



# Administration of Justice Act 1985

## 1985 CHAPTER 61

### PART II

#### LICENSED CONVEYANCING

##### *Disciplinary and other proceedings*

#### 24 Preliminary investigation of disciplinary cases.

- (1) The Council shall establish a committee, to be known as the Investigating Committee, for the <sup>F1</sup>consideration] of cases in which—
- (a) it is alleged that a licensed conveyancer—
    - (i) has (whether while a licensed conveyancer or not) been convicted by any court in the United Kingdom of a criminal offence which renders him unfit to practise as a licensed conveyancer; or
    - (ii) has, while holding a licence in force under this Part, failed to comply with any condition to which that licence was subject; or
    - (iii) has failed to comply with any rules made by the Council under this Part; <sup>F2</sup> .....
  - (b) <sup>F2</sup> .....
- <sup>F3</sup> ...

<sup>F4</sup>(1A) The Investigating Committee shall make a preliminary investigation of such an allegation and—

- (a) hear and determine the allegation, or
  - (b) refer the allegation to the Discipline and Appeals Committee established under section 25 for hearing and determination by that Committee under section 26.]
- (2) <sup>F5</sup> .....
- (3) Any reference in subsection (1) <sup>F6</sup> ... to a licensed conveyancer in relation to any such allegation <sup>F7</sup> ... as is mentioned in paragraph (a)(ii) or (iii) <sup>F8</sup> ... of subsection (1)

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includes a reference to a person who was a licensed conveyancer at the time when the conduct to which the allegation <sup>F7</sup> . . . relates took place.

- (4) The Council shall make rules as to the constitution of the Investigating Committee and any such rules may provide for the appointment to the Committee of persons (whether licensed conveyancers or not) who are not members of the Council.
- [<sup>F9</sup>(4A) The Council shall make rules as to the cases in which the Investigating Committee may hear and determine an allegation, and the cases in which they must refer an allegation to the Discipline and Appeals Committee.]
- (5) where it appears to the Investigating Committee—
- (a) that any such allegation <sup>F10</sup> . . . as is mentioned in subsection (1) ought to be referred to the Discipline and Appeals Committee for hearing and determination by that Committee under section 26; and
  - (b) that it is necessary for the protection of consumers to do so,
- the Investigating Committee may, if they think fit, direct that any licence held by the licensed conveyancer in question shall be suspended until the allegation <sup>F10</sup> . . . is determined by the Discipline and Appeals Committee or until the expiration of that period as may be prescribed by rules made by the Council, whichever is the earlier.
- [<sup>F11</sup>(6) Before making a direction under subsection (5), the Investigating Committee must give the licensed conveyancer an opportunity to make representations against the making of the proposed direction.
- (7) In relation to proceedings under subsection (6), the Investigating Committee may make such order as they think fit as to the payment of costs by—
- (a) the Council, or
  - (b) the licensed conveyancer.
- (8) Where a direction under subsection (5) has been made, the licensed conveyancer may appeal to the Discipline and Appeals Committee, and on any such appeal the Committee may make such order as they think fit.
- (9) Where an order has been made under subsection (7) the Council or the licensed conveyancer may appeal to the Discipline and Appeals Committee, and on any such appeal the Committee may make such order as they think fit.
- (10) Where an order is made by the Discipline and Appeals Committee under subsections (8) or (9)—
- (a) the person against whom the order is made, and
  - (b) if not within paragraph (a), the Council,
- may appeal against the order to the High Court.
- (11) On an appeal under subsection (10) the High Court may make such order as it thinks fit.
- (12) The decision of the High Court on an appeal under subsection (10) shall be final.]

