***Status:*** *Point in time view as at 12/01/2006. This version of this Act contains provisions that are not valid for this point in time.*
***Changes to legislation:*** *Courts and Legal Services Act 1990 is up to date with all changes known to be in force on or before 26 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

# Courts and Legal Services Act 1990

**1990 CHAPTER 41**

An Act to make provision with respect to the procedure in, and allocation of business between, the High Court and other courts; to make provision with respect to legal services; to establish a body to be known as the Lord Chancellor's Advisory Committee on Legal Education and Conduct and a body to be known as the Authorised Conveyancing Practitioners Board; to provide for the appointment of a Legal Services Ombudsman; to make provision for the establishment of a Conveyancing Ombudsman Scheme; to provide for the establishment of Conveyancing Appeal Tribunals; to amend the law relating to judicial and related pensions and judicial and other appointments; to make provision with respect to certain officers of the Supreme Court; to amend the Solicitors Act 1974; to amend the Arbitration Act 1950; to make provision with respect to certain loans in respect of residential property; to make provision with respect to the jurisdiction of the Parliamentary Commissioner for Administration in connection with the functions of court staff; to amend the Children Act 1989 and make further provision in connection with that Act; and for connected purposes. [1st November 1990]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

**Extent Information**

**E1** For extent of this Act see s. 123

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## PART I

### PROCEDURE ETC. IN CIVIL COURTS

*Allocation and transfer of business*

**1 Allocation of business between High Court and county courts.**

(1) The Lord Chancellor may by order make provision—
- (a) conferring jurisdiction on the High Court in relation to proceedings in which county courts have jurisdiction;
- (b) conferring jurisdiction on county courts in relation to proceedings in which the High Court has jurisdiction;
- (c) allocating proceedings to the High Court or to county courts;
- (d) specifying proceedings which may be commenced only in the High Court;
- (e) specifying proceedings which may be commenced only in a county court;
- (f) specifying proceedings which may be taken only in the High Court;
- (g) specifying proceedings which may be taken only in a county court.

(2) Without prejudice to the generality of section 120(2), any such order may differentiate between categories of proceedings by reference to such criteria as the Lord Chancellor sees fit to specify in the order.

(3) The criteria so specified may, in particular, relate to—
- (a) the value of an action (as defined by the order);
- (b) the nature of the proceedings;
- (c) the parties to the proceedings;
- (d) the degree of complexity likely to be involved in any aspect of the proceedings; and
- (e) the importance of any question likely to be raised by, or in the course of, the proceedings.

(4) An order under subsection (1)(b), (e) or (g) may specify one or more particular county courts in relation to the proceedings so specified.

(5) Any jurisdiction exercisable by a county court, under any provision made by virtue of subsection (4), shall be exercisable throughout England and Wales.

(6) Rules of court may provide for a matter—
- (a) which is pending in one county court; and
- (b) over which that court has jurisdiction under any provision made by virtue of subsection (4),

to be heard and determined wholly or partly in another county court which also has jurisdiction in that matter under any such provision.

(7) Any such order may—
- (a) amend or repeal any provision falling within subsection (8) and relating to—
  - (i) the jurisdiction, practice or procedure of the Supreme Court; or
  - (ii) the jurisdiction, practice or procedure of any county court,

  so far as the Lord Chancellor considers it to be necessary, or expedient, in consequence of any provision made by the order; or

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(b) make such incidental or transitional provision as the Lord Chancellor considers necessary, or expedient, in consequence of any provision made by the order.

(8) A provision falls within this subsection if it is made by any enactment other than this Act or made under any enactment.

(9) Before making any such order the Lord Chancellor shall consult the Lord Chief Justice, the Master of the Rolls, **[**[F1]the President of the Queen's Bench Division, the President of the Family Division, the Chancellor of the High Court**]** and the Senior Presiding Judge (appointed under section 72).

(10) No such order shall be made so as to confer jurisdiction on any county court to hear any application for judicial review.

(11) For the purposes of this section the commencement of proceedings may include the making of any application in anticipation of any proceedings or in the course of any proceedings.

(12) [F2]. . . . . .

**Textual Amendments**

**F1** Words in s. 1(9) repealed (1.10.2005) by Constitutional Reform Act 2005 (c. 4), ss. 15(1), 148, **Sch. 4 para. 212(3)**; S.I. 2005/2505, **art. 2(c)**

**F2** S. 1(12) repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1)(3), 110, Sch. 8 para. 348, **Sch. 10**; S.I. 2005/910, **art. 3(y)(aa)(bb)**

## 2 Transfer of proceedings between courts.

(1) The following section shall be substituted for section 40 of the [M1]County Courts Act 1984 (transfer of proceedings to county court)—

### "40 Transfer of proceedings to county court.

(1) Where the High Court is satisfied that any proceedings before it are required by any provision of a kind mentioned in subsection (8) to be in a county court it shall—

(a) order the transfer of the proceedings to a county court; or

(b) if the court is satisfied that the person bringing the proceedings knew, or ought to have known, of that requirement, order that they be struck out.

(2) Subject to any such provision, the High Court may order the transfer of any proceedings before it to a county court.

(3) An order under this section may be made either on the motion of the High Court itself or on the application of any party to the proceedings.

(4) Proceedings transferred under this section shall be transferred to such county court as the High Court considers appropriate, having taken into account the convenience of the parties and that of any other persons likely to be affected and the state of business in the courts concerned.

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(5) The transfer of any proceedings under this section shall not affect any right of appeal from the order directing the transfer.

(6) Where proceedings for the enforcement of any judgment or order of the High Court are transferred under this section—

(a) the judgment or order may be enforced as if it were a judgment or order of a county court; and

(b) subject to subsection (7), it shall be treated as a judgment or order of that court for all purposes.

(7) Where proceedings for the enforcement of any judgment or order of the High Court are transferred under this section—

(a) the powers of any court to set aside, correct, vary or quash a judgment or order of the High Court, and the enactments relating to appeals from such a judgment or order, shall continue to apply; and

(b) the powers of any court to set aside, correct, vary or quash a judgment or order of a county court, and the enactments relating to appeals from such a judgment or order, shall not apply.

(8) The provisions referred to in subsection (1) are any made—

(a) under section 1 of the Courts and Legal Services Act 1990; or

(b) by or under any other enactment.

(9) This section does not apply to family proceedings within the meaning of Part V of the Matrimonial and Family Proceedings Act 1984."

(2) In section 41 of the [M2]County Courts Act 1984 (transfer to High Court by order of the High Court), the following subsection shall be added at the end—

"(3) The power conferred by subsection (1) shall be exercised subject to any provision made—

(a) under section 1 of the Courts and Legal Services Act 1990; or

(b) by or under any other enactment."

(3) The following section shall be substituted for section 42 of the County Courts Act 1984 (transfer to High Court by order of a county court)—

"**42 Transfer to High Court by order of a county court.**

(1) Where a county court is satisfied that any proceedings before it are required by any provision of a kind mentioned in subsection (7) to be in the High Court, it shall—

(a) order the transfer of the proceedings to the High Court; or

(b) if the court is satisfied that the person bringing the proceedings knew, or ought to have known, of that requirement, order that they be struck out.

(2) Subject to any such provision, a county court may order the transfer of any proceedings before it to the High Court.

(3) An order under this section may be made either on the motion of the court itself or on the application of any party to the proceedings.

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***Changes to legislation:*** *Courts and Legal Services Act 1990 is up to date with all changes known to be in force on or before 26 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(4) The transfer of any proceedings under this section shall not affect any right of appeal from the order directing the transfer.

(5) Where proceedings for the enforcement of any judgment or order of a county court are transferred under this section—

(a) the judgment or order may be enforced as if it were a judgment or order of the High Court; and

(b) subject to subsection (6), it shall be treated as a judgment or order of that court for all purposes.

(6) Where proceedings for the enforcement of any judgment or order of a county court are transferred under this section—

(a) the powers of any court to set aside, correct, vary or quash a judgment or order of a county court, and the enactments relating to appeals from such a judgment or order, shall continue to apply; and

(b) the powers of any court to set aside, correct, vary or quash a judgment or order of the High Court, and the enactments relating to appeals from such a judgment or order, shall not apply.

(7) The provisions referred to in subsection (1) are any made—

(a) under section 1 of the Courts and Legal Services Act 1990; or

(b) by or under any other enactment.

(8) This section does not apply to family proceedings within the meaning of Part V of the Matrimonial and Family Proceedings Act 1984."

(4) [F3] . . . . . .

**Textual Amendments**

**F3** S. 2(4) repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **s. 1(1)**, {Sch. 1 Pt. 1 Group. 4}

**Commencement Information**

**I1** S. 2 wholly in force at 1.7.1991 see s. 124(3) and S.I. 1991/1364, art.2, **Sch.**

**Marginal Citations**

**M1** 1984 c. 28.

**M2** 1984 c. 28.

*Remedies*

## 3 Remedies available in county courts.

The following section shall be substituted for sections 38 and 39 of the County Courts Act 1984 (general ancillary jurisdiction and ancillary powers of judge)—

***Status:*** *Point in time view as at 12/01/2006. This version of this Act contains provisions that are not valid for this point in time.*
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"**38 Remedies available in county courts.**

(1) Subject to what follows, in any proceedings in a county court the court may make any order which could be made by the High Court if the proceedings were in the High Court.

(2) Any order made by a county court may be—
  (a) absolute or conditional;
  (b) final or interlocutory.

(3) A county court shall not have power—
  (a) to order mandamus, certiorari or prohibition; or
  (b) to make any order of a prescribed kind.

(4) Regulations under subsection (3)—
  (a) may provide for any of their provisions not to apply in such circumstances or descriptions of case as may be specified in the regulations;
  (b) may provide for the transfer of the proceedings to the High Court for the purpose of enabling an order of a kind prescribed under subsection (3) to be made;
  (c) may make such provision with respect to matters of procedure as the Lord Chancellor considers expedient; and
  (d) may make provision amending or repealing any provision made by or under any enactment, so far as may be necessary or expedient in consequence of the regulations.

(5) In this section "prescribed" means prescribed by regulations made by the Lord Chancellor under this section.

(6) The power to make regulations under this section shall be exercised by statutory instrument.

(7) No such statutory instrument shall be made unless a draft of the instrument has been approved by both Houses of Parliament."

