is such that in the opinion of the Society it would be undesirable for the person to be involved in a legal practice in one or more of the ways mentioned in subsection (1A), or
- (b) has, in the opinion of the Society, occasioned or been a party to, with or without the connivance of a solicitor, an act or default in relation to a legal practice which involved conduct on his part of such a nature that in the opinion

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of the Society it would be undesirable for him to be involved in a legal practice in one or more of the ways mentioned in subsection (1A), the Society may either make, or make an application to the Tribunal for it to make, an order under subsection (2) with respect to that person.

- (1A) A person is involved in a legal practice for the purposes of this section if the person—
- (a) is employed or remunerated by a solicitor in connection with the solicitor's practice;
 - (b) is undertaking work in the name of, or under the direction or supervision of, a solicitor;
 - (c) is employed or remunerated by a recognised body;
 - (d) is employed or remunerated by a manager or employee of a recognised body in connection with that body's business;
 - (e) is a manager of a recognised body;
 - (f) has or intends to acquire an interest in such a body.
- (2) An order made by the Society or the Tribunal under this subsection is an order which states one or more of the following—
- (a) that as from the specified date—
 - (i) no solicitor shall employ or remunerate, in connection with his practice as a solicitor, the person with respect to whom the order is made,
 - (ii) no employee of a solicitor shall employ or remunerate, in connection with the solicitor's practice, the person with respect to whom the order is made,
 - (iii) no recognised body shall employ or remunerate that person, and
 - (iv) no manager or employee of a recognised body shall employ or remunerate that person in connection with the business of that body, except in accordance with a Society permission;
 - (b) that as from the specified date no recognised body or manager or employee of such a body shall, except in accordance with a Society permission, permit the person with respect to whom the order is made to be a manager of the body;
 - (c) that as from the specified date no recognised body or manager or employee of such a body shall, except in accordance with a Society permission, permit the person with respect to whom the order is made to have an interest in the body.
- (2A) The Society may make regulations prescribing charges to be paid to the Society by persons who are the subject of an investigation by the Society as to whether there are grounds for the Society—
- (a) to make an order under subsection (2), or
 - (b) to make an application to the Tribunal for it to make such an order.
- (2B) Regulations under subsection (2A) may—
- (a) make different provision for different cases or purposes;
 - (b) provide for the whole or part of a charge payable under the regulations to be repaid in such circumstances as may be prescribed by the regulations.
- (2C) Any charge which a person is required to pay under regulations under subsection (2A) is recoverable by the Society as a debt due to the Society from the person.]

Status: Point in time view as at 01/10/2012.

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

- [^{F66}(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 [^{F67}subsection (2) by the Society, or made, varied or confirmed under this section by the Tribunal and filed with the Society,] may be inspected ^{F68}. . . during office hours without payment ^{F69}. . . .

[^{F70}(5A) In this section—

“manager”, in relation to a recognised body, has the same meaning as it has in relation to a body in the Legal Services Act 2007 (see section 207 of that Act);

“recognised body” means a body recognised under section 9 of the Administration of Justice Act 1985;

“specified date” means such date as may be specified in the order;

“Society permission” means 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.

- (5B) A person has an interest in a recognised body for the purposes of this section if the person has an interest in that body within the meaning of Part 5 of the Legal Services Act 2007 (see sections 72 and 109 of that Act).]

^{F71}(6)

- (7) For the purposes of this section an order [^{F72}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

F64 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)**

F65 S. 43(1)-(2C) substituted (31.3.2009) for s. 43(1)(1A)(2) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 42(2)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(i)**

F66 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)**

F67 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)**

Status: Point in time view as at 01/10/2012.