#### Textual Amendments

- F1** Words in s. 24(1) substituted (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 182, 211, [Sch. 17 para. 12\(2\)\(b\)](#) (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(c\)\(i\)](#)
- F2** S. 24(1)(b) and preceding word repealed (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 182, 210, 211, [Sch. 17 para. 12\(2\)\(b\)](#), [Sch. 23](#) (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(c\)\(i\)\(f\)\(v\)\(aa\)](#)

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- F3** Words in s. 24(1) repealed (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 210, 211, Sch. 17 para. 12(2)(c), **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)(f)(v)(aa)**
- F4** S. 24(1A) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 12(3)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)**
- F5** S. 24(2) repealed (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 210, 211, Sch. 17 para. 12(4), **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)(f)(v)(aa)**
- F6** Words in s. 24(3) repealed (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 210, 211, Sch. 17 para. 12(5)(a), **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)(f)(v)(aa)**
- F7** Words in s. 24(3) repealed (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 210, 211, Sch. 17 para. 12(5)(b), **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)(f)(v)(aa)**
- F8** Words in s. 24(3) repealed (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 210, 211, Sch. 17 para. 12(5)(c), **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)(f)(v)(aa)**
- F9** S. 24(4A) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 12(6)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)**
- F10** Words in s. 24(5) repealed (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 210, 211, Sch. 17 para. 12(7), **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)(f)(v)(aa)**
- F11** S. 24(6)-(12) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 12(8)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)**

#### [<sup>F12</sup>24A Determination of allegations by Investigating Committee

- (1) Where, on hearing an allegation by virtue of section 24(1A)(a), the Investigating Committee are satisfied that a licensed conveyancer—
  - (a) has, while holding a licence in force under this Part, failed to comply with any condition to which that licence was subject, or
  - (b) has failed to comply with any rules made by the Council under this Part, the Committee may, if they think fit, make an order directing the payment by the licensed conveyancer of a penalty to be forfeited to Her Majesty.
- (2) In relation to proceedings before the Investigating Committee by virtue of section 24(1A)(a), the Committee may make such order as they consider fit as to the payment of costs by—
  - (a) the Council,
  - (b) the licensed conveyancer against whom the proceedings were brought, or
  - (c) if the person on whose allegation the proceedings were brought was heard (in person, or through a representative) by the Committee in the course of the proceedings, that person.
- (3) In subsection (2), for the purposes of paragraph (a) or (b) of that subsection, the reference to costs includes costs incurred in connection with a preliminary investigation of the allegation under section 24(1A).
- (4) The amount of any penalty required to be paid under subsection (1) may not exceed such amount as may be prescribed by rules made by the Council for the purposes of this subsection.
- (5) Paragraphs 1, 2(1) and (3) and 4 of Schedule 4 have effect in relation to—
  - (a) proceedings for the hearing and determination of an allegation by the Investigating Committee, as they have effect in relation to proceedings before the Discipline and Appeals Committee under section 26, and
  - (b) orders of the Investigating Committee, as they have effect in relation to orders of the Discipline and Appeals Committee.

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- (6) A person against whom an order is made by the Investigating Committee by virtue of subsection (1) may appeal to the Discipline and Appeals Committee, and on any such appeal the Discipline and Appeals Committee may make such order as they think fit.
- (7) Where an order is made by the Investigating Committee by virtue of subsection (2), a person listed in paragraphs (a) to (c) of that subsection may appeal to the Discipline and Appeals Committee, and on any such appeal the Discipline and Appeals Committee may make such order as they think fit.
- (8) Where an order is made by the Discipline and Appeals Committee under subsection (6) or (7)—
- (a) a party to the appeal, or
  - (b) if not within paragraph (a), the Council,
- may appeal against the order to the High Court.
- (9) On an appeal under subsection (8) the High Court may make such order as it thinks fit.
- (10) The decision of the High Court on an appeal under subsection (8) shall be final.]

#### Textual Amendments

**F12** S. 24A inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, Sch. 17 para. 13 (with ss. 29, 192, 193); S.I. 2009/503, art. 2(c)(i)

## 25 The Discipline and Appeals Committee.

- (1) The Council shall establish a committee, to be known as the Discipline and Appeals Committee, for the hearing and determination of—
- (a) cases referred to them by the Investigating Committee under section 24; and
  - (b) applications and appeals made or brought under [F13 section 24A, 27, 28 or] 29.
- (2) The Council shall make rules as to the constitution of the Discipline and Appeals Committee, the times and places of the meetings of the Committee, the quorum and the mode of summoning the members of the Committee.
- (3) Rules under this section—
- (a) shall secure that a person who acted in relation to any case as a member of the Investigating Committee does not act in relation to that case as a member of the Discipline and Appeals Committee;
  - (b) may provide for the appointment to the Discipline and Appeals Committee of persons (whether licensed conveyancers or not) who are not members of the Council.