**Commencement Information**

**I2** S. 3 wholly in force at 1.7.1991 see s. 124(3) and S.I. 1991/1364, art. 2, **Sch.**

*Costs*

**4 Costs.**

(1) The following section shall be substituted for section 51 of the [M3]Supreme Court Act 1981 (costs in civil division of Court of Appeal and High Court)—

***Status:*** *Point in time view as at 12/01/2006. This version of this Act contains provisions that are not valid for this point in time.*
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**"51 Costs in civil division of Court of Appeal, High Court and county courts.**

(1) Subject to the provisions of this or any other enactment and to rules of court, the costs of and incidental to all proceedings in—
  (a) the civil division of the Court of Appeal;
  (b) the High Court; and
  (c) any county court,
shall be in the discretion of the court.

(2) Without prejudice to any general power to make rules of court, such rules may make provision for regulating matters relating to the costs of those proceedings including, in particular, prescribing scales of costs to be paid to legal or other representatives.

(3) The court shall have full power to determine by whom and to what extent the costs are to be paid.

(4) In subsections (1) and (2) "proceedings" includes the administration of estates and trusts.

(5) Nothing in subsection (1) shall alter the practice in any criminal cause, or in bankruptcy.

(6) In any proceedings mentioned in subsection (1), the court may disallow, or (as the case may be) order the legal or other representative concerned to meet, the whole of any wasted costs or such part of them as may be determined in accordance with rules of court.

(7) In subsection (6), "wasted costs" means any costs incurred by a party—
  (a) as a result of any improper, unreasonable or negligent act or omission on the part of any legal or other representative or any employee of such a representative; or
  (b) which, in the light of any such act or omission occurring after they were incurred, the court considers it is unreasonable to expect that party to pay.

(8) Where—
  (a) a person has commenced proceedings in the High Court; but
  (b) those proceedings should, in the opinion of the court, have been commenced in a county court in accordance with any provision made under section 1 of the Courts and Legal Services Act 1990 or by or under any other enactment,
the person responsible for determining the amount which is to be awarded to that person by way of costs shall have regard to those circumstances.

(9) Where, in complying with subsection (8), the responsible person reduces the amount which would otherwise be awarded to the person in question—
  (a) the amount of that reduction shall not exceed 25 per cent; and
  (b) on any taxation of the costs payable by that person to his legal representative, regard shall be had to the amount of the reduction.

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(10) The Lord Chancellor may by order amend subsection (9)(a) by substituting, for the percentage for the time being mentioned there, a different percentage.

(11) Any such order shall be made by statutory instrument and may make such transitional or incidental provision as the Lord Chancellor considers expedient.

(12) No such statutory instrument shall be made unless a draft of the instrument has been approved by both Houses of Parliament.

(13) In this section "legal or other representative", in relation to a party to proceedings, means any person exercising a right of audience or right to conduct litigation on his behalf."

(2) In section 52 of that Act (costs in Crown Court) the following subsection shall be inserted after subsection (2)—

"(2A) Subsection (6) of section 51 applies in relation to any civil proceedings in the Crown Court as it applies in relation to any proceedings mentioned in subsection (1) of that section".

**Commencement Information**

**I3** S. 4 wholly in force at 1.10.1991 see s. 124(3) and S.I. 1991/1883, **art. 2**

**Marginal Citations**

**M3** 1981 c. 54.

*Evidence*

## 5 Witness statements.

(1) Rules of court may make provision—

(a) requiring, in specified circumstances, any party to civil proceedings to serve on the other parties a written statement of the oral evidence which he intends to adduce on any issue of fact to be decided at the trial;

(b) enabling the court to direct any party to civil proceedings to serve such a statement on the other party; and

(c) prohibiting a party who fails to comply with such a requirement or direction from adducing oral evidence on the issue of fact to which it relates.

(2) Where a party to proceedings has refused to comply with such a requirement or direction, the fact that his refusal was on the ground that the required statement would have been a document which was privileged from disclosure shall not affect any prohibition imposed by virtue of subsection (1)(c).

(3) This section is not to be read as prejudicing in any way any other power to make rules of court.

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### 6 Evidence given in arbitrations on small claims.

In section 64 of the [M4]County Courts Act 1984 (references to arbitration) the following subsections shall be inserted after subsection (2)—

"(2A) County court rules may prescribe the procedures and rules of evidence to be followed on any reference under subsection (1) or (2).

(2B) Rules made under subsection (2A) may, in particular, make provision with respect to the manner of taking and questioning evidence."

**Marginal Citations**

**M4** 1984 c. 28.

*Appeals*

### 7 Appeals to Court of Appeal.

(1) Section 18 of the [M5]Supreme Court Act 1981 (restrictions on appeals to Court of Appeal) shall be amended as follows.

(2) In subsection (1), paragraphs (e), (f) and (h) (which deal with cases in which leave is required for an appeal) shall be omitted.

[F4](3) . . . . . .

[F4](4) . . . . . .

**Textual Amendments**

**F4** S. 7(3)(4) repealed (27.9.1999) by 1999 c. 22, ss. 106, 108(3)(f), **Sch. 15 Pt. III** (with Sch. 14 paras. 7(2), 36(9))

**Commencement Information**

**I4** S. 7 wholly in force at 1.10.1993; s. 7 not in force at Royal Assent see s. 124(3); s. 7(2) and s. 7(1) so far as relating to s. 7(2) in force at 1.10.1993, and subject thereto s. 7 came into force on 23.7.1993, by S.I. 1993/2132, arts. 2, 3, **Sch.**

**Marginal Citations**

**M5** 1981 c. 54.

### 8 Powers of Court of Appeal to award damages.

(1) In this section "case" means any case where the Court of Appeal has power to order a new trial on the ground that damages awarded by a jury are excessive or inadequate.

(2) Rules of court may provide for the Court of Appeal, in such classes of case as may be specified in the rules, to have power, in place of ordering a new trial, to substitute for the sum awarded by the jury such sum as appears to the court to be proper.

(3) This section is not to be read as prejudicing in any way any other power to make rules of court.

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*Family proceedings*

**9 Allocation of family proceedings which are within the jurisdiction of county courts.**

(1) The Lord Chancellor may, with the concurrence of the President of the Family Division, give directions that, in such circumstances as may be specified—

(a) any family proceedings which are within the jurisdiction of county courts; or

(b) any specified description of such proceedings,

shall be allocated to specified judges or to specified descriptions of judge.

(2) Any such direction shall have effect regardless of any rules of court.

(3) Where any directions have been given under this section allocating any proceedings to specified judges, the validity of anything done by a judge in, or in relation to, the proceedings shall not be called into question by reason only of the fact that he was not a specified judge.

(4) For the purposes of subsection (1) "county court" includes the principal registry of the Family Division of the High Court in so far as it is treated as a county court.

(5) In this section—

"family proceedings" has the same meaning as in the [M6]Matrimonial and Family Proceedings Act 1984 and also includes any other proceedings which are family proceedings for the purposes of the [M7]Children Act 1989;

"judge" means any person who—

(a) is capable of sitting as a judge for a county court district;

(b) is a district judge, an assistant district judge or a deputy district judge; or

(c) is a district judge of the principal registry of the Family Division of the High Court; and

"specified" means specified in the directions.

**Marginal Citations**

**M6** 1984 c. 42.

**M7** 1989 c. 41.

**10 Family proceedings in magistrates' courts and related matters.**

**[**[F5](1) In subsection(2) "family proceedings" means proceedings under Part I of the Domestic Proceedings Magistrates' Courts Act 1978 **[**[F6]or Schedule 6 to the Civil Partnership Act 2004**]** .**]**

(2) **[**[F7]Rules made under section 144 of the [M8]Magistrates' Courts Act 1980**]** may make, in relation to any family proceedings, any provision which—

(a) falls within subsection (2) of section 93 of the [M9]Children Act 1989 (rules of court); and

(b) may be made in relation to relevant proceedings under section 93 of the Act of 1989.

[F8](3) . . . . . .

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[F8](4) . . . . . .

[F8](5) . . . . . .

**Textual Amendments**

**F5** S. 10(1) substituted (14.10.1991) by Maintenance Enforcement Act 1991 (c. 17, SIF 49:3), s. 11(1), **Sch. 2 para. 11(1)**; S.I. 1991/2042, **art. 2(a)(b)**

**F6** Words in s. 10(1) inserted (15.4.2005) by Civil Partnership Act 2004 (c. 33), ss. 261(1), 263, **Sch. 27 para. 137**; S.I. 2005/1112, **art. 2**, Sch. 1

**F7** Words in s. 10(2) substituted (14.10.1991) by Maintenance Enforcement Act 1991 (c. 17, SIF 49:3), s. 11(1), **Sch. 2 para. 11(2)**; S.I. 1991/2042, **art. 2(a)(b)**

**F8** S. 10(3)-(5) repealed (1.4.1995) by 1994 c. 29, s. 93, **Sch. 9 Pt. II**; S.I. 1995/685, **art. 1(2)**

**Commencement Information**

**I5** S. 10 wholly in force at 1.7.1991 see s. 124(3) and S.I. 1991/1364, art. 2, **Sch.**

**Marginal Citations**

**M8** 1980 C. 43.

**M9** 1989 c. 41.

*Miscellaneous*

## 11 Representation in certain county court cases.

(1) The Lord Chancellor may by order provide that there shall be no restriction on the persons who may exercise rights of audience, or rights to conduct litigation, in relation to proceedings in a county court of such a kind as may be specified in the order.

(2) The power to make an order may only be exercised in relation to proceedings—

(a) for the recovery of amounts due under contracts for the supply of goods or services;

(b) for the enforcement of any judgment or order of any court or the recovery of any sum due under any such judgment or order;

(c) on any application under the [M10]Consumer Credit Act 1974;

(d) in relation to domestic premises; or

**[**[F9](e) dealt with as a small claim in accordance with rules of court,**]**

or any category (determined by reference to such criteria as the Lord Chancellor considers appropriate) of such proceedings.

(3) Where an order is made under this section, section 20 of the [M11]Solicitors Act 1974 (unqualified person not to act as solicitor) shall cease to apply in relation to proceedings of the kind specified in the order.

