



# Solicitors Act 1974

## 1974 CHAPTER 47

### PART IV

#### MISCELLANEOUS AND GENERAL

#### *Supplementary*

VALID FROM 31/03/2009

#### **[<sup>F1</sup>86A Rules**

- (1) Rules made by the Society under this Act may —
- (a) make provision generally or subject to exceptions or only in relation to specified cases;
  - (b) make different provision for different cases or circumstances or for different purposes.
- (2) Without prejudice to the generality of subsection (1), any rules prescribing a fee may provide for that fee to be reduced or waived in such circumstances as may be specified in the rules.]

#### **Textual Amendments**

- F1** S. 86A inserted (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 211, [Sch. 16 para. 74](#) (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(b\)\(i\)](#)

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

- C1** S. 86A applied by [Administration of Justice Act 1985 \(c. 61\)](#), s. 9(2J) (as inserted (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 211, [Sch. 16 para. 81\(5\)](#) (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(b\)\(ii\)](#) (subject to [art. 4](#))

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

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## 87 Interpretation.

(1) In this Act, except where the context otherwise requires,—

“articles” means written articles of clerkship binding a person to serve a solicitor as an articulated clerk;

[<sup>F2</sup>“authorised insurer” means a person who—

- (a) is permitted under the Insurance Companies Act 1982 to carry on insurance business of class 13 in Schedule 2 to that Act or, being an insurance company the head office of which is in a member State, is permitted under the law of a member State other than the United Kingdom to carry on insurance business of a corresponding class; or
- (b) is permitted under the Insurance Companies Act 1982 to carry on insurance business of classes 1, 2, 14, 15, 16 and 17 in that Schedule or, being an insurance company the head office of which is in a member State, is permitted under the law of a member State other than the United Kingdom to carry on insurance business of corresponding classes.]

“bank” means—

- (a) the Bank of England [<sup>F3</sup>the Post Office, in the exercise of its powers to provide banking services, or [<sup>F4</sup>an institution authorised under the Banking Act 1987]]; <sup>F5</sup> . . .
- (b) <sup>F6</sup> . . . . .
- (c) <sup>F7</sup> . . . . .

[<sup>F8</sup>“building society” means a building society within the meaning of the Building Societies Act 1986; and a reference to an account with a building society is a reference to a deposit account.

“the Charter” means the Royal Charter dated 26th February 1845, whereby the Society was incorporated, together with the Royal Charters supplemental to it dated respectively 26th November 1872, 4th June 1903, 2nd June 1909 and 10th March 1954;

“client” includes—

- (a) in relation to contentious business, any person who as a principal or on behalf of another person retains or employs, or is about to retain or employ, a solicitor, and any person who is or may be liable to pay a solicitor’s costs;
- (b) in relation to non-contentious business, any person who, as a principal or on behalf of another, or as a trustee or executor, or in any other capacity, has power, express or implied, to retain or employ, and retains or employs or is about to retain or employ, a solicitor, and any person for the time being liable to pay to a solicitor for his services any costs;

“client account” means an account in the title of which the word “client” is required by rules under section 32;

“contentious business” means business done, whether as solicitor or advocate, in or for the purposes of proceedings begun before a court or before an arbitrator appointed under the <sup>M1</sup>Arbitration Act 1950, not being business which falls within the definition of non-contentious or common form probate business contained in [<sup>F9</sup>section 128 of the <sup>M2</sup>Supreme Court Act 1981];

“contentious business agreement” means an agreement made in pursuance of section 59;

“controlled trust”, in relation to a solicitor, means a trust of which he is a sole trustee or co-trustee only with one or more of his partners or employees;

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“costs” includes fees, charges, disbursements, expenses and remuneration;  
“the Council” means the Council of the Society elected in accordance with the provisions of the Charter and this Act;

“duly certificated notary public” means a notary public who either—

- (a) has in force a practising certificate as a solicitor issued under this Act, and duly entered in the court of faculties of the Archbishop of Canterbury in accordance with rules made by the master of faculties; or
- (b) has in force a practising certificate as a notary public issued by the said court of faculties in accordance with rules so made;

“employee” includes an articled clerk;

“indemnity conditions” has the meaning assigned to it by section 28(2)(b);

“indemnity rules” means rules under section 37;

**F10**

“local law society” means a society which is for the time being recognised by the Council as representative of solicitors in some particular part of England and Wales;

“non-contentious business” means any business done as a solicitor which is not contentious business as defined by this subsection;

**F10**

“practising certificate” has the meaning assigned to it by section 1;

[<sup>F11</sup>“replacement date”, in relation to a practising certificate, means the date prescribed under section 14(2)(a) or specified by the Society under any regulation made by virtue of section 14(4)(b);

“the roll” means the list of solicitors of the Supreme Court kept by the Society under section 6;

“Secretary” of the Society includes any deputy or person appointed temporarily to perform the duties of that office;