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

- F68** Words in s. 43(5) repealed (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 210, 211, Sch. 16 para. 42(3)(a), **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(i)(f)(ii)(aa)** (subject to art. 4)
- F69** Words in s. 43(5) repealed (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 210, 211, Sch. 16 para. 42(3)(b), **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(i)(f)(ii)(aa)** (subject to art. 4)
- F70** S. 43(5A)(5B) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 42(4)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(i)** (subject to art. 4)
- F71** 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
- F72** 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)

- C42** 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) (as amended (1.7.2009) by The Legal Services Act 2007 (Registered European Lawyers) Order 2009 (S.I. 2009/1587), **art. 3(7)(e)**)

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

- [^{F73}(1) It is an offence for a person in respect of whom there is in force an order under section 43(2) which contains provision within section 43(2)(a)—
- (a) to seek or accept any employment or remuneration from a solicitor, or an employee of a solicitor, in connection with the practice carried on by that solicitor without previously informing the solicitor or employee of the order;
 - (b) to seek or accept any employment or remuneration from a recognised body, or a manager or employee of a recognised body, in connection with that body's business, without previously informing the body, or manager or employee, of the order.
- (1A) It is an offence for a person in respect of whom there is in force an order under section 43(2) which contains provision within section 43(2)(b) to seek or accept a position as a manager of a recognised body, without previously informing that body of the order.
- (1B) It is an offence for a person in respect of whom there is in force an order under section 43(2) which contains provision within section 43(2)(c) to seek or accept an interest in a recognised body from any person, without previously informing that person and (if different) the recognised body of the order.
- (1C) A person guilty of an offence under subsection (1), (1A) or (1B) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.]
- (2) Where [^{F74}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 [^{F75}the taking of any action] 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.

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(4) Notwithstanding anything in [^{F76}the ^{M2}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.

[^{F77}(5) In this section—

“manager” has the same meaning as in section 43;

“recognised body” means a body recognised under section 9 of the Administration of Justice Act 1985;

and for the purposes of subsection (1B) a person seeks or accepts an interest in a recognised body if the person seeks or accepts an interest which if it were obtained by the person would result in the person having an interest in that body within the meaning of Part 5 of the Legal Services Act 2007 (see sections 72 and 109 of that Act).]

Textual Amendments

- F73** S. 44(1)-(1C) substituted (31.3.2009) for s. 44(1) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 43(a)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(i)**
- F74** 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)**
- F75** Words in s. 44(2) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 43(b)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(i)**
- F76** Words substituted by Magistrates' Courts Act 1980 (c. 43, SIF 82), s. 154, **Sch. 7 para. 132**
- F77** S. 44(5) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 43(c)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(i)**

Modifications etc. (not altering text)

- C43** S. 44 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)**)
- C44** 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**
- C45** S. 44(1) applied (with modifications) by Administration of Justice Act 1985 (c. 61), Sch. 2 para. 18A(6) (as inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 107** (with ss. 29, 192, 193)); S.I. 2009/503, **art. 2(b)(ii)** (subject to art. 4)
- C46** S. 44(2) applied (with modifications) by Administration of Justice Act 1985 (c. 61), Sch. 2 para. 18A(6) (as inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 107** (with ss. 29, 192, 193)); S.I. 2009/503, **art. 2(b)(ii)** (subject to art. 4)
- C47** 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**
- C48** S. 44(3)(4) applied (with modifications) by Administration of Justice Act 1985 (c. 61), Sch. 2 para. 18A(5) (as inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 107** (with ss. 29, 192, 193)); S.I. 2009/503, **art. 2(b)(ii)** (subject to art. 4)

Marginal Citations

- M2** 1980 c. 43.

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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)

[^{F78} Imposition by Council of disciplinary sanctions for inadequate professional services

Textual Amendments

F78 S. 44A added by Administration of Justice Act 1985 (c. 61, SIF 34), ss. 1, 69(5), **Sch. 9 para. 1**

^{F79} **44A]**

Textual Amendments

F79 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.**

[^{F80} Examination of files

Textual Amendments

F80 S. 44B added by Administration of Justice Act 1985 (c. 61, SIF 34), ss. 2, 69(5), **Sch. 9 para. 2**

^{F81} **44B** **Provision of information and documents by solicitors etc**

- (1) The Society may by notice require a person to whom this section applies—
 - (a) to provide information, or information of a description, specified in the notice, or
 - (b) produce documents, or documents of a description, specified in the notice.
- (2) This section applies to—
 - (a) a solicitor;
 - (b) an employee of a solicitor;
 - (c) a recognised body;
 - (d) an employee or manager of, or a person with an interest in, a recognised body.
- (3) The Society may give a notice under this section only if it is satisfied that it is necessary to do so for the purpose of investigating—
 - (a) whether there has been professional misconduct by a solicitor;
 - (b) whether a solicitor, or an employee of a solicitor, has failed to comply with any requirements imposed by or by virtue of this Act or any rules made by the Society;
 - (c) whether a recognised body, or any of its managers or employees has failed to comply with any requirement imposed by or by virtue of the Administration of Justice Act 1985 or any rules made by the Society and applicable to the body, manager or employee by virtue of section 9 of that Act;
 - (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

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person who is or was involved in a legal practice (within the meaning of section 43(1A)).