(4) Where a county court is of the opinion that a person who would otherwise have a right of audience by virtue of an order under this section is behaving in an unruly manner in any proceedings, it may refuse to hear him in those proceedings.

(5) Where a court exercises its power under subsection (4), it shall specify the conduct which warranted its refusal.

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(6) Where, in any proceedings in a county court—

(a) a person is exercising a right of audience or a right to conduct litigation;

(b) he would not be entitled to do so were it not for an order under this section; and

(c) the judge has reason to believe that (in those or any other proceedings in which he has exercised a right of audience or a right to conduct litigation) that person has intentionally misled the court, or otherwise demonstrated that he is unsuitable to exercise that right,

the judge may order that person's disqualification from exercising any right of audience or any right to conduct litigation in proceedings in any county court.

(7) Where a judge makes an order under subsection (6) he shall give his reasons for so doing.

(8) Any person against whom such an order is made may appeal to the Court of Appeal.

(9) Any such order may be revoked at any time by any judge of a county court.

(10) Before making any order under this section the Lord Chancellor shall consult the Senior Presiding Judge.

(11) In this section "domestic premises" means any premises which are wholly or mainly used as a private dwelling.

**Textual Amendments**

**F9** S. 11(2)(e) substituted (26.4.1999) by S.I. 1999/1217, **art. 3**

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

**C1** S. 11 restricted (26.4.1999) by S.I. 1998/3132, **rule 27**.14(4)

**Marginal Citations**

**M10** 1974 c. 39.

**M11** 1974 c. 47.

## 12 Penalty for failure to warn that hearing will not be attended.

**F10** . . . . . .

**Textual Amendments**

**F10** S. 12 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **s. 1(1)**, {Sch. 1 Pt. 1 Group. 4}

PROSPECTIVE

## 13 Administration orders.

(1) For subsection (1) of section 112 of the County Courts Act 1984 (power to make administration orders) there shall be substituted—

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"(1) Where a debtor is unable to pay forthwith the amount of any debt owed by him, a county court may make an order providing for the administration of his estate.

(1A) The order may be made—

(a) on the application of the debtor (whether or not a judgment debt has been obtained against the debtor in respect of his debt, or any of his debts);

(b) on the application of any creditor under a judgment obtained against the debtor; or

(c) of the court's own motion during the course of, or on the determination of, any enforcement or other proceedings."

(2) In that section the following subsection shall be inserted after subsection (4)—

"(4A) Subsection (4) is subject to section 112A."

(3) Subsection (5) of that section shall be omitted.

(4) The following subsection shall be added at the end of that section—

"(9) An administration order shall cease to have effect—

(a) at the end of the period of three years beginning with the date on which it is made; or

(b) on such earlier date as may be specified in the order."

(5) After that section there shall be inserted the following sections—

"**112A Further powers of the court.**

(1) Where the court is satisfied—

(a) that it has power to make an administration order with respect to the debtor concerned; but

(b) that an order restricting enforcement would be a more satisfactory way of dealing with the case,

it may make such an order instead of making an administration order.

(2) Where an order restricting enforcement is made, no creditor specified in the order shall have any remedy against the person or property of the debtor in respect of any debt so specified, without the leave of the court.

(3) Subsection (4) applies to any creditor—

(a) who is named in the schedule to an administration order or in an order restricting enforcement; and

(b) who provides the debtor with mains gas, electricity or water for the debtor's own domestic purposes.

(4) While the order has effect, the creditor may not stop providing the debtor with—

(a) mains gas, electricity or (as the case may be) water for the debtor's own domestic purposes; or

(b) any associated service which it provides for its customers,

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without leave of the court unless the reason for doing so relates to the non-payment of charges incurred by the debtor after the making of the order or is unconnected with non-payment by him of any charges.

(5) In this section "mains gas" means a supply of gas by a public gas supplier within the meaning of Part I of the Gas Act 1986.

(6) Rules of court may make provision with respect to the period for which any order restricting enforcement is to have effect and for the circumstances in which any such order may be revoked.

**112B Administration orders with composition provisions.**

(1) Where the court is satisfied—
  (a) that it has power to make an administration order with respect to the debtor concerned; and
  (b) that the addition of a composition provision would be a more satisfactory way of dealing with the case,

it may make an administration order subject to such a provision.

(2) Where, at any time while an administration order is in force—
  (a) the debtor has not discharged the debts to which that order relates; and
  (b) the court considers that he is unlikely to be able to discharge them,

the court may add a composition provision to that order.

(3) A composition provision shall specify an amount to which the debtor's total indebtedness in respect of debts owed to creditors scheduled to the administration order is to be reduced.

(4) The amount of the debt owed to each of the creditors so scheduled shall be reduced in proportion to the reduction in his total indebtedness specified by the composition provision.

(5) Where a composition provision is added to an administration order after the order is made, section 113(a) shall apply as if the addition of the composition provision amounted to the making of a new administration order."

## 14 Assessors.

F11 . . . . . .

**Textual Amendments**

**F11** S. 14 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **s. 1(1)**, {Sch. 1 Pt. 1 Group. 4}

## 15 Enforcement.

(1) F12 . . . . . .

(2) In section 89(1) of the M12County Courts Act 1984 (goods which may be seized under any warrant of execution), the following paragraph shall be substituted for paragraph (a)—

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"(a) any of that person's goods except—

(i) such tools, books, vehicles and other items of equipment as are necessary to that person for use personally by him in his employment, business or vocation;

(ii) such clothing, bedding, furniture, household equipment and provisions as are necessary for satisfying the basic domestic needs of that person and his family;".

(3) Where a person takes steps to enforce a judgment or order of the High Court or a county court for the payment of any sum due, the costs of any previous attempt to enforce that judgment shall be recoverable to the same extent as if they had been incurred in the taking of those steps.

(4) Subsection (3) shall not apply in respect of any costs which the court considers were unreasonably incurred (whether because the earlier attempt was unreasonable in all the circumstances of the case or for any other reason).

**Textual Amendments**

**F12** S. 15(1) repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, **art. 3(aa)(bb)**

**Commencement Information**

**I6** S. 15 wholly in force at 1.7.1991 see s. 124(3) and S.I. 1991/1364, art. 2, **sch.**

**Marginal Citations**

**M12** 1984 c. 28.

## 16 County court rules.

**F13** . . . . . .

**Textual Amendments**

**F13** S. 16 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **s. 1(1)**, {Sch. 1 Pt. 1 Group. 4}

## PART II

### LEGAL SERVICES

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

**C2** Pt. 2: transfer of functions (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), arts. 4, 5, **Sch. 1** (with arts. 6, 8)

***Status:*** *Point in time view as at 12/01/2006. This version of this Act contains provisions that are not valid for this point in time.*
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*Introductory*

**17 The statutory objective and the general principle.**

(1) The general objective of this Part is the development of legal services in England and Wales (and in particular the development of advocacy, litigation, conveyancing and probate services) by making provision for new or better ways of providing such services and a wider choice of persons providing them, while maintaining the proper and efficient administration of justice.

(2) In this Act that objective is referred to as "the statutory objective".

(3) As a general principle the question whether a person should be granted a right of audience, or be granted a right to conduct litigation in relation to any court or proceedings, should be determined only by reference to—

(a) whether he is qualified in accordance with the educational and training requirements appropriate to the court or proceedings;

(b) whether he is a member of a professional or other body which—

(i) has rules of conduct (however described) governing the conduct of its members;

(ii) has an effective mechanism for enforcing the rules of conduct; and

(iii) is likely to enforce them;

(c) whether, in the case of a body whose members are or will be providing advocacy services, the rules of conduct make satisfactory provision in relation to the court or proceedings in question requiring any such member not to withhold those services—

(i) on the ground that the nature of the case is objectionable to him or to any section of the public;

(ii) on the ground that the conduct, opinions or beliefs of the prospective client are unacceptable to him or to any section of the public;

(iii) on any ground relating to the source of any financial support which may properly be given to the prospective client for the proceedings in question (for example, on the ground that such support will be available **[**[F14]as part of the Community Legal Service or Criminal Defence Service**]**); and

(d) whether the rules of conduct are, in relation to the court or proceedings, appropriate in the interests of the proper and efficient administration of justice.

(4) In this Act that principle is referred to as "the general principle".

(5) Rules of conduct which allow a member of the body in question to withhold his services if there are reasonable grounds for him to consider that, having regard to—

(a) the circumstances of the case;

(b) the nature of his practice; or

(c) his experience and standing,

he is not being offered a proper fee, are not on that account to be taken as being incompatible with the general principle.

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**Textual Amendments**

**F14** Words in s. 17(3)(c)(iii) substituted (1.4.2000) by 1999 c. 22, s. 24, **Sch. 4 para. 46** (with Sch. 14 para. 7(2)); S.I. 2000/774, **art. 2(a)(ii)(iii)** (with arts. 3-5)

**Commencement Information**

**I7** S. 17 wholly in force at 1.4.1991 see s. 124(3) and S.I. 1991/608, **art. 2**

## 18 The statutory duty.

(1) Where any person is called upon to exercise any functions which are conferred by this Part with respect to—

(a) the granting of rights of audience;

(b) the granting of rights to conduct litigation;

(c) the approval **[**[F15]or alteration**]** of qualification regulations or rules of conduct; or

(d) the giving of advice with respect to any matter mentioned in paragraphs (a) to (c),

it shall be the duty of that person to exercise those functions as soon as is reasonably practicable and consistent with the provisions of this Part.

**[**[F16](1A) Where any person other than the **[**[F17]Secretary of State**]** is called upon to exercise any such functions, the **[**[F17]Secretary of State**]** may require him to do so within such time as the **[**[F17]Secretary of State**]** may reasonably specify.**]**

(2) A person exercising any such functions shall act in accordance with the general principle and, subject to that, shall—

(a) so far as it is possible to do so in the circumstances of the case, act to further the statutory objective; and

(b) not act in any way which would be incompatible with the statutory objective.

