



# 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 preliminary investigation 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; or
  - (b) a complaint is made to the Council by or on behalf of a member of the public about a licensed conveyancer,with a view to determining whether such cases ought to be referred by the Committee to the Discipline and Appeals Committee established under the following section for hearing and determination by that Committee under section 26.
- (2) For the purposes of subsection (1)(b) a complaint about a person who at the time when the conduct to which the complaint relates took place was an employee or associate of a licensed conveyancer shall be treated as a complaint about the licensed conveyancer.
- (3) Any reference in subsection (1) or (2) to a licensed conveyancer in relation to any such allegation or complaint as is mentioned in paragraph (a)(ii) or (iii) or paragraph (b) of subsection (1) includes a reference to a person who was a licensed conveyancer at the time when the conduct to which the allegation or complaint relates took place.

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- (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.
- (5) Where it appears to the Investigating Committee—
- (a) that any such allegation or complaint 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 or complaint is determined by the Discipline and Appeals Committee or until the expiration of such period as may be prescribed by rules made by the Council, whichever is the earlier.

## **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 sections 27 to 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.

## **26 Proceedings in disciplinary cases**

- (1) Where on the hearing of any allegation 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;

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- (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 £3,000, to be forfeited to Her Majesty;
  - (f) an order that the licensed conveyancer be reprimanded by the Council;
  - (g) an order requiring the licensed conveyancer to pay the costs incurred in bringing against him the proceedings before the Committee or a contribution towards those costs, being a contribution of such amount as the Committee consider reasonable.
- (3) Where, on the hearing of any allegation or complaint, it appears to the Committee that the professional services provided by a licensed conveyancer in connection with any matter in which he or his firm had been instructed by a client were in any respect not of the quality that could reasonably have been expected of him as a licensed conveyancer the Committee may, if they think fit—
- (a) determine that the fees to which the licensed conveyancer or his firm shall be entitled in respect of those services shall be limited to such amount as may be specified in their determination; and
  - (b) by order direct him to comply, or to secure compliance, with such one or more of the following requirements as appear to them to be necessary in order to give effect to their determination, namely—
    - (i) a requirement to refund the whole or part of any amount already paid by or on behalf of the client in respect of the fees of the licensed conveyancer or his firm in respect of those services;
    - (ii) a requirement to remit the whole or part of those fees;
    - (iii) a requirement to waive, whether wholly or to any specified extent, the right to recover those fees.
- (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) If it appears to the Lord Chancellor that there has been a change in the value of money since the relevant date, he may by order made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament substitute for the sum for the time being specified in subsection (2)(e) such other sum as appears to him to be justified by the change.
- (6) In subsection (5) " the relevant date " means—
- (a) in relation to the first order under that subsection, the commencement of this section ;
  - (b) in relation to each subsequent order, the last occasion when the sum specified in subsection (2)(e) was altered.
- (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.
- (8) The decision of the High Court on an appeal under subsection (7) shall be final.

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## **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—
  - (a) within ten months of the date of the Committee's order; or
  - (b) within ten months of a previous such application by that person.

## **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).

## **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 ; or
  - (c) decides to give a direction in relation to that person under section 17,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;
  - (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;
  - (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.

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

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