#### Textual Amendments

**F13** Words in s. 25(1)(b) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, Sch. 17 para. 14 (with ss. 29, 192, 193); S.I. 2009/503, art. 2(c)(i)

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## 26 Proceedings in disciplinary cases.

- (1) Where on the hearing of any allegation [<sup>F14</sup>referred to them under section 24(1A)(b)] the Discipline and Appeals Committee are satisfied that a licensed conveyancer—
- (a) has been convicted as mentioned in section 24(1)(a)(i) of an offence which renders him unfit to practise as a licensed conveyancer;
  - (b) has, while holding a licence in force under this Part, failed to comply with any condition to which that licence was subject; or
  - (c) has failed to comply with any rules made by the Council under this Part,
- the Committee may, if they think fit, make one or more of the orders referred to in subsection (2).

- (2) Those orders are—
- (a) an order revoking any licence held by the licensed conveyancer;
  - (b) an order directing that the licensed conveyancer shall be disqualified (either permanently or during a specified period) from holding a licence under this Part;
  - (c) an order suspending any licence held by the licensed conveyancer;
  - (d) an order that any such licence shall have effect subject to such conditions as may be specified in the order;
  - (e) an order directing the payment by the licensed conveyancer of a penalty not exceeding [<sup>F15</sup>such amount as may be prescribed by rules made by the Council for the purposes of this paragraph], to be forfeited to Her Majesty;
  - [<sup>F16</sup>(f) an order reprimanding the licensed conveyancer.]
  - (g) [<sup>F17</sup>.....]

[<sup>F18</sup>(2A) In relation to proceedings before the Discipline and Appeals Committee under this section, the Committee may make such order as they consider fit as to the payment of costs by—

- (a) the Council;
- (b) the licensed conveyancer against whom the proceedings were brought;
- (c) if the person on whose allegation the proceedings were brought was heard (in person, or through a representative) by the Committee in the course of the proceedings, that person.

(2B) In subsection (2A), for the purposes of paragraph (a) or (b) of that subsection, the reference to costs includes costs incurred in connection with a preliminary investigation of the allegation under section 24(1A).]

- (3) .....<sup>F19</sup>
- (4) References in this section to a licensed conveyancer include, in relation to an allegation or complaint which has been referred to the Committee in pursuance of section 24 (3), references to any such person as is mentioned in that provision.
- (5) <sup>F20</sup> .....
- (6) <sup>F20</sup> .....
- (7) A person against whom an order is made by the Committee by virtue of subsection (1) may appeal to the High Court, and on any such appeal the High Court may make such order as it thinks fit.

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[<sup>F21</sup>(7A) Where the Discipline and Appeals Committee make an order under subsection (2A), a person listed in paragraphs (a) to (c) of that subsection may appeal to the High Court, and on any such appeal the High Court may make such order as it thinks fit.]

(8) The decision of the High Court on an appeal under subsection (7) [<sup>F22</sup>or (7A)] shall be final.

#### Textual Amendments

- F14** Words in s. 26(1) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 15(2)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)**
- F15** Words in s. 26(2)(e) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 15(3)(a)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)**
- F16** S. 26(2)(f) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 15(3)(b)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)**
- F17** S. 26(2)(g) repealed (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 210, 211, Sch. 17 para. 15(3)(c), **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)(f)(v)(aa)**
- F18** S. 26(2A)(2B) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 15(4)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)**
- F19** S. 26(3) repealed (*I. 4. 1991*) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 125(6)(7), Sch. 20 (with **Sch. 19 para. 15(1)(b)**); S.I. 1991/608, art. 2, **Sch.**
- F20** S. 26(5)(6) repealed (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 210, 211, Sch. 17 para. 15(5), **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)(f)(v)(aa)**
- F21** S. 26(7A) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 15(6)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)**
- F22** Words in s. 26(8) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 15(7)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)**

## 27 Removal of disqualification from holding a licence.

(1) Where the Discipline and Appeals Committee have made any such order as is referred to in section 26(2)(b), the person to whom the order relates shall not, while his disqualification continues in force, be issued with a licence under this Part unless the Committee, on an application made to them in that behalf, direct otherwise.