- (4) A notice under this section—
- (a) may specify the time and place at which, and manner and form in which, the information is to be provided or document is to be produced;
 - (b) must specify the period within which the information is to be provided or the document produced;
 - (c) may require the information to be provided or document to be produced to the Society or to a person specified in the notice.
- (5) The Society may pay to any person 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 a notice under this section.
- (6) Paragraphs 9(3) and (4) and 13, 15 and 16 of Schedule 1 apply in relation to the powers to obtain information conferred by this section, but for this purpose—
- (a) paragraph 9 of that Schedule has effect as if—
 - (i) in sub-paragraph (3) for “such documents” there were substituted “information to which a notice given to him under section 44B applies”;
 - (ii) in that sub-paragraph for “sub-paragraph (1)” there were substituted “the notice”, and
 - (iii) in sub-paragraph (4) for “produce” (in the first place) to the end there were substituted “provide information pursuant to a notice under section 44B to provide the information to any person appointed by the Society at such time and place as may be specified in the order.”; 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.
- (7) Paragraphs 9 (other than sub-paragraphs (1) and (3)), 12, 13, 15 and 16 of Schedule 1 apply in relation to the powers to obtain documents conferred by this section as they apply in relation to the powers conferred by paragraph 9(1) of that Schedule, except that for this purpose—
- (a) any reference in paragraph 9 of that Schedule to a person appointed, or to a requirement, under sub-paragraph (1) of that paragraph is to be construed as a reference to a person appointed, or to a requirement to produce documents, under this section,
 - (b) any reference in that paragraph to any such documents as are mentioned in paragraph 9(1) of that Schedule is to be construed as a reference to any documents to which a notice under this section applies,
 - (c) the references to the solicitor or his firm in paragraph 9(5) and (6) of that Schedule, and the reference to the solicitor or personal representative in paragraph 9(7) of that Schedule, are to be construed as references to the person to whom the notice was given under this section, and
 - (d) the reference in paragraph 9(12) of that Schedule to the Society is to be construed as including a reference to a person specified under subsection (4) (c).
- (8) Where powers conferred by Part 2 of Schedule 1 to the 1974 Act are exercisable in relation to a person within paragraph (a), (b), (c) or (d) of subsection (2), they continue

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to be so exercisable after the person has ceased to be a person within the paragraph in question.

(9) In this section—

“manager” has the same meaning as in the Legal Services Act 2007 (see section 207 of that Act);

“recognised body” means a body recognised under section 9 of the Administration of Justice Act 1985;

and the reference to a person who has an interest in a recognised body is to be construed in accordance with sections 72 and 109 of the Legal Services Act 2007.]]

Textual Amendments

F81 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)

C49 S. 44B extended in part (with modifications) (1.7.2009) by [The Registered Foreign Lawyers Order 2009 \(S.I. 2009/1589\)](#), [art. 3\(2\)\(i\)](#), Sch.

C50 S. 44B 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\(7\)\(c\)](#))

C51 S. 44B modified (temp.) (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 209, 211, [Sch. 22 para. 13](#) (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(e\)](#)