“the Society” means the Law Society, that is to say, the Society incorporated and regulated by the Charter;

“sole solicitor” means a solicitor who is the sole principal in a practice;

“solicitor” means solicitor of the Supreme Court;

“solicitor in Scotland” means a person enrolled or deemed to have been enrolled as a solicitor in pursuance of the <sup>M3</sup>Solicitors (Scotland) Act 1933;

**F12**

“training conditions” has the meaning assigned to it by section 28(2)(a);

“training regulations” means regulations under section 2;

“the Tribunal” means the Solicitors Disciplinary Tribunal;

“trust” includes an implied or constructive trust and a trust where the trustee has a beneficial interest in the trust property, and also includes the duties incident to the office of a personal representative, and “trustee” shall be construed accordingly;

“unqualified person” means a person who is not qualified under section 1 to act as a solicitor.

(2) In this Act—

- (a) references to the removal of a solicitor’s name from the roll are references to its removal at his own request [<sup>F13</sup> or in pursuance of regulations under section 28(3A);]

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- (b) references to striking a solicitor's name off the roll are references to striking it off <sup>[F14]</sup>as a disciplinary sanction]; and
  - (c) references to removal or striking off include references to deleting an entry made by means of a computer by whatever means are appropriate.
- (3) In this Act, except where otherwise indicated—
- (a) a reference to a numbered Part, section or Schedule is a reference to the Part or section of, or the Schedule to, this Act so numbered;
  - (b) a reference in a section to a numbered subsection is a reference to the subsection of that section so numbered;
  - (c) a reference in a section, subsection or Schedule to a numbered paragraph is a reference to the paragraph of that section, subsection or Schedule so numbered; and
  - (d) a reference in a paragraph to a numbered sub-paragraph is a reference to the sub-paragraph of that paragraph so numbered.
- (4) Except where the context otherwise requires, references in this Act to any enactment shall be construed as references to that enactment as amended or applied by or under any other enactment, including this Act.]]

#### Textual Amendments

- F2** Definition in s. 87(1) substituted (19. 11. 1992) for definition of "authorised insurers" by S.I. 1992/2890, **regs. 1(1), 12(1)**.
- F3** Words inserted by **Banking Act 1979 (c. 37, SIF 10), s. 52(3)(4), Sch. 6 para. 9**
- F4** Words substituted by **Banking Act 1987 (c. 22, SIF 10), s. 108(1), Sch. 6 para. 5**
- F5** Word repealed by **Banking Act 1987 (c. 22, SIF 10), s. 108(1)(2), Sch. 6 para. 5, Sch. 7 Pt. I**
- F6** In the definition of "bank", para. (b) repealed by **Banking Act 1987 (c. 22, SIF 10), s. 108(1)(2), Sch. 6 para. 5, Sch. 7 Pt. I**
- F7** In the definition of "bank" para. (c) and the word "and" immediately preceding it repealed by **Trustee Savings Banks Act 1985 (c. 58, SIF 110), ss. 4(3), 7(3), Sch. 4**
- F8** Definition of "building society" inserted by **Building Societies Act 1986 (c. 53, SIF 16), ss. 54(3)(a) (5), 120, Sch. 18, para. 11(5)**
- F9** Words substituted by **Administration of Justice Act 1985 (c. 61, SIF 34), s. 8, Sch. 1 para. 12(a)(i)**
- F10** Definitions in s. 87(1) omitted (19.11.1992) by virtue of S.I. 1992/2890, **regs. 1(1), 12(1)**.
- F11** Definition of "replacement date" inserted (1.7.1991) by **Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 125(3), Sch. 18 para. 17; S.I. 1991/1364, art. 2, Sch.**
- F12** Definition in s. 87(1) repealed (5.11.1993) by 1993 c. 50, s. 1(1), **Sch. 1 Pt. XIV.**
- F13** Words inserted by **Administration of Justice Act 1985 (c. 61, SIF 34), s. 8, Sch. 1 para. 12(b)(i)**
- F14** Words substituted by **Administration of Justice Act 1985 (c. 61, SIF 34), s. 8, Sch. 8 para. 12(b)(ii)**

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

- C2** **S. 87(1)** amended (1. 1. 1993) by **S.I. 1992/3218, reg. 82(1), Sch. 10 Pt. I para. 8(2)**.
- C3** Definition of "replacement date" modified (1.7.1991) by **Courts and Legal Services Act 1990 (c. 41, SIF 37, 76:1), s. 125(6), Sch. 19 para. 12(3); S.I. 1991/1364, art. 2, Sch.**

#### Marginal Citations

- M1** 1950 c. 27.
- M2** 1981 c. 54.
- M3** 1933 c. 21.