**Textual Amendments**

**F15** Words in s. 18(1) inserted (1.1.2000) by 1999 c. 22, s. 43, Sch. 6 paras. 4, **5(1)(2)** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)**

**F16** S. 18(1A) inserted (1.1.2000) by 1999 c. 22, s. 43, Sch. 6 paras. 4, **5(1)(3)** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)**

**F17** Words in s. 18 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(a)** (with arts. 6, 8)

**Commencement Information**

**I8** S. 18 wholly in force at 1. 4. 1991 see s. 124(3) and S.I. 1991/608, **art. 2**

## *[[F18] The Legal Services Consultative Panel]*

**Textual Amendments**

**F18** S. 18A and crossheading preceding it inserted (1.1.2000) by 1999 c. 22, **s. 35(2)** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)**

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### [F19]18A The Consultative Panel.

(1) The **[**[F20]Secretary of State**]** shall appoint persons to form a panel to be known as the Legal Services Consultative Panel.

(2) In appointing persons to the Consultative Panel the **[**[F20]Secretary of State**]** shall have regard to the desirability of securing that the Consultative Panel includes persons who (between them) have experience in or knowledge of—

(a) the provision of legal services;

(b) the lay advice sector;

(c) civil or criminal proceedings and the working of the courts;

(d) legal education and training;

(e) the maintenance of the professional standards of persons who provide legal services;

(f) the maintenance of standards in professions other than the legal profession;

(g) consumer affairs;

(h) commercial affairs; and

(i) social conditions.

(3) The Consultative Panel shall have—

(a) the duty of assisting in the maintenance and development of standards in the education, training and conduct of persons offering legal services by considering relevant issues in accordance with a programme of work approved by the **[**[F20]Secretary of State**]** and, where the Consultative Panel considers it appropriate to do so, making recommendations to him;

(b) the duty of providing to the **[**[F20]Secretary of State**]** , at his request, advice about particular matters relating to any aspect of the provision of legal services (including the education, training and conduct of persons offering legal services); and

(c) the functions conferred or imposed on it by other provisions of this Act or any other enactment.

(4) The Consultative Panel may, in performance of the duty in subsection (3)(a), seek information from or give advice to any body or person.

(5) The **[**[F20]Secretary of State**]** shall publish—

(a) any recommendations made to him by the Consultative Panel in performance of the duty in paragraph (a) of subsection (3); and

(b) any advice provided to him by the Consultative Panel in performance of the duty in paragraph (b) of that subsection.

(6) The **[**[F20]Secretary of State**]** shall consider any recommendations made to him by the Consultative Panel in performance of the duty in subsection (3)(a).

(7) The **[**[F20]Secretary of State**]**—

(a) shall make available to the Consultative Panel appropriate administrative support; and

(b) may pay to any of the persons forming it any such allowances, and make any such reimbursement of expenses, as he considers appropriate.

(8) For the purposes of the law of defamation the publication of any advice by the Consultative Panel in the exercise of any of its functions shall be absolutely privileged.

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**Textual Amendments**

**F19** S. 18A inserted (1.1.2000) by 1999 c. 22, **s. 35(2)** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)**

**F20** Words in s. 18A substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(a)** (with arts. 6, 8)

***F21*** . . .

**Textual Amendments**

**F21** S. 19 and crossheading preceding it repealed (1.1.2000) by 1999 c. 22, s. 106, **Sch. 15 Pt. II** (with Sch. 14 paras. 7(2), 36(9)); S.I. 1999/3344, art. 2(d), **Sch. 1 para. 4**

**F22 19** . . . . . .

**Textual Amendments**

**F22** S. 19 repealed (1.1.2000) by 1999 c. 22, s. 106, **Sch. 15 Pt. II** (with Sch. 14 paras. 7(2), 36(9)); S.I. 1999/3344, art. 2(d), **Sch. 1 para. 4**

**F23 20** . . . . . .

**Textual Amendments**

**F23** S. 20 repealed (1.1.2000) by 1999 c. 22, s. 106, **Sch. 15 Pt. II** (with Sch. 14 paras. 7(2), 36(9)); S.I. 1999/3344, art. 2(d), **Sch. 1 para. 4**

*The Legal Services Ombudsman*

**21 The Legal Services Ombudsman.**

(1) The **[**[F24]Secretary of State**]** shall appoint a person for the purpose of conducting investigations under this Act.

(2) The person appointed shall be known as “the Legal Services Ombudsman”.

(3) The Legal Services Ombudsman—

(a) shall be appointed for a period of not more than three years; and

(b) shall hold and vacate office in accordance with the terms of his appointment.

(4) At the end of his term of appointment the Legal Services Ombudsman shall be eligible for re-appointment.

(5) The Legal Services Ombudsman shall not be an authorised advocate, authorised litigator, licensed conveyancer, authorised practitioner or notary.

(6) Schedule 3 shall have effect with respect to the Legal Services Ombudsman.

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**Textual Amendments**

**F24** Words in s. 21 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(a)** (with arts. 6, 8)

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

**C3** Ss. 21-25 applied (with modifications) (25.10.2004) by The Legal Services Ombudsman (Extension of Remit) Regulations 2004 (S.I. 2004/2757), **regs. 3**, 4

**C4** S. 21 modified (temp.) (1.1.2010) by The Legal Services Act 2007 (Commencement No. 6, Transitory, Transitional and Saving Provisions) Order 2009 (S.I. 2009/3250), arts. 1(2), **7(2)** (with art. 9)

## 22 Ombudsman's functions.

(1) Subject to the provisions of this Act, the Legal Services Ombudsman may investigate any allegation which is properly made to him and which relates to the manner in which a complaint made to a professional body with respect to—

(a) a person who is or was an authorised advocate, authorised litigator, licensed conveyancer, registered foreign lawyer, recognised body or duly certificated notary public and a member of that professional body; or

(b) any employee of such a person,

has been dealt with by that professional body.

(2) If the Ombudsman investigates an allegation he may investigate the matter to which the complaint relates.

(3) If the Ombudsman begins to investigate an allegation he may at any time discontinue his investigation.

(4) If the Ombudsman decides not to investigate an allegation which he would be entitled to investigate, or discontinues an investigation which he has begun, he shall notify the following of the reason for his decision—

(a) the person making the allegation;

(b) any person with respect to whom the complaint was made; and

(c) the professional body concerned.

(5) The Ombudsman shall not investigate an allegation while—

(a) the complaint is being investigated by the professional body concerned;

(b) an appeal is pending against the determination of the complaint by that body; or

(c) the time within which such an appeal may be brought by any person has not expired.

(6) Subsection (5) does not apply if—

(a) the allegation is that the professional body—

(i) has acted unreasonably in failing to start an investigation into the complaint; or

(ii) having started such an investigation, has failed to complete it within a reasonable time; or

(b) the Ombudsman is satisfied that, even though the complaint is being investigated by the professional body concerned, an investigation by him is justified.

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(7) The Ombudsman shall not investigate—

(a) any issue which is being or has been determined by—

(i) a court;

(ii) the Solicitors Disciplinary Tribunal;

(iii) the Disciplinary Tribunal of the Council of the Inns of Court; or

(iv) any tribunal specified in an order made by the **[**[F25]Secretary of State**]** for the purposes of this subsection; or

(b) any allegation relating to a complaint against any person which concerns an aspect of his conduct in relation to which he has immunity from any action in negligence or contract.

(8) The Ombudsman may—

(a) if so requested by the Scottish ombudsman, investigate an allegation relating to a complaint made to a professional body in Scotland; and

(b) arrange for the Scottish ombudsman to investigate an allegation relating to a complaint made to a professional body in England and Wales.

(9) For the purposes of this section, an allegation is properly made if it is made—

(a) in writing; and

(b) by any person affected by what is alleged in relation to the complaint concerned or, where that person has died or is unable to act for himself, by his personal representative or by any relative or other representative of his.

(10) The Ombudsman may investigate an allegation even though—

(a) the complaint relates to a matter which arose before the passing of this Act; or

(b) the person making the complaint may be entitled to bring proceedings in any court with respect to the matter complained of.

(11) In this section—

"professional body" means any body which, or the holder of any office who—

(a) has disciplinary powers in relation to any person mentioned in subsection (1)(a); and

(b) is specified in an order made by the **[**[F25]Secretary of State**]** for the purposes of this subsection;

"recognised body" means any body recognised under section 9 of the [M13]Administration of Justice Act 1985 (incorporated practices) or under section 32 of that Act (incorporated bodies carrying on business of provision of conveyancing services); and

"the Scottish ombudsman" means any person appointed to carry out functions in relation to the provision of legal services in Scotland which are similar to those of the Ombudsman.

**Textual Amendments**

**F25** Words in s. 22 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(a)** (with arts. 6, 8)

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

**C5** Ss. 21-25 applied (with modifications) (25.10.2004) by The Legal Services Ombudsman (Extension of Remit) Regulations 2004 (S.I. 2004/2757), **regs. 3**, 4

**C6** S. 22 modified (temp.) (1.1.2010) by The Legal Services Act 2007 (Commencement No. 6, Transitory, Transitional and Saving Provisions) Order 2009 (S.I. 2009/3250), arts. 1(2), **7(3)-(7)** (with art. 9)

**Marginal Citations**

**M13** 1985 c. 61.

## 23 [F26Recommendations and orders.]

(1) Where the Legal Services Ombudsman has completed an investigation under this Act he shall send a written report of his conclusions to—

(a) the person making the allegation;

(b) the person with respect to whom the complaint was made;

(c) any other person with respect to whom the Ombudsman makes a recommendation under subsection (2) **[**F27or an order under subsection (2A)**]**; and

(d) the professional body concerned.

(2) In reporting his conclusions, the Ombudsman may recommend—

(a) that the complaint be reconsidered by the professional body concerned;

(b) that the professional body concerned or any other relevant disciplinary body consider exercising its powers in relation to—

(i) the person with respect to whom the complaint was made; or

(ii) any person who, at the material time, was connected with him;

(c) that—

(i) the person with respect to whom the complaint was made; or

(ii) any person who, at the material time, was connected with him,

pay compensation of an amount specified by the Ombudsman to the complainant for loss suffered by him, or inconvenience or distress caused to him, as a result of the matter complained of;

(d) that the professional body concerned pay compensation of an amount specified by the Ombudsman to the person making the complaint for loss suffered by him, or inconvenience or distress caused to him, as a result of the way in which the complaint was handled by that body;

(e) that the person or professional body to **[**F28pay compensation under paragraph (c) or (d)**]** make a separate payment to the person making the allegation of an amount specified by the Ombudsman by way of reimbursement of the cost, or part of the cost, of making the allegation.