[^{F82}44BAPower to require explanation of document or information

- (1) The Society may, by notice, require a person to whom a notice is given under section 44B (or a representative of the person) to attend at a time and place specified in the notice to provide an explanation of any information provided or document produced pursuant to the notice.
- (2) The Society may pay to any person such reasonable costs as may be incurred by that person in connection with that person's compliance with a requirement imposed under subsection (1).
- (3) Paragraphs 9(3) and (4) and 13, 15 and 16 of Schedule 1 apply in relation to a notice under this section, except that for this purpose—
 - (a) paragraph 9 of that Schedule has effect as if—
 - (i) in sub-paragraph (3) for “having” to “sub-paragraph (1)” there were substituted “refuses, neglects or otherwise fails to comply with a requirement under section 44BA(1)”, and
 - (ii) in sub-paragraph (4) for “produce” (in the first place) to the end there were substituted “provide an explanation of any information provided or document produced pursuant to a notice under section 44B (or a representative of such a person) to attend at a time and place specified in the order to provide an explanation of any information so provided or document so produced.”, and
 - (b) the reference to the solicitor or his personal representative in paragraph 13 of that Schedule is to be construed as a reference to the person to whom the notice was given under this section.

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Textual Amendments

F82 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)

C52 [S. 44BA](#) extended (with modifications) (1.7.2009) by [The Registered Foreign Lawyers Order 2009 \(S.I. 2009/1589\)](#), [art. 5\(d\)](#)

C53 [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)

44BB Provision of information and documents by other persons

- (1) The High Court, on the application of the Society, may order a person to whom section 44B does not apply—
 - (a) to provide information, or information of a description, specified in the notice, or
 - (b) to produce documents, or documents of a description, specified in the notice.
- (2) The High Court may make an order under this section only if it is satisfied—
 - (a) that it is likely that the information or document is in the possession or custody of, or under the control of, the person, and
 - (b) that there is reasonable cause to believe that the information or document is likely to be of material significance to an investigation into any of the matters mentioned in section 44B(3)(a) to (d).
- (3) An order under this section may direct the Society to pay to a person specified in the order such reasonable costs as may be incurred by that person in connection with the provision of any information, or production of any document, by that person pursuant to the order.
- (4) Section 44B(4) applies in relation to an order under this section as it applies in relation to a notice under section 44B.
- (5) Paragraphs 9(5A) and (7) to (12), 12, 13, 15 and 16 of Schedule 1 apply in relation to an order under this section as they apply in relation to an order under paragraph 9(4) of that Schedule, except that for this purpose—
 - (a) the reference to the solicitor or personal representative in paragraph 9(7) of that Schedule is to be construed as a reference to the person in respect of whom the order under this section is made,
 - (b) the reference in paragraph 9(12) of that Schedule to the Society is to be read as including a reference to a person specified under section 44B(4)(c) (as applied by subsection (4) of this section), and
 - (c) the reference to the solicitor or his personal representative in paragraph 13 of that Schedule is to be construed as a reference to the person to whom the notice was given under this section.

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Textual Amendments

F82 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)

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

F82 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)

- C54** 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\(e\)](#)
- C55** 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))

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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)

- C56** 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))
- C57** 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))
- C58** 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))

^{F83} Costs of investigations

Textual Amendments

- F83** 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)**

Power to charge for costs of investigations.

F84F85 **44C**

- (1) The Society may make regulations prescribing charges to be paid to the Society by solicitors who are the subject of a discipline investigation.
- (2) A “discipline investigation” is an investigation carried out by the Society into—
- (a) possible professional misconduct by a solicitor, or
 - (b) 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 Society.
- (3) Regulations under this section may—
- (a) make different provision for different cases or purposes;
 - (b) provide for the whole or part of a charge payable under the regulations to be repaid in such circumstances as may be prescribed by the regulations.
- (4) Any charge which a solicitor is required to pay under regulations under this section is recoverable by the Society as a debt due to the Society from the solicitor.
- (5) This section (other than subsection (2)(a)) applies in relation to an employee of a solicitor as it applies in relation to a solicitor.]]

Textual Amendments

- F84** S. 44C substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 45** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(i)** (subject to art. 4)
- F85** 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)

- C59** 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)

C60 S. 44C(1)-(4) extended (with modifications) (1.7.2009) by [The Registered Foreign Lawyers Order 2009 \(S.I. 2009/1589\)](#), [art. 3\(2\)\(j\)](#), Sch.