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## **88 Saving for solicitors to public departments and City of London.**

(1) Nothing in this Act shall prejudice or affect any rights or privileges of the solicitor to the Treasury, any other public department, the Church Commissioners or the Duchy of Cornwall, or require any such officer or any clerk or officer appointed to act for him to be admitted or enrolled or to hold a practising certificate in any case where it would not have been necessary for him to be admitted or enrolled or to hold such a certificate if this Act had not been passed.

[<sup>F15</sup>(1A) The exemption from the requirement to hold a practising certificate conferred by subsection (1) above shall not apply to solicitors who are Crown Prosecutors.]

(2) Sections 31 and 32(1) shall not apply to, and nothing in this Act shall prejudice or affect any rights or privileges which immediately before the commencement of this Act attached to the office of, the Solicitor of the City of London.

### **Textual Amendments**

**F15** S. 88(1A) inserted by [Prosecution of Offences Act 1985 \(c. 23, SIF 39:1\)](#), s. 4(4)

## **89 Consequential amendments, repeals, savings, etc.**

<sup>XI</sup>(1) The enactments specified in Schedule 3 shall have effect subject to the amendments there specified, being amendments consequential upon the provisions of this Act.

<sup>XI</sup>(2) The enactments specified in Schedule 4 are hereby repealed to the extent specified in the third column of that Schedule.

(3) In so far as any instrument or other document made, issued, served or kept or treated as having been or having effect as if made, issued, served or kept, or other thing done or treated as having been or having effect as if done, under or for the purposes of any of the enactments repealed by this Act (in this section referred to as “the repealed enactments”) could have been made, issued, served, kept or done under or for the purposes of a corresponding provision of this Act, it shall not be invalidated by the repeal but shall have effect as if made, issued, served, kept or done under or for the purposes of that corresponding provision; and anything begun under any of the repealed enactments may be continued under any corresponding provision of this Act as if begun under that provision.

(4) Any enactment or other document referring to any of the repealed enactments shall, so far as may be necessary for preserving its effect, be construed as referring to this Act or to the corresponding provision of this Act.

(5) References in any enactment or instrument to the disciplinary committee constituted under section 46 of the <sup>M4</sup>Solicitors Act 1957 shall be construed as references to the Tribunal.

(6) References in any enactment to solicitors, attorneys or proctors, or to the registrar of attorneys and solicitors or the registrar of solicitors, shall be construed as references to solicitors and to the Society respectively.

(7) References in any enactment to a duly certificated notary public shall be construed as references to a duly certificated notary public within the meaning of this Act.

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- (8) Nothing in this Act shall be taken as prejudicing the operation of [<sup>F16</sup>sections 16(1) and 17(2)(a) of the <sup>M5</sup>Interpretation Act 1978] (which relates to the effect of repeals).

#### Editorial Information

- X1** The text of ss. 86, 89(1)(2), Sch. 3 paras. 4, 6, 8, and 9, and Sch. 4, is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as indicated, does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

#### Textual Amendments

- F16** Words substituted by virtue of [Interpretation Act 1978 \(c. 30\)](#), [s. 25\(2\)](#)

#### Marginal Citations

- M4** [1957 c. 27](#).  
**M5** [1978 c. 30](#).

## 90 Short title, commencement and extent.

- (1) This Act may be cited as the Solicitors Act 1974.
- (2) This Act shall come into force on such day as the Lord Chancellor may by order made by statutory instrument appoint, not being earlier than the first day on which all the provisions of the <sup>M6</sup>Solicitors (Amendment) Act 1974 are in force.
- (3) If any order made under section 19(7) of the <sup>M7</sup>Solicitors (Amendment) Act 1974 makes any savings from the effect of any provision of that Act which it brings into force, the order under subsection (2) may make corresponding savings from the effect of the corresponding provision of this Act.
- (4) The provisions of this Act extend to England and Wales only, with the exception of—
  - (a) section 4(4) and the repeal of section 5(3) of the <sup>M8</sup>Solicitors Act 1957, which extend to Scotland;
  - (b) section 29 and the repeal of section I of the <sup>M9</sup>Solicitors (Amendment) Act 1974, which extend to Northern Ireland;
  - (c) sections 5(3) and 86, <sup>F17</sup> . . . and the repeals of section 5(2) of the Solicitors Act 1957 and paragraphs 1 and 5 of Schedule 2 to the <sup>M10</sup>Solicitors (Amendment) Act 1974, all of which extend both to Scotland and to Northern Ireland.

#### Textual Amendments

- F17** Words repealed by [House of Commons Disqualification Act 1975 \(c. 24\)](#), [Sch. 3](#)

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

- C4** 1.5.1975 appointed under s. 90(2) by [S.I. 1975/534](#)

#### Marginal Citations

- M6** [1974 c. 26](#).  
**M7** [1974 c. 26](#).  
**M8** [1957 c. 27 \(5 & 6 Eliz. 2\)](#).  
**M9** [1974 c. 26](#).  
**M10** [1974 c. 26](#).

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