**[**F29(2A) If after completing any investigation under this Act the Ombudsman considers that, rather than recommending the taking of any action by any person or professional body under paragraph (c), (d) or (e) of subsection (2), he should make an order requiring the taking of that action by the person or body—

(a) he shall afford the person or body, and the person who made the allegation, a reasonable opportunity of appearing before him to make representations; and

(b) having considered any representations from them, he may, in reporting his conclusions, make the order.**]**

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(3) More than one such recommendation **[**[F30]or order**]** may be included in a report under this section.

(4) Where the Ombudsman includes any recommendation **[**[F30]or order**]** in a report under this section, the report shall give his reasons for making the recommendation.

(5) For the purposes of the law of defamation the publication of any report of the Ombudsman under this section and any publicity given under subsection (9) shall be absolutely privileged.

(6) It shall be the duty of any person to whom a report is sent by the Ombudsman under **[**[F31]subsection (1)(b), (c) or (d)**]** to have regard to the conclusions and recommendations set out in the report, so far as they concern that person.

(7) Where—

(a) a report is sent to any person under this section; and

(b) the report includes a recommendation directed at him,

he shall, before the end of the period of three months beginning with the date on which the report was sent, notify the Ombudsman of the action which he has taken, or proposes to take, to comply with the recommendation.

(8) Any person who fails to comply (whether wholly or in part) with a recommendation under subsection (2) shall publicise that failure, and the reasons for it, in such manner as the Ombudsman may specify.

(9) Where a person is required by subsection (8) to publicise any failure, the Ombudsman may take such steps as he considers reasonable to publicise that failure if—

(a) the period mentioned in subsection (7) has expired and that person has not complied with subsection (8); or

(b) the Ombudsman has reasonable cause for believing that that person will not comply with subsection (8) before the end of that period.

(10) Any reasonable expenses incurred by the Ombudsman under subsection (9) may be recovered by him (as a civil debt) from the person whose failure he has publicised.

(11) For the purposes of this section, the person with respect to whom a complaint is made (“the first person") and another person (“the second person") are connected if—

(a) the second person—

(i) employs the first person; and

(ii) is an authorised advocate, authorised litigator, duly certificated notary public, licensed conveyancer or partnership;

(b) they are both partners in the same partnership; or

(c) the second person is a recognised body which employs the first person or of which the first person is an officer.

**Textual Amendments**

**F26** Sidenote in s. 23 substituted (27.9.1999) by 1999 c. 22, **s. 49(1)(7)** (with Sch. 14 para. 7(2)); S.I. 1999/2657, **art. 2(a)**

**F27** Words in s. 23(1)(c) inserted (27.9.1999) by 1999 c. 22, **s. 49(1)(2)** (with Sch. 14 para. 7(2)); S.I. 1999/2657, **art. 2(a)**

**F28** Words in s. 23(2)(e) substituted (27.9.1999) by 1999 c. 22, **s. 49(1)(3)** (with Sch. 14 para. 7(2)); S.I. 1999/2657, **art. 2(a)**

***Status:*** *Point in time view as at 12/01/2006. This version of this Act contains provisions that are not valid for this point in time.*
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**F29** S. 23(2A) inserted (27.9.1999) by 1999 c. 22, **s. 49(1)(4)** (with Sch. 14 para. 7(2)); S.I. 1999/2657, **art. 2(a)**

**F30** Words in s. 23(3)(4) inserted (27.9.1999) by 1999 c. 22, **s. 49(1)(5)** (with Sch. 14 para. 7(2)); S.I. 1999/2657, **art. 2(a)**

**F31** Words in s. 23(6) substituted (27.9.1999) by 1999 c. 22, **s. 49(1)(6)** (with Sch. 14 para. 7(2)); S.I. 1999/2657, **art. 2(a)**

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

**C7** Ss. 21-25 applied (with modifications) (25.10.2004) by The Legal Services Ombudsman (Extension of Remit) Regulations 2004 (S.I. 2004/2757), **regs. 3**, 4

**C8** S. 23 modified (temp.) (1.1.2010) by The Legal Services Act 2007 (Commencement No. 6, Transitory, Transitional and Saving Provisions) Order 2009 (S.I. 2009/3250), arts. 1(2), **7(8)-(9)** (with art. 9)

## 24 Advisory functions.

(1) The Legal Services Ombudsman may make recommendations to any professional body about the arrangements which that body has in force for the investigation of complaints made with respect to persons who are subject to that body's control.

(2) It shall be the duty of any professional body to whom a recommendation is made under this section to have regard to it.

[F32](3) . . . . . .

**Textual Amendments**

**F32** S. 24(3) repealed (1.1.2000) by 1999 c. 22, s. 106, **Sch. 15 Pt. II** (with Sch. 14 paras. 7(2), 36(9)); S.I. 1999/3344, art. 2(d), **Sch. 1 para. 4**

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

**C9** Ss. 21-25 applied (with modifications) (25.10.2004) by The Legal Services Ombudsman (Extension of Remit) Regulations 2004 (S.I. 2004/2757), **regs. 3**, 4

**C10** S. 24 modified (temp.) (1.1.2010) by The Legal Services Act 2007 (Commencement No. 6, Transitory, Transitional and Saving Provisions) Order 2009 (S.I. 2009/3250), arts. 1(2), **7(10)-(11)** (with art. 9)

**C11** S. 24(1) restricted (1.11.2003) by 1999 c. 22, s. 52(8) (with Sch. 14 para. 7(2)); S.I. 2003/2571, **art. 2**

**Commencement Information**

**I9** S. 24 wholly in force; s. 24(1)(2) in force at 1. 1. 1991 by S.I. 1990/2484; s. 24(3) in force at 1. 4. 1991 see s. 124(3) and S.I. 1991/608, **art. 2**

## 25 Procedure and offences.

(1) Where the Legal Services Ombudsman is conducting an investigation under this Act he may require any person to furnish such information or produce such documents as he considers relevant to the investigation.

(2) For the purposes of any such investigation, the Ombudsman shall have the same powers as the High Court in respect of the attendance and examination of witnesses (including the administration of oaths or affirmations and the examination of witnesses abroad) and in respect of the production of documents.

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***Changes to legislation:*** *Courts and Legal Services Act 1990 is up to date with all changes known to be in force on or before 26 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(3) No person shall be compelled, by virtue of subsection (2), to give evidence or produce any document which he could not be compelled to give or produce in civil proceedings before the High Court.

(4) If any person is in contempt of the Ombudsman in relation to any investigation conducted under section 22, the Ombudsman may certify that contempt to the High Court.

(5) For the purposes of this section a person is in contempt of the Ombudsman if he acts, or fails to act, in any way which would constitute contempt if the investigation being conducted by the Ombudsman were civil proceedings in the High Court.

(6) Where a person's contempt is certified under subsection (4), the High Court may enquire into the matter.

(7) Where the High Court conducts an inquiry under subsection (6) it may, after—
   (a) hearing any witness produced against, or on behalf of, the person concerned; and
   (b) considering any statement offered in his defence,

   deal with him in any manner that would be available to it had he been in contempt of the High Court.

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

**C12** Ss. 21-25 applied (with modifications) (25.10.2004) by The Legal Services Ombudsman (Extension of Remit) Regulations 2004 (S.I. 2004/2757), **regs. 3**, 4

## 26 Extension of Ombudsman's remit.

(1) The **[**[F33]Secretary of State**]** may by regulation extend the jurisdiction of the Legal Services Ombudsman by providing for the provisions of sections 21 to 25 to have effect, with such modifications (if any) as he thinks fit, in relation to the investigation by the Ombudsman of allegations—
   (a) which relate to complaints of a prescribed kind concerned with the provision of probate services; and
   (b) which he would not otherwise be entitled to investigate.

(2) Without prejudice to the generality of the power given to the **[**[F33]Secretary of State**]** by subsection (1), the regulations may make provision for the investigation only of allegations relating to complaints—
   (a) made to prescribed bodies; or
   (b) with respect to prescribed categories of person.

**Textual Amendments**

**F33** Words in s. 26 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(a)** (with arts. 6, 8)

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*Rights of audience and rights to conduct litigation*

**27 Rights of audience.**

(1) The question whether a person has a right of audience before a court, or in relation to any proceedings, shall be determined solely in accordance with the provisions of this Part.

(2) A person shall have a right of audience before a court in relation to any proceedings only in the following cases—

(a) where—

(i) he has a right of audience before that court in relation to those proceedings granted by the appropriate authorised body; and

(ii) that body's qualification regulations and rules of conduct have been approved for the purposes of this section, in relation to [F34]. . . that right;

(b) where paragraph (a) does not apply but he has a right of audience before that court in relation to those proceedings granted by or under any enactment;

(c) where paragraph (a) does not apply but he has a right of audience granted by that court in relation to those proceedings;

(d) where he is a party to those proceedings and would have had a right of audience, in his capacity as such a party, if this Act had not been passed; or

(e) where—

(i) he is employed (whether wholly or in part), or is otherwise engaged, to assist in the conduct of litigation and is doing so under instructions given (either generally or in relation to the proceedings) by a qualified litigator; and

(ii) the proceedings are being heard in chambers in the High Court or a county court and are not reserved family proceedings.

**[**[F35](2A) Every person who exercises before any court a right of audience granted by an authorised body has—

(a) a duty to the court to act with independence in the interests of justice; and

(b) a duty to comply with rules of conduct of the body relating to the right and approved for the purposes of this section;

and those duties shall override any obligation which the person may have (otherwise than under the criminal law) if it is inconsistent with them.**]**

(3) . . . . . .

(4) Nothing in this section affects the power of any court in any proceedings to refuse to hear a person (for reasons which apply to him as an individual) who would otherwise have a right of audience before the court in relation to those proceedings.

(5) Where a court refuses to hear a person as mentioned in subsection (4) it shall give its reasons for refusing.

[F36](6) . . . . . .

(7) Where, immediately before the commencement of this section, no restriction was placed on the persons entitled to exercise any right of audience in relation to any particular court or in relation to particular proceedings, nothing in this section shall be taken to place any such restriction on any person.

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(8) Where—

(a) immediately before the commencement of this section; or

(b) by virtue of any provision made by or under an enactment passed subsequently,

a court does not permit the appearance of advocates, or permits the appearance of advocates only with leave, no person shall have a right of audience before that court, in relation to any proceedings, solely by virtue of the provisions of this section.

