



# Administration of Justice Act 1985

## 1985 CHAPTER 61

### PART II

#### LICENSED CONVEYANCING

##### *Miscellaneous and supplemental*

#### [<sup>F1</sup>33 Legal professional privilege.

- (1) Subsection (2) applies where a licensed conveyancer or recognised body acts as such for a client.
- (2) Any communication, document, material or information is privileged from disclosure in like manner as if the licensed conveyancer or body had at all material times been acting as the client's solicitor.
- (3) This section does not apply to a recognised body which holds a licence under Part 5 of the Legal Services Act 2007 (alternative business structures).]

#### Textual Amendments

- F1** S. 33 substituted (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 182, 211, [Sch. 17 para. 22](#) (with ss. 29, 192, 193); [S.I. 2009/503](#), [art. 2\(c\)\(i\)](#)

#### [<sup>F2</sup>33A Administration of oaths by licensed conveyancers [<sup>F3</sup>or licensed CLC practitioners]

The Council may make rules prescribing its arrangements for authorising licensed conveyancers [<sup>F4</sup>or licensed CLC practitioners], for the purposes of the Legal Services Act 2007, to carry on activities which consist of the administration of oaths.]

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#### Textual Amendments

- F2** S. 33A inserted (1.1.2010) by [Legal Services Act 2007 \(c. 29\)](#), ss. 182, 211, [Sch. 17 para. 23](#) (with ss. 29, 192, 193); S.I. 2009/3250, [art. 2\(f\)\(iii\)](#) (with art. 9)
- F3** Words in s. 33A heading inserted (29.6.2015) by [Deregulation Act 2015 \(c. 20\)](#), s. 115(6)(b), [Sch. 19 para. 5\(2\)](#); S.I. 2015/1402, art. 2(b)
- F4** Words in s. 33A inserted (29.6.2015) by [Deregulation Act 2015 \(c. 20\)](#), s. 115(6)(b), [Sch. 19 para. 5\(3\)](#); S.I. 2015/1402, art. 2(b)

### 34 Modification of existing enactments relating to conveyancing etc.

(1) In the following provisions, namely—

- (a) sections 69 and 75(1) of the <sup>M1</sup>Law of Property Act 1925; <sup>F5</sup> . . .
- (b) <sup>F5</sup> . . . . .

any reference to a solicitor shall be construed as including a reference to a licensed conveyancer and any reference to a person’s solicitor shall be construed as including a reference to a licensed conveyancer acting for that person.

(2) In the following provisions, namely—

- (a) sections 10(2), 48 and 182 of the Law of Property Act 1925;
- (b) <sup>F6</sup> . . . . .
- (c) <sup>F7</sup> . . . . .
- (d) <sup>F7</sup> . . . . .
- (e) <sup>F7</sup> . . . . .
- <sup>F8</sup>(f) . . . . .

any reference to a solicitor shall be construed as including a reference to a licensed conveyancer or to a recognised body [<sup>F9</sup>which is a conveyancing services body], and any reference to a person’s solicitor shall be construed as including a reference to a licensed conveyancer or [<sup>F10</sup>such a] recognised body acting for that person.

(3) The Estate Agents Act 1979 shall not, by virtue of section 1 of that Act, apply to things done in the course of the provision of conveyancing services by a licensed conveyancer or a recognised body [<sup>F11</sup>which is a conveyancing services body] .

[<sup>F12</sup>(4) In this section “conveyancing services body” has the meaning given by section 32A.]

#### Textual Amendments

- F5** S. 34(1)(b) and preceding word repealed (13.10.2003) by [Land Registration Act 2002 \(c. 9\)](#), ss. 135, 136(2), [Sch. 13](#) (with s. 129, [Sch. 12 para. 1](#)); S.I. 2003/1725, [art. 2\(1\)](#)
- F6** S. 34(2)(b) repealed (23.10.2003) by [Land Registration Act 2002 \(c. 9\)](#), ss. 135, 136(2), [Sch. 13](#) (with s. 129, [Sch. 12 para. 1](#)); S.I. 2003/1725, [art. 2\(1\)](#)
- F7** S. 34(2)(c)-(e) repealed (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 182, 210, 211, [Sch. 17 para. 24](#), [Sch. 23](#) (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(c\)\(i\)\(f\)\(v\)\(aa\)](#)
- F8** S. 34(2)(f) and the word immediately preceding it repealed (1.10.1997) by 1996 c. 27, s. 66(3), [Sch.10](#) (with [Sch. 9 para. 5](#)); S.I. 1996/1892, [art. 3\(1\)\(iv\)](#)
- F9** Words in s. 34(2) inserted (29.6.2015) by [Deregulation Act 2015 \(c. 20\)](#), s. 115(6)(b), [Sch. 19 para. 6\(2\)](#); S.I. 2015/1402, art. 2(b)
- F10** Words in s. 34(2) inserted (29.6.2015) by [Deregulation Act 2015 \(c. 20\)](#), s. 115(6)(b), [Sch. 19 para. 6\(3\)](#); S.I. 2015/1402, art. 2(b)