^{F86}**45**

Textual Amendments

F86 S. 45 repealed by [Courts and Legal Services Act 1990 \(c. 41, SIF 76:1\)](#), s. 125(7), [Sch. 20](#)

^{F87}Disciplinary powers of the Society

Textual Amendments

F87 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

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- (b) if such an appeal has been made, until such time as it is determined or withdrawn.
- (7) The Society must make rules—
- (a) prescribing the circumstances in which the Society may decide to take action under subsection (2)(a) or (b);
 - (b) about the practice and procedure to be followed by the Society in relation to such action;
 - (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)

- C61** S. 44D extended (with modifications) (1.7.2009) by [The Registered Foreign Lawyers Order 2009 \(S.I. 2009/1589\)](#), [art. 3\(2\)\(k\)](#), Sch.
- C62** 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

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- to be read as if for “the applicant” to “application)” there were substituted any party to the appeal.
- (3) Rules under section 46(9)(b) may, in particular, make provision about the period during which an appeal under this section may be made.
 - (4) On an appeal under this section, the Tribunal has power to make such order as it thinks fit, and such an order may in particular—
 - (a) affirm the decision of the Society;
 - (b) revoke the decision of the Society;
 - (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)

- C63** 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)(e))
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—

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- (a) of practising solicitors of not less than ten years' standing (in this section referred to as "solicitor members"); and
 - (b) of persons who are neither solicitors nor barristers (in this section referred to as "lay members").
- (4) A member of the Tribunal shall hold and vacate his office in accordance with the terms of his appointment and shall, on ceasing to hold office, be eligible for re-appointment.
- [^{F88}(5) The Tribunal may pay its members such remuneration, fees or allowances as it may determine with the approval of the Legal Services Board.]
- [^{F89}(5A) The Tribunal may do anything calculated to facilitate, or incidental or conducive to, the carrying out of any of its functions.]
- (6) ^{F90}
- (7) ^{F90}
- (8) ^{F90}
- (9) ^{F91} [^{F92}The] Tribunal . . . 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 [^{F93}(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 ^{M3}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.

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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

- F88** 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)
- F89** 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)
- F90** 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)
- F91** 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)
- F92** 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)
- F93** 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)

- C64** 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.
- C65** 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](#)
- C66** S. 46(9)(b) applied (30.11.2011) by [The Legal Services Act 2007 \(Appeals from Licensing Authority Decisions\) \(No.2\) Order 2011 \(S.I. 2011/2863\)](#), arts. 2(1), [4\(3\)](#)
- C67** S. 46(10)(a)(b) applied (30.11.2011) by [The Legal Services Act 2007 \(Appeals from Licensing Authority Decisions\) \(No.2\) Order 2011 \(S.I. 2011/2863\)](#), arts. 2(1), [4\(3\)](#)
- C68** 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\(10\)](#))
- C69** 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](#)
- C70** S. 46(11) applied (with modifications) (with effect in accordance with art. 2(2) of the commencing S.I.) by [The Legal Services Act 2007 \(Appeals from Licensing Authority Decisions\) \(No.2\) Order 2011 \(S.I. 2011/2863\)](#), arts. 2(1), [4\(4\)](#)
- C71** 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.
- C72** S. 46(12) applied (30.11.2011) by [The Legal Services Act 2007 \(Appeals from Licensing Authority Decisions\) \(No.2\) Order 2011 \(S.I. 2011/2863\)](#), arts. 2(1), [4\(3\)](#)

Marginal Citations

- M3** 1946 c. 36.

[^{F94} 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).

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- (3) Before approving a statement for the purposes of subsection (1) the Legal Services Board must consult the Society.
- (4) The budget for a year must be submitted to the Society under subsection (1) no later than the date in the preceding year specified by the Society for the purposes of this subsection.
- (5) Before specifying a date for this purpose the Society must consult the Tribunal.
- (6) The amount specified in a budget submitted under subsection (1) must be paid by the Society to the Tribunal—
 - (a) in such instalments and at such times as may be agreed between the Society and the Tribunal, or
 - (b) in the absence of such agreement, before the beginning of the year to which the budget relates.
- (7) The Society may pay the Tribunal such other amounts as the Society considers appropriate.
- (8) In this section “year” means a calendar year.]

Textual Amendments

F94 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.