**[**[F37](8A) But a court may not limit the right to appear before the court in any proceedings to only some of those who have the right by virtue of the provisions of this section.**]**

(9) In this section—

"advocate", in relation to any proceedings, means any person exercising a right of audience as a representative of, or on behalf of, any party to the proceedings;

"authorised body" means—

(a) the General Council of the Bar;

(b) the Law Society; and

(c) any professional or other body which has been designated by Order in Council as an authorised body for the purposes of this section;

"appropriate authorised body", in relation to any person claiming to be entitled to any right of audience by virtue of subsection (2)(a), means the authorised body—

(a) granting that right; and

(b) of which that person is a member;

"family proceedings" has the same meaning as in the [M14]Matrimonial and Family Proceedings Act 1984 and also includes any other proceedings which are family proceedings for the purposes of the Children Act 1989;

"qualification regulations", in relation to an authorised body, means regulations (however they may be described) as to the education and training which members of that body must receive in order to be entitled to **[**[F38], or to exercise,**]** any right of audience granted by it;

"qualified litigator" means—

(i) any practising solicitor **[**[F39](that is, one who has a practising certificate in force or is employed wholly or mainly for the purpose of providing legal services to his employer)**]**;

(ii) any recognised body; and

(iii) any person who is exempt from the requirement to hold a practising certificate by virtue of section 88 of the Solicitors Act 1974 (saving for solicitors to public departments and the City of London);

"recognised body" means any body recognised under section 9 of the [M15]Administration of Justice Act 1985 (incorporated practices);

"reserved family proceedings" means such category of family proceedings as the **[**[F40]Secretary of State**]** may, after consulting the President of the Law Society and with the concurrence of the President of the Family Division, by order prescribe; and

"rules of conduct", in relation to an authorised body, means rules (however they may be described) as to the conduct required of members of that body in exercising any right of audience granted by it.

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(10) Section 20 of the [M16]Solicitors Act 1974 (unqualified person not to act as a solicitor) section 22 of that Act (unqualified person not to prepare certain documents etc) and section 25 of that Act (costs where an unqualified person acts as a solicitor), shall not apply in relation to any act done in the exercise of a right of audience.

**Textual Amendments**

**F34** Words in s. 27(2)(a)(ii) repealed (27.9.1999) by 1999 c. 22, s. 43, Sch. 6 para. 6(1)(2), **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 para. 2(a)**

**F35** S. 27(2A) inserted (27.9.1999) by 1999 c.22, **s. 42(1)** (with Sch. 14 para. 7(2)); S.I. 1999/2657, **art. 2(a)**

**F36** S. 27(3)(6) repealed (27.9.1999) by 1999 c. 22, s. 106, **Sch. 15 Pt. II**; S.I. 1999/2657, art. 2(d)(ii)(a), **Sch. 2 Pt. I para. 2(a)**

**F37** S. 27(8A) inserted (27.9.1999) by 1999 c. 22, s. 43, **Sch. 6 para. 6(1)(3)** (with Sch. 14 para. 7(2)); S.I. 1999/2657, **art. 2(a)**

**F38** Words in definition of "qualification regulations" in s. 27(9) inserted (27.9.1999) by 1999 c. 22, s. 43, **Sch. 6 para. 6(1)(4)(a)** (with Sch. 14 para. 7(2)); S.I. 1999/2657, **art. 2(a)**

**F39** Words in definition of "qualification litigator" in s. 27(9) substituted (27.9.1999) by 1999 c. 22, s. 43, **Sch. 6 para. 6(1)(4)(b)** (with Sch. 14 para. 7(2)); S.I. 1999/2657, **art. 2(a)**

**F40** Words in s. 27 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(a)** (with arts. 6, 8)

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

**C13** S. 27 modified (27.9.1999) by 1999 c. 22, ss. 105, 108(3)(e), **Sch. 14 Pt. III para. 14(1)** (with Sch. 14 para. 7(2))
S. 27 modified (22.5.2000) by S.I. 2000/1119, regs. 1(1), 37, Sch. 3 Pt. 2 (as amended (1.1.2010) by S.I. 2009/1587, **art. 2(6)(a)**; S.I. 2009/3250, **art. 2(b)(i)** (with art. 9))

**C14** S. 27(2)(a) excluded (1.4.2001) by 2000 c. 43, **s. 15(3)**; S.I. 2001/919, **art. 2(a)**

**Marginal Citations**

**M14** 1984 c. 42.

**M15** 1985 c. 61.

**M16** 1974 c. 47.

## 28 Rights to conduct litigation.

(1) The question whether a person has a right to conduct litigation, or any category of litigation, shall be determined solely in accordance with the provisions of this Part.

(2) A person shall have a right to conduct litigation in relation to any proceedings only in the following cases—

(a) where—

(i) he has a right to conduct litigation in relation to those proceedings granted by the appropriate authorised body; and

(ii) that body's qualification regulations and rules of conduct have been approved for the purposes of this section, in relation to [F41]. . . that right;

(b) where paragraph (a) does not apply but he has a right to conduct litigation in relation to those proceedings granted by or under any enactment;

(c) where paragraph (a) does not apply but he has a right to conduct litigation granted by that court in relation to those proceedings;

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(d) where he is a party to those proceedings and would have had a right to conduct the litigation, in his capacity as such a party, if this Act had not been passed.

**[**[F42](2A) Every person who exercises in relation to proceedings in any court a right to conduct litigation granted by an authorised body has—

(a) a duty to the court to act with independence in the interests of justice; and

(b) a duty to comply with rules of conduct of the body relating to the right and approved for the purposes of this section;

and those duties shall override any obligation which the person may have (otherwise than under the criminal law) if it is inconsistent with them.**]**

(3) . . . . . .

(4) Where, immediately before the commencement of this section, no restriction was placed on the persons entitled to exercise any right to conduct litigation in relation to a particular court, or in relation to particular proceedings, nothing in this section shall be taken to place any such restriction on any person.

**[**[F43](4A) A court may not limit the right to conduct litigation in relation to proceedings before the court to only some of those who have the right by virtue of the provisions of this section.**]**

(5) In this section—

"authorised body" means—

(a) the Law Society; [F44]. . .

**[**[F45](aa) the General Council of the Bar;

(ab) the Institute of Legal Executives; and**]**

(b) any professional or other body which has been designated by Order in Council as an authorised body for the purposes of this section;

"appropriate authorised body", in relation to any person claiming to be entitled to any right to conduct litigation by virtue of subsection (2)(a), means the authorised body—

(a) granting that right; and

(b) of which that person is a member;

"qualification regulations", in relation to an authorised body, means regulations (however they may be described) as to the education and training which members of that body must receive in order to be entitled to **[**[F46], or to exercise,**]** any right to conduct litigation granted by it; and

"rules of conduct", in relation to any authorised body, means rules (however they may be described) as to the conduct required of members of that body in exercising any right to conduct litigation granted by it.

**[**[F47](5A) Nothing in this section shall be taken to require the General Council of the Bar or the Institute of Legal Executives to grant a right to conduct litigation.**]**

(6) Section 20 of the [M17]Solicitors Act 1974 (unqualified person not to act as a solicitor), section 22 of that Act (unqualified person not to prepare certain documents etc.) and section 25 of that Act (costs where unqualified person acts as a solicitor) shall not apply in relation to any act done in the exercise of a right to conduct litigation.

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**Textual Amendments**

**F41** Words in s. 28(2)(a)(ii) repealed (27.9.1999) by 1999 c. 22, ss. 43, 106, Sch. 6 para. 7(1)(2), **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 para. 2(b)**

**F42** S. 28(2A) inserted (27.9.1999) by 1999 c. 22, **s. 42(2)** (with Sch. 14 para. 7(2)); S.I. 1999/2657, **art. 2(a)**

**F43** S. 28(4A) inserted (27.9.1999) by s. 43, Sch. 6 para. 7(1)(3) (with Sch. 14 para. 7(2)); S.I. 1999/2657, **art. 2(a)**

**F44** Word in definition of "authorised body" repealed in s. 28(5) (27.9.19999) by 1999 c.22, s. 106, **Sch. 15 Pt. II** (with Sch. 14 paras. 7(2), 36(9)); S.I. 1999/2657, art. 2(d)(ii)(a), **Sch. 2 Pt. I para. 2(b)**

**F45** S. 28(5)(aa)(ab) inserted (27.9.1999) by 1999 c. 22, **s. 40** (with Sch. 14 para. (2)); S.I. 1999/2657, **art. 2(a)**

**F46** Words in definition of "qualification regulations" in s. 28(5) inserted (27.9.1999) by 1999 c.22, s. 43, **Sch. 6 para. 7(1)(4)** (with Sch. 14 para. 7(2)); S.I. 1999/2657, **art. 2(a)**

**F47** S. 28(5A) inserted (27.9.1999) by 1999 c. 22, **s. 40** (with Sch. 14 para. 7(2)); S.I. 1999/2657, **art. 2(a)**

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

**C15** S. 28 modified (27.9.1999) by 1999 c. 22, ss. 105, 108(3)(e), **Sch. 14 Pt. III para. 14(2)** (with Sch. 14 para. 7(2))
S. 28 modified (22.5.2000) by S.I. 2000/1119, regs. 1(1), 37, Sch. 3 Pt. 2 (as amended (1.1.2010) by S.I. 2009/1587, **art. 2(6)(a)**; S.I. 2009/3250, **art. 2(b)(i)** (with art. 9))

**C16** S. 28(2)(a) excluded (1.4.2001) by 2000 c. 43, **s. 15(2)**; S.I. 2001/919, **art. 2(a)**

**Marginal Citations**

**M17** 1974 c. 47.

## [F48 29 Authorised bodies.

The provisions of Schedule 4 shall have effect with respect to the authorisation of bodies for the purposes of sections 27 and 28 and the approval and alteration of qualification regulations and rules of conduct.]

**Textual Amendments**

**F48** S. 29 substituted (1.1.2000) for ss. 29, 30 by 1999 c. 22, s. 41, **Sch. 5 para. 1** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (with art. 4)

## [F50 31 Barristers and solicitors.

(1) Every barrister shall be deemed to have been granted by the General Council of the Bar a right of audience before every court in relation to all proceedings (exercisable in accordance with the qualification regulations and rules of conduct of the General Council of the Bar approved for the purposes of section 27 in relation to the right).