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**F11** Words in s. 34(3) inserted (29.6.2015) by [Deregulation Act 2015 \(c. 20\)](#), s. 115(6)(b), [Sch. 19 para. 6\(4\)](#); S.I. 2015/1402, art. 2(b)

**F12** S. 34(4) inserted (29.6.2015) by [Deregulation Act 2015 \(c. 20\)](#), s. 115(6)(b), [Sch. 19 para. 6\(5\)](#); S.I. 2015/1402, art. 2(b)

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

**C1** S. 34 excluded by 1990 c. 41, s. 53(9B) (as inserted (29.6.2015) by [Deregulation Act 2015 \(c. 20\)](#), [ss. 87\(7\)](#), 115(6)(a); S.I. 2015/1402, art. 2(a))

**Marginal Citations**

**M1** 1925 c. 20.

**35 Penalty for pretending to be a licensed conveyancer or recognised body.**

- (1) An individual shall not describe himself or hold himself out as a licensed conveyancer unless he holds a licence in force under this Part.
- (2) A body <sup>F13</sup> . . . shall not describe itself or hold itself out as a recognised body unless it is for the time being recognised under section 32.
- (3) Any person who contravenes subsection (1) or (2) shall be guilty of an offence and liable on summary conviction to a fine not exceeding the fourth level on the standard scale.

**Textual Amendments**

**F13** Words in s. 35(2) repealed (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), [ss. 182, 210, 211](#), [Sch. 17 para. 25](#), [Sch. 23](#) (with [ss. 29, 192, 193](#)); S.I. 2009/503, [art. 2\(c\)\(i\)\(f\)\(v\)\(aa\)](#)

**36 Offences by bodies corporate.**

- [<sup>F14</sup>(1)] Where an offence under this Part which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any [<sup>F15</sup>officer of the body corporate], he as well as the body corporate shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.
- [<sup>F16</sup>(2)] Where the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in connection with the member's functions of management as it applies to an officer of the body corporate.
- (3) Proceedings for an offence under this section alleged to have been committed by an unincorporated body are to be brought in the name of that body (and not in that of any of its members) and, for the purposes of any such proceedings, any rules of court relating to the service of documents have effect as if that body were a corporation.
  - (4) A fine imposed on an unincorporated body on its conviction of an offence under this section is to be paid out of the funds of that body.
  - (5) If an unincorporated body is charged with an offence under this section, section 33 of the Criminal Justice Act 1925 and Schedule 3 to the Magistrates' Courts Act 1980 (procedure on charge of an offence against a corporation) have effect in like manner as in the case of a corporation so charged.

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- (6) Where an offence under this section committed by an unincorporated body (other than a partnership) is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any officer of the body or any member of its governing body, that officer or member as well as the unincorporated body is guilty of the offence and liable to be proceeded against and punished accordingly.
- (7) Where an offence under this section committed by a partnership is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner, that partner as well as the partnership is guilty of the offence and liable to be proceeded against and punished accordingly.
- (8) In this section “officer”, in relation to a body corporate, means—
- (a) any director, secretary or other similar officer of the body corporate, or
  - (b) any person who was purporting to act in any such capacity.]

#### Textual Amendments

- F14** S. 36 renumbered (31.3.2009) as s. 36(1) by [Legal Services Act 2007 \(c. 29\)](#), ss. 182, 211, [Sch. 17 para. 26\(a\)](#) (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(c\)\(i\)](#)
- F15** Words in s. 36(1) substituted (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 182, 211, [Sch. 17 para. 26\(a\)](#) (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(c\)\(i\)](#)
- F16** S. 36(2)-(8) inserted (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 182, 211, [Sch. 17 para. 26\(b\)](#) (with ss. 29, 192, 193); S.I. 2009/503, [art. 2\(c\)\(i\)](#)

### 37 Service of documents.

Any notice or other document authorised or required to be given or served under this Part may be sent by post; and for the purpose of the application to this section of section 7 of the <sup>M2</sup>Interpretation Act 1978 (service by post) the proper address of a licensed conveyancer shall be the address of any place specified in the register as his place of business or one of his places of business.