[^{F95}(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;
- [^{F96}(ea) by a solicitor who has been suspended from practice as a sole solicitor for an unspecified period, by order of the Tribunal, for the termination of that suspension;]
- (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 [^{F97}subsections (2E) and](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

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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;
- ^{F98}(ba) [the revocation of that solicitor's sole solicitor endorsement (if any);
- (bb) the suspension of that solicitor from practice as a sole solicitor indefinitely or for a specified period;]
- (c) the payment by that solicitor or former solicitor of a penalty ^{F99} . . . , which shall be forfeit to Her Majesty;
- (d) in the circumstances referred to in subsection (2A), the exclusion of that solicitor from [^{F100}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;
- ^{F101}(ea) [the termination of that solicitor's unspecified period of suspension from practice as a sole solicitor;]
- (f) the restoration to the roll of the name of a former solicitor whose name has been struck off the roll and to whom the application relates;
- (g) in the case of a former solicitor whose name has been removed from the roll, a direction prohibiting the restoration of his name to the roll except by order of the Tribunal;
- (h) in the case of an application under subsection (1)(f), the restoration of the applicant's name to the roll;
- (i) the payment by any party of costs or a contribution towards costs of such amount as the Tribunal may consider reasonable.]

^{F102}(2A) An order of the Tribunal may make provision for the exclusion of a solicitor from [^{F103}providing representation] as mentioned in subsection [^{F104}(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 [^{F105}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 [^{F106}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) ^{F107} . . . unless an opportunity is given to him to show cause why the order should not be made.

(2D) Any person excluded from [^{F108}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 ^{F109}]

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- [^{F110}(2E) On the hearing of any complaint made to the Tribunal by virtue of section 34A(2) or (3), the Tribunal shall have power to make one or more of the following—
- (a) an order directing the payment by the employee to whom the complaint relates of a penalty to be forfeited to Her Majesty;
 - (b) an order requiring the Society to consider taking such steps as the Tribunal may specify in relation to that employee;
 - (c) if that employee is not a solicitor, an order which states one or more of the matters mentioned in paragraphs (a) to (c) of section 43(2);
 - (d) an order requiring the Society to refer to an appropriate regulator any matter relating to the conduct of that employee.
- (2F) Subsections (1) to (1C), (3) and (4) of section 44 apply in relation to an order under subsection (2E)(c) as they apply in relation to an order under section 43(2).
- (2G) Section 44(2), paragraph 16(1)(d) and (1A)(d) of Schedule 2 to the Administration of Justice Act 1985 and paragraph 15(3A) of Schedule 14 to the Courts and Legal Services Act 1990 apply in relation to an order under subsection (2E)(c) as they apply in relation to an order under section 43(2).
- (2H) For the purposes of subsection (2E)(d) an “ appropriate regulator ” in relation to an employee means—
- (a) if the employee is an authorised person in relation to a reserved legal activity (within the meaning of the Legal Services Act 2007), any relevant approved regulator (within the meaning of that Act) in relation to that employee, and
 - (b) if the employee carries on activities which are not reserved legal activities (within the meaning of that Act), any body which regulates the carrying on of such activities by the employee.]
- (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.
- [^{F111}(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.]
- [^{F112}(3B) For the avoidance of doubt, nothing in this section permits the Tribunal to make an order requiring redress to be made in respect of any act or omission of any person.]
- (4) ^{F113}
- (5) ^{F113}
- ^{F114}(6)

Textual Amendments

- F95** S. 47(1)(2) substituted by [Courts and Legal Services Act 1990 \(c. 41, SIF 76:1\)](#), **s. 92(2)**
- F96** S. 47(1)(ea) inserted (1.7.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 211, **Sch. 16 para. 49(a)** (with ss. 29, 192, 193); S.I. 2009/1365, **art. 2(a)(ii)**
- F97** Words in s. 47(2) substituted (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 211, **Sch. 16 para. 49(b)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(i)**