(2) Every solicitor shall be deemed to have been granted by the Law Society—

(a) a right of audience before every court in relation to all proceedings (exercisable in accordance with the qualification regulations and rules of conduct of the Law Society approved for the purposes of section 27 in relation to the right); and

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(b) a right to conduct litigation in relation to every court and all proceedings (exercisable in accordance with the qualification regulations and rules of conduct of the Law Society approved for the purposes of section 28 in relation to the right).

(3) A person shall not have a right of audience by virtue of subsection (1) if—

(a) he has not been called to the Bar by an Inn of Court; or

(b) he has been disbarred, or is temporarily suspended from practice, by order of an Inn of Court.**]**

**Textual Amendments**

**F50** S. 31 substituted for ss. 31-33 (27.9.1999) by 1999 c.22, **s. 36** (with Sch. 14 para. 7(2)); S.I. 1999/2657, **art. 2(a)**

## [[F51]31A Employed advocates.

(1) Where a person who has a right of audience granted by an authorised body is employed as a Crown Prosecutor or in any other description of employment, any qualification regulations or rules of conduct of the body relating to that right which fall within subsection (2) shall not have effect in relation to him.

(2) Qualification regulations or rules of conduct relating to a right granted by a body fall within this subsection if—

(a) they limit the courts before which, or proceedings in which, that right may be exercised by members of the body who are employed or limit the circumstances in which that right may be exercised by them by requiring them to be accompanied by some other person when exercising it; and

(b) they do not impose the same limitation on members of the body who have the right but are not employed.**]**

**Textual Amendments**

**F51** S. 31A inserted (31.7.2000) by 1999 c. 22, **s. 37** (with Sch. 14 para. 7(2); S.I. 2000/1920, **art. 2(a)**

## [[F52]31B Advocates and litigators employed by Legal Services Commission.

(1) Where a person who has a right of audience or right to conduct litigation granted by an authorised body is employed by the Legal Services Commission, or by any body established and maintained by the Legal Services Commission, any rules of the authorised body which fall within subsection (2) shall not have effect in relation to him.

(2) Rules of a body fall within this subsection if they are—

(a) rules of conduct prohibiting or limiting the exercise of the right on behalf of members of the public by members of the body who are employees; or

(b) rules of any other description prohibiting or limiting the provision of legal services to members of the public by such members of the body,

and either of the conditions specified in subsection (3) is satisfied.

(3) Those conditions are—

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(a) that the prohibition or limitation is on the exercise of the right, or the provision of the services, otherwise than on the instructions of solicitors (or other persons acting for the members of the public); and

(b) that the rules do not impose the same prohibition or limitation on members of the body who have the right but are not employees.**]**

**Textual Amendments**

**F52** S. 31B inserted (31.7.2000) by 1999 c.22, **s. 38** (with Sch. 14 para. 7(2)); S.I. 2000/1920, **art. 2(a)**

### [F53 31C Change of authorised body.

(1) Where a person—

(a) has at any time had, and been entitled to exercise, a right of audience before a court in relation to proceedings of any description granted by one authorised body; and

(b) becomes a member of another authorised body and has a right of audience before that court in relation to that description of proceedings granted by that body,

any qualification regulations of that body relating to that right shall not have effect in relation to him.

(2) Subsection (1) does not apply in relation to any qualification regulations to the extent that they impose requirements relating to continuing education or training which have effect in relation to the exercise of the right by all members of the body who have the right.

(3) Subsection (1) does not apply to a person if he has been banned from exercising the right of audience by the body mentioned in paragraph (a) of that subsection as a result of disciplinary proceedings and that body has not lifted the ban.**]**

**Textual Amendments**

**F53** S. 31C inserted (31.7.2000) by 1999 c.22, **s. 39** (with Sch. 7(2)); S.I. 2000/1920, **art. 2(a)**

*Extension of conveyancing services*

### 34 The Authorised Conveyancing Practitioners Board.

(1) There shall be a body corporate to be known as the Authorised Conveyancing Practitioners Board (in this Act referred to as "the Board").

(2) The Board shall consist of a Chairman and at least four, and at most eight, other members appointed by the **[**F56 Secretary of State**]** .

(3) In appointing any member, the **[**F56 Secretary of State**]** shall have regard to the desirability of—

(a) appointing persons who have experience in, or knowledge of—

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(i) the provision of conveyancing services;
(ii) financial arrangements associated with conveyancing;
(iii) consumer affairs; or
(iv) commercial affairs; and

(b) securing, so far as is reasonably practicable, that the composition of the Board is such as to provide a proper balance between the interests of authorised practitioners and those who make use of their services.

(4) The Board shall not be regarded as the servant or agent of the Crown, or as enjoying any status, immunity or privilege of the Crown.

(5) The Board's property shall not be regarded as property of, or held on behalf of, the Crown.

(6) Neither the Board nor any of its staff or members shall be liable in damages for anything done or omitted in the discharge or purported discharge of any of its functions.

(7) Subsection (6) does not apply where the act or omission is shown to have been in bad faith.

(8) The provisions of Schedule 5 shall have effect with respect to the constitution, procedure and powers of the Board and with respect to connected matters.

**Textual Amendments**

**F56** Words in s. 34 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(a)** (with arts. 6, 8)

**Commencement Information**

**I13** S. 34 wholly in force at 1. 4.1991 see s. 124(3) and S.I. 1991/608, art. 2, **Sch.**

## 35 Functions of the Board and financial provisions.

(1) It shall be the general duty of the Board—

(a) to seek to develop competition in the provision of conveyancing services;

(b) to supervise the activities of authorised practitioners in connection with the provision by them of conveyancing services.

(2) In discharging the duty imposed on it by subsection (1)(b) the Board shall, in particular, make arrangements designed to enable it to ascertain whether authorised practitioners are complying with regulations made by the **[**[F57]Secretary of State**]** under section 40.

(3) The Board shall have the specific functions conferred on it by or under this Act.

(4) Where the **[**[F57]Secretary of State**]** refers to the Board any matter connected with—

(a) the provision of conveyancing services by authorised practitioners; or

(b) the organisation or practice of authorised practitioners,

it shall be the duty of the Board to consider the matter and to report its conclusions to the **[**[F57]Secretary of State**]** .

(5) Any report made under subsection (4) may be published by the **[**[F57]Secretary of State**]** in such manner as he thinks fit.

***Status:*** *Point in time view as at 12/01/2006. This version of this Act contains provisions that are not valid for this point in time.*
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(6) A copy of any guidance for authorised practitioners issued by the Board shall be sent by the Board to the **[**[F57]Secretary of State**]** .

(7) Where it appears to the **[**[F57]Secretary of State**]** that there are grounds for believing that the Board has failed in any way to carry out any of its duties under this Act, he may give such directions to the Board as he considers appropriate.

(8) The Board may make rules providing for the expenses which it incurs in exercising its functions, after taking into account any grants made to it under subsection (10) and any fees received by it, to be met by the imposition on each authorised practitioner of an annual levy calculated, and payable, in accordance with the provisions of the rules.

(9) Any amount due to the Board from an authorised practitioner in respect of any levy payable by that practitioner under the rules shall be recoverable by the Board as a civil debt.

(10) The **[**[F57]Secretary of State**]** may, with the approval of the Treasury, make grants to the Board towards meeting the expenses incurred, or to be incurred, by it in the discharge of its functions.

(11) Any such grant may be made subject to such terms and conditions (including conditions as to repayment) as the **[**[F57]Secretary of State**]** sees fit to impose.

(12) Any sums required by the **[**[F57]Secretary of State**]** for making grants under subsection (10) shall be paid out of money provided by Parliament.

(13) Any sums repaid by the Board in accordance with conditions imposed under subsection (11) shall be paid into the Consolidated Fund.

**Textual Amendments**

**F57** Words in s. 35 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(a)** (with arts. 6, 8)

**Commencement Information**

**I14** S. 35 wholly in force at 1. 4.1991 see s. 124(3) and S.I. 1991/608, **art. 2 Sch.**

## 36 Provision of conveyancing services by authorised practitioners.

(1) The restriction imposed by section 22 of the [M18]Solicitors Act 1974 (which has the effect of limiting the categories of person who may provide conveyancing services) shall not apply to any act done in connection with the provision of conveyancing services—

(a) by an individual at any time when he is an authorised practitioner;

(b) by a body corporate at any time when it is an authorised practitioner;

(c) by an officer or employee of a body corporate at any time when that body is an authorised practitioner; or

(d) by a member or employee of an unincorporated association at any time when that association is an authorised practitioner.

(2) In subsection (1)(c) and (d) “officer”, “employee” and “member” mean respectively an officer, employee or member who (at the time of the act in question) satisfies, and is acting in accordance with, regulations under section 40.

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(3) Any rule (however described) which is imposed by a professional or other body and which would, but for this subsection, result in restricting or preventing a qualified person from—
  (a) providing any conveyancing services as an authorised practitioner;
  (b) acting as an employee of an authorised practitioner in connection with the provision of any such services; or
  (c) acting on behalf of an authorised practitioner in connection with the provision of any such services,

shall be of no effect unless it is given partial effect by subsection (4)(a) or full effect by subsection (4)(b).

(4) If the result mentioned in subsection (3) is not the main or only result of the rule in question, subsection (3)—
  (a) shall apply only to the extent that the rule would have that result; but
  (b) shall not apply if the rule is reasonably required as a rule of general application for the purpose of regulating the conduct or practice of all members of that body.

(5) Nothing in this section prevents a professional or other body from imposing a rule that any member of that body who is acting as mentioned in subsection (3)(c) may do so only on terms which allow him to give independent legal or financial advice to the person for whom conveyancing services are being provided by the authorised practitioner concerned.

(6) In this section "qualified person" means—
  (a) any barrister, solicitor, duly certificated notary public or licensed conveyancer;
  (b) any body recognised under section 9 of the [M19]Administration of Justice Act 1985 (incorporated practices); or
  (c) any body recognised under section 32 of the Act of 1985 (incorporated bodies carrying on business of provision of conveyancing services).