#### Marginal Citations

**M2** 1978 c. 30.

### 38 Rules.

<sup>F17</sup>(1) .....

- (2) Any [<sup>F18</sup>rules made by the Council under this Part] may make different provision for different circumstances.
- (3) Without prejudice to the generality of subsection (2), any rules prescribing a fee may provide for that fee to be reduced, or to be waived by the Council, in such circumstances as may be specified in the rules.

#### Textual Amendments

- F17** S. 38(1) repealed (1.1.2010) by [Legal Services Act 2007 \(c. 29\)](#), ss. 182, 210, 211, [Sch. 17 para. 27\(a\)](#), [Sch. 23](#) (with ss. 29, 192, 193); S.I. 2009/3250, [art. 2\(f\)\(iii\)\(i\)\(iv\)\(gg\)](#) (with art. 9)

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**F18** Words in s. 38(2) substituted (1.1.2010) by [Legal Services Act 2007 \(c. 29\), ss. 182, 211, Sch. 17 para. 27\(b\)](#) (with [ss. 29, 192, 193](#)); S.I. 2009/3250, [art. 2\(f\)\(iii\)](#) (with [art. 9](#))

### 39 Interpretation of Part II.

(1) In this Part—

“associate” means, in the case of a licensed conveyancer practising in partnership with other persons, any partner of his not holding a licence in force under this Part or any employee of such a partner;

“client” means—

(a) in relation to a licensed conveyancer, any person by whom or on whose behalf instructions regarding the provision of conveyancing services are given to the licensed conveyancer <sup>F19</sup> . . . ;

(b) in relation to a recognised body, any person by whom or on whose behalf such instructions are given to the body;

and “client account” means an account in whose title the word “client” is required by rules under section 22(2);

“conveyancing services” shall be construed in accordance with section 11(3);

“the Council” means the Council for Licensed Conveyancers;

<sup>F20</sup> . . . . .

“fees” includes charges, disbursements, expenses and remuneration;

“functions” includes powers and duties;

“licence” and “licensed conveyancer” have the meaning given by section 11(2);

[<sup>F21</sup>“licensed CLC practitioner” means a person, other than a licensed conveyancer, who holds a licence under section 53 of the Courts and Legal Services Act 1990;]

<sup>F20</sup> . . . . .

[<sup>F22</sup>“manager”, in relation to a body, has the same meaning as in the Legal Services Act 2007 (see section 207 of that Act);]

“recognised body” means a body <sup>F23</sup> . . . for the time being recognised under section 32;

<sup>F24</sup> . . . . .

<sup>F25</sup> . . . . .

(2) Any reference in this Part to a licensed conveyancer practising as a sole practitioner is a reference to a licensed conveyancer practising either as the sole principal in the practice or in partnership with other persons of whom none are licensed conveyancers.

#### Textual Amendments

**F19** S. 39(1): words in the definition of “client” repealed (31.3.2009) by [Legal Services Act 2007 \(c. 29\), ss. 182, 210, 211, Sch. 17 para. 28\(a\), Sch. 23](#) (with [ss. 29, 192, 193](#)); S.I. 2009/503, [art. 2\(c\)\(i\)\(f\)\(v\)\(aa\)](#)

**F20** S. 39(1): definitions of “director” and “officer” repealed (31.3.2009) by [Legal Services Act 2007 \(c. 29\), ss. 182, 210, 211, Sch. 17 para. 28\(b\), Sch. 23](#) (with [ss. 29, 192, 193](#)); S.I. 2009/503, [art. 2\(c\)\(i\)\(f\)\(v\)\(aa\)](#)

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- F21** Words in s. 39(1) inserted (29.6.2015) by Deregulation Act 2015 (c. 20), s. 115(6)(b), **Sch. 19 para. 7**; S.I. 2015/1402, art. 2(b)
- F22** S. 39(1): definition of "manager" inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 28(d)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)**
- F23** S. 39(1): word in the definition of "recognised body" repealed (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 210, 211, Sch. 17 para. 28(d), **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)(f)(v)(aa)**
- F24** Definition in s. 39(1) omitted (1.10.1991) by virtue of S.I. 1991/1997, regs. 1, 2, **Sch. para. 55(3)** (with reg. 4)
- F25** S. 39(1): definition repealed (5.11.1993) by 1993 c. 50, s. 1(1), **Sch. 1 Pt. XIV**.

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