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- F98** S. 47(2)(ba)(bb) inserted (1.7.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 49(c)** (with ss. 29, 192, 193), {art. 2(a)(i)}
- F99** Words in s. 47(2)(c) repealed (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 210, 211, Sch. 16 para. 49(d), **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(i)(f)(ii)**
- F100** 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)
- F101** S. 47(2)(ea) inserted (1.7.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 49(e)** (with ss. 29, 192, 193); S.I. 2009/1365, **art. 2(a)(i)**
- F102** 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)**)
- F103** 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)
- F104** Words substituted by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), **s. 92(3)**
- F105** 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**
- F106** 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)
- F107** 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)
- F108** 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)
- F109** 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)
- F110** S. 47(2E)–(2H) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 49(f)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(i)** (subject to art. 4)
- F111** S. 47(3A) inserted by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), **s. 92(4)**
- F112** S. 47(3B) inserted (1.10.2011) by Legal Services Act 2007 (c. 29), s. 211(2), **Sch. 16 para. 49(g)** (with ss. 29, 192, 193); S.I. 2011/2196, **art. 2(1)(f)**
- F113** S. 47(4)(5) repealed (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 210, 211, Sch. 16 para. 49(h), **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(i)(f)(i)**
- F114** 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)

- C73** S. 47 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)**)
- C74** S. 47(1) extended in part (with modifications) (1.7.2009) by The Registered Foreign Lawyers Order 2009 (S.I. 2009/1589), **art. 3(2)(m)**, Sch.
- C75** S. 47(2) extended by Administration of Justice Act 1985 (c. 61, SIF 34), ss. 43(2), 69(5), **Sch. 9 para. 9**

^{F115}47A

Textual Amendments

- F115** 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.**

Status: Point in time view as at 01/10/2012.

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

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 ^{F116}(a) to (i) of section 47(2), the Society—
 - (a) shall cause a note of the effect of the order to be entered on the roll against the name of the solicitor ^{F117}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 ^{F118}paragraph (e), ^{F119}(ea),(f), (h) or (i) of section 47(2)], shall forthwith upon filing the order cause a notice stating its effect to be published ^{F120}. . . .
- (3) ^{F121}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.
- ^{F122}(5) In the case of orders of the Tribunal under section 44E, the reference in subsection (2) (a) to the application or complaint is to be read as a reference to the Tribunal's order.]

Textual Amendments

- F116** 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)
- F117** S. 48(2)(a): words inserted by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 92(5)(b)
- F118** S. 48(2)(b): words substituted by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 92(5)(c)
- F119** Words in s. 48(2)(b) inserted (1.7.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, Sch. 16 para. 50(a)(i) (with ss. 29, 192, 193); S.I. 2009/1365, art. 2(a)(i)
- F120** 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)
- F121** Words in s. 48(3) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, Sch. 16 para. 50(b) (with ss. 29, 192, 193); S.I. 2009/503, art. 2(b)(i)
- F122** S. 48(5) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, Sch. 16 para. 50(c) (with ss. 29, 192, 193); S.I. 2009/503, art. 2(b)(i)

Modifications etc. (not altering text)

- C76** S. 48 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))

49 Appeals from Tribunal.

- (1) An appeal from the Tribunal shall^{F123} lie to the High Court].
- (2) Subject to subsection (3) ^{F124}and to section 43(5) of the Administration of Justice Act 1985], 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.

Status: Point in time view as at 01/10/2012.

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

- (3) An appeal against an order under section ^{F125}43(3A)] shall lie only at the instance of the person with respect to whom the ^{F126}order] was made.
- (4) The High Court ^{F127}. . . shall have power to make such order on an appeal under this section as ^{F128}it] 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,
- ^{F129}(6) Any decision of the High Court—
 - (a) on an application under section 43(3) or 47(1)(d), (e), (ea) or (f), or
 - (b) against an order under section 43(3A),shall be final.]
- (7) ^{F130}