(2) An application under subsection (1) shall not be made by a person to the Committee—

- within ten months of the date of the Committee's order; or
- within ten months of a previous such application by that person.

[<sup>F23</sup>(3) In relation to proceedings on an application under subsection (1), the Discipline and Appeals Committee may make such order as they consider fit as to the payment of costs by—

- the Council;
- the applicant.]

#### Textual Amendments

- F23** S. 27(3) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 16** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)**

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## 28 Revocation of licence on grounds of fraud or error.

- (1) Where the Discipline and Appeals Committee are satisfied that a licence was issued to a person as a result of any error, or as a result of fraud on the part of that person, the Committee may, if they think fit, by order revoke the licence.
- (2) A person may be issued with a licence under this Part notwithstanding that a licence previously held by him has been revoked under this section; but if it was so revoked on the ground of fraud he shall not be issued with a licence except on an application made in that behalf to the Committee.
- (3) On any such application the Committee may, if they think fit, direct that the applicant shall be disqualified from holding a licence under this Part until the expiration of such period as may be specified in the direction.
- (4) Section 27 shall apply in relation to a direction under subsection (3) as it applies in relation to any such order as is referred to in section 26(2)(b).
- [<sup>F24</sup>(5) In relation to proceedings for the revocation of a licence under subsection (1), the Discipline and Appeals Committee may make such order as they consider fit as to the payment of costs by—
  - (a) the Council;
  - (b) the licensed conveyancer to whose licence the proceedings relate.
- (6) In relation to proceedings on an application under subsection (2), the Discipline and Appeals Committee may make such order as they consider fit as to the payment of costs by—
  - (a) the Council;
  - (b) the applicant.]

### Textual Amendments

**F24** S. 28(5)(6) inserted (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 182, 211, [Sch. 17 para. 17](#) (with ss. 29, 192, 193); [S.I. 2009/503](#), [art. 2\(c\)\(i\)](#)

## 29 Appeals from decisions of Council in relation to licences.

- (1) Where, in the case of any person, the Council—
  - (a) refuses an application for a licence made by that person;
  - (b) decides to issue that person with a licence subject to conditions under section 16; <sup>F25</sup> . . .
  - (c) decides to give a direction in relation to that person under section 17, [<sup>F26</sup> or
  - (d) refuses an application made by that person under section 17A,]that person may appeal to the Discipline and Appeals Committee against that refusal or decision within one month of being notified of it.
- (2) On an appeal under this section the Discipline and Appeals Committee may—
  - (a) in the case of an appeal under subsection (1)(a) or (b), by order direct the Council to issue the appellant with—
    - (i) a licence free from conditions; or
    - (ii) a licence subject to such conditions as may be specified by the Committee in the direction;

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- (b) in the case of an appeal under subsection (1)(c), by order—
    - (i) revoke the direction of the Council under section 17; or
    - (ii) direct that the appellant’s licence shall have effect subject to such conditions as may be specified by the Committee in the direction;
  - [<sup>F27</sup>(ba) in the case of an appeal under subsection (1)(d), by order direct the Council to grant the application;]
  - (c) in any case, except an appeal in respect of a deemed refusal under section 15(3), affirm the refusal or decision of the Council appealed against;
  - (d) in the said excepted case, by order direct the Council not to issue a licence to the appellant.
- (3) On an appeal under this section the Committee may make such order as to the payment of costs by the Council or by the appellant as they think fit.

#### Textual Amendments

- F25** Word in s. 29(1)(b) repealed (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 210, 211, Sch. 17 para. 18(a), **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)(f)(v)(aa)**
- F26** S. 29(1)(d) and preceding word inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 18(b)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)**
- F27** S. 29(2)(ba) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 18(c)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)**

### 30 Supplementary provisions relating to disciplinary and other proceedings.

Schedule 4 (which contains provisions supplementary to sections 26 to 29) shall have effect.



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