Textual Amendments

- F123** Words in s. 49(1) substituted (1.7.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 51(2)** (with ss. 29, 192, 193); S.I. 2009/1365, **art. 2(a)(iii)** (subject to art. 4)
- F124** Words in s. 49(2) inserted (1.7.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 51(3)** (with ss. 29, 192, 193); S.I. 2009/1365, **art. 2(a)(iii)** (subject to art. 4)
- F125** 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)**
- F126** 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)**
- F127** Words in s. 49(4) repealed (1.7.2009) by Legal Services Act 2007 (c. 29), ss. 177, 210, 211, Sch. 16 para. 51(5)(a), **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/1365, **art. 2(a)(iii)** (subject to art. 4)
- F128** Word in s. 49(4) substituted (1.7.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 51(5)(b)** (with ss. 29, 192, 193); S.I. 2009/1365, **art. 2(a)(iii)** (subject to art. 4)
- F129** S. 49(6) substituted (1.7.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 51(6)** (with ss. 29, 192, 193); S.I. 2009/1365, **art. 2(a)(iii)** (subject to art. 4)
- F130** S. 49(7) repealed (1.7.2009) by Legal Services Act 2007 (c. 29), ss. 177, 210, 211, Sch. 16 para. 51(7), **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/1365, **art. 2(a)(iii)** (subject to art. 4)

Modifications etc. (not altering text)

- C77** 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 (as amended (1.7.2009)
by The Legal Services Act 2007 (Registered European Lawyers) Order 2009 (S.I. 2009/1587), **art. 3(10)**

^{F131}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);

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- (b) section 13A(6);
 - (c) section 16(5);
 - (d) section 28(3D);
 - (e) section 41(3);
 - (f) paragraph 14 of Schedule 14 to the Courts and Legal Services Act 1990 (foreign lawyers: appeals against conditions or refusals).
- (3) Any decision of the Tribunal on an appeal by virtue of rules made under this section shall be final.]

Textual Amendments

F131 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 [^{F132}Senior Courts] over solicitors.

- (1) Any person duly admitted as a solicitor shall be an officer of the [^{F133}Senior Courts]
^{F134}
- (2) Subject to the provisions of this Act, the High Court, the Crown Court and the Court of Appeal respectively, or any division or judge of those courts, may exercise the same jurisdiction in respect of solicitors as any one of the superior courts of law or equity from which the [^{F135}Senior Courts were] constituted might have exercised immediately before the passing of the ^{M4}Supreme Court of Judicature Act 1873 in respect of any solicitor, attorney or proctor admitted to practise there.
- [^{F136}(3) An appeal shall lie to the Court of Appeal from any order made against a solicitor by the High Court or the Crown Court in the exercise of its jurisdiction in respect of solicitors under subsection (2).]

Textual Amendments

- F132** S. 50 side-note: words substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 59, 148, **Sch. 11 para. 21(5)(a)**; S.I. 2009/1604, **art. 2(b)(d)**
- F133** Words in s. 50(1) substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 59, 148, **Sch. 11 para. 21(5)(a)**; S.I. 2009/1604, **art. 2(b)(d)**
- F134** Words repealed by Supreme Court Act 1981 (c. 54, SIF 37), s. 152(4), **Sch. 7**
- F135** Words in s. 50(2) substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 59, 148, **Sch. 11 para. 21(5)(b)**; S.I. 2009/1604, **art. 2(b)(d)**
- F136** S. 50(3) inserted by Supreme Court Act 1981 (c. 54, SIF 37), **s. 147**

Modifications etc. (not altering text)

- C78** S. 50(2)(3) 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)**)

Status: Point in time view as at 01/10/2012.

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

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)

C79 S. 51 extended (22.5.2000) by S.I. 2000/1119, regs. 1, 37(3), Sch. 4 para. 10 (as amended (1.7.2009) by The Legal Services Act 2007 (Registered European Lawyers) Order 2009 (S.I. 2009/1587), art. 3(10))

52 Power of Society to draw up order of court.

Where an order, whether nisi or absolute, is made by the High Court or the Court of Appeal on a motion to strike the name of a solicitor off the roll, or to require a solicitor to answer allegations contained in an affidavit, and that order is not drawn up by the applicant within one week of its being made, the Society may cause the order to be drawn up, and all future proceedings on the order shall be taken as if the motion had been made by the Society.

Modifications etc. (not altering text)

C80 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))

Status: Point in time view as at 01/10/2012.

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

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)

C81 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 [^{F137}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—
- [^{F138}(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.]

Textual Amendments

F137 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)

F138 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.

Status: Point in time view as at 01/10/2012.

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

Modifications etc. (not altering text)

C82 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 01/10/2012.

Changes to legislation:

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