**Marginal Citations**
**M18** 1974 c. 47.
**M19** 1985 c. 61.

## 37 Authorisation of practitioners.

(1) On an application duly made by a person who proposes to provide conveyancing services, the Board shall authorise that person to provide those services, if—
  (a) it is satisfied that the applicant's business is, and is likely to continue to be, carried on by fit and proper persons or, in the case of an application by an individual, that he is a fit and proper person; and
  (b) it is of the opinion that the applicant will comply with the requirements mentioned in subsection (7).

(2) Any such authorisation shall be given in writing and shall take effect on such date as the Board may specify.

(3) A person so authorised is referred to in this Act as "an authorised practitioner".

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(4) An application for authorisation must be made in accordance with rules made by the Board, with the approval of the **[**[F58]Secretary of State**]** , for the purposes of this section.

(5) On making any such application, the applicant shall pay to the Board such fee as may be specified in the rules.

(6) The rules may, in particular, make provision—
- (a) as to the form in which any application must be made; and
- (b) for the furnishing by applicants of information required by the Board in connection with their applications.

(7) The requirements are that the applicant—
- (a) complies with any rules made by the Board and any regulations made under section 40, so far as applicable;
- (b) ensures that satisfactory arrangements are at all times in force for covering adequately the risk of any claim made against the applicant in connection with the provision of conveyancing services provided by the applicant, however arising;
- (c) maintains satisfactory procedures for—
  - (i) dealing with complaints made about any aspect of conveyancing services provided by the applicant; and
  - (ii) the payment of compensation;
- (d) has in force satisfactory arrangements to protect the applicant's clients in the event of the applicant ceasing to provide conveyancing services;
- (e) is a member of the Conveyancing Ombudsman Scheme.

**[**[F59](8) Subsection (8A) applies if the applicant is—
- (a) a person with permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits or to effect or carry out contracts of insurance; or
- (b) an EEA firm of the kind mentioned in paragraph 5(b) or (d) of Schedule 3 to that Act which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule) either—
  - (i) to accept deposits, or
  - (ii) to effect or carry out contracts of insurance.

(8A) The Board must have regard to the fact that the applicant has obtained that permission in determining whether it is satisfied as mentioned in subsection (1)(a).

(8B) Subsection (8) must be read with—
- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.**]**

(9) The Board shall maintain a register of authorised practitioners which shall be open to inspection, at all reasonable times, without charge.

(10) The **[**[F58]Secretary of State**]** may by order amend the provisions of subsection (7) by imposing any additional requirement or by varying or removing any requirement.

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**Textual Amendments**

**F58** Words in s. 37 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(a)** (with arts. 6, 8)

**F59** S. 37(8)-(8B) substituted for s. 37(8) (1.12.2001) by S.I. 2001/3649, **arts. 1**, 321

## 38 Refusal of approval and imposition of conditions.

(1) Where the Board proposes to refuse an application for authorisation under section 37 it shall give the applicant written notice of its proposal.

(2) The notice shall give the Board's reasons for proposing to refuse the application and inform the applicant of the effect of subsection (7).

(3) Any authorisation under section 37 may be given subject to the applicant complying with conditions imposed by the Board with a view to the protection of clients.

(4) Any such conditions—

(a) may be imposed by the Board either when granting the application for authorisation or at any later time; and

(b) may be expressed to apply in relation to a specified part of the authorised practitioner's business (for example, to a specified branch or office).

(5) Before imposing any such conditions, the Board shall give written notice of its intention to do so to the applicant or (as the case may be) authorised practitioner concerned.

(6) The notice shall inform the person to whom it is given of the effect of subsection (7).

(7) Where a notice is served under subsection (1) or (5), it shall be the duty of the Board to consider any representations duly made by the person on whom the notice is served before determining whether to grant or refuse the application or to impose any of the proposed conditions.

(8) For the purposes of subsection (7), representations are duly made if—

(a) they are made to the Board before the end of the period of 28 days beginning with the day on which the notice is served; and

(b) unless the Board directs otherwise in a particular case, are in writing.

(9) Where the Board—

(a) proposes to impose a condition under this section on an authorised practitioner; and

(b) is satisfied that the circumstances of the case are exceptional and justify the condition taking effect immediately,

it may disregard subsections (5) to (8) when imposing the condition.

(10) If the Board refuses the application, or imposes any of the proposed conditions, it shall give the applicant notice in writing and, in the case of a refusal, the notice shall give the Board's reasons for refusing.

(11) A notice under subsection (10) shall inform the applicant of his rights of appeal under section 41.

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(12) An authorised practitioner who fails to comply with a condition imposed on him under this section shall not thereby cease to be such a practitioner; but in such a case the Board may—

(a) impose additional, or substituted, conditions on him; or

(b) revoke or suspend his authorisation in accordance with rules made under section 39(1).

## 39 Revocation and suspension of authorisation.

(1) The Board shall, with the approval of the **[**[F60]Secretary of State**]** , make rules providing for the circumstances in which the authorisation of a person under section 37 may be revoked or suspended by the Board.

(2) Where any such authorisation is revoked or suspended in accordance with the rules, the person concerned shall cease to be an authorised person for the purposes of this Act.

(3) The rules may, in particular—

(a) provide for any suspension to be indefinite or for a period specified by the Board;

(b) provide for the total, or partial, lifting of any suspension in specified circumstances;

(c) provide for the publication by the Board of notice of any suspension or revocation under the rules;

(d) make transitional provision for dealing with any work in hand at the time when a revocation or suspension takes effect.

(4) Where the Board—

(a) revokes or suspends any authorisation in accordance with the rules; or

(b) lifts a suspension so imposed,

it shall take such steps as are reasonably practicable to inform any body which has any regulatory functions in relation to that authorised practitioner of the action which it has taken.

**Textual Amendments**

**F60** Words in ss. 39-41 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(a)** (with arts. 6, 8)

## 40 Regulations about competence and conduct etc. of authorised practitioners.

(1) The **[**[F61]Secretary of State**]** may by regulation make such provision as he considers expedient with a view to securing—

(a) that authorised practitioners maintain satisfactory standards of competence and conduct in connection with the provision by them of conveyancing services;

(b) that in providing such services (and in particular in fixing their charges) they act in a manner which is consistent with the maintenance of fair competition between authorised practitioners and others providing conveyancing services; and

(c) that the interests of their clients are satisfactorily protected.

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(2) The regulations may, in particular, make provision—

(a) designed to—

(i) provide for the efficient transaction of business;

(ii) avoid unnecessary delays;

(b) as to the supervision, by persons with such qualifications as may be prescribed, of such descriptions of work as may be prescribed;

(c) requiring authorised practitioners to arrange, so far as is reasonably practicable, for each transaction to be under the overall control of one individual;

(d) designed to avoid conflicts of interest;

(e) as to the terms and conditions on which authorised practitioners may provide conveyancing services;

(f) as to the information to be given to prospective clients, the manner in which or person by whom it is to be given and the circumstances in which it is to be given free of charge;

(g) as to the handling by authorised practitioners of their clients' money;

(h) as to the disclosure of and accounting for commissions.

**Textual Amendments**

**F61** Words in ss. 39-41 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(a)** (with arts. 6, 8)

**Commencement Information**

**I15** S. 40 wholly in force at 1.4.1991 see s. 124(3) and S.I. 1991/608, **art. 2**.

## 41 The Conveyancing Appeal Tribunals.

(1) There shall be tribunals to be known as "Conveyancing Appeal Tribunals" which shall hear appeals under this section.

(2) Any person who is aggrieved by any decision of the Board to—

(a) refuse an application for authorisation under section 37;

(b) suspend any authorisation given under section 37;

(c) refuse to lift such a suspension;

(d) revoke any such authorisation; or

(e) impose any condition under section 38,

may appeal to a Conveyancing Appeal Tribunal.

(3) No such decision of the Board shall have effect until—

(a) any appeal against it which is duly made under this section is disposed of; or

(b) the period within which an appeal may be made has expired without an appeal having been made.

(4) Subsection (3) shall not apply where—

(a) the Board is satisfied that the circumstances of the case are exceptional and justify the decision in question taking effect immediately, or earlier than would otherwise be the case; and

(b) notifies the person concerned to that effect.

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(5) In this Part a Conveyancing Appeal Tribunal is referred to as "a Tribunal".

(6) A Tribunal shall consist of a Chairman and two other members appointed by the **[**[F62]Secretary of State**]** .

(7) To be qualified for appointment as Chairman of a Tribunal, a person must have a 7 year general qualification (within the meaning of section 71).

(8) Of the other two members of a Tribunal—
- (a) one must have experience in, or knowledge of, the provision of conveyancing services; and
- (b) the other must have experience in, or knowledge of, accountancy.

(9) The **[**[F62]Secretary of State**]** shall appoint a person to be Secretary to the Tribunals.

(10) On receipt of notice of an appeal which is being made to a Tribunal, the Secretary shall inform the **[**[F62]Secretary of State**]** and the **[**[F62]Secretary of State**]** shall appoint a Tribunal to hear that appeal.

(11) Schedule 6 shall have effect with respect to the Tribunals.

**Textual Amendments**

**F62** Words in ss. 39-41 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(a)** (with arts. 6, 8)

## 41 The Conveyancing Appeal Tribunals. E+W

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- (a) refuse an application for authorisation under section 37;
- (b) suspend any authorisation given under section 37;
- (c) refuse to lift such a suspension;
- (d) revoke any such authorisation; or
- (e) impose any condition under section 38,

may appeal to a Conveyancing Appeal Tribunal.

(3) No such decision of the Board shall have effect until—
- (a) any appeal against it which is duly made under this section is disposed of; or
- (b) the period within which an appeal may be made has expired without an appeal having been made.

(4) Subsection (3) shall not apply where—
- (a) the Board is satisfied that the circumstances of the case are exceptional and justify the decision in question taking effect immediately, or earlier than would otherwise be the case; and
- (b) notifies the person concerned to that effect.

(5) In this Part a Conveyancing Appeal Tribunal is referred to as "a Tribunal".

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(6) A Tribunal shall consist of a Chairman and two other members appointed by the **[**[F62]Secretary of State**]**.

**[**[F447](7) A person is eligible for appointment as Chairman of a Tribunal only if he satisfies the judicial-appointment eligibility condition on a 5-year basis.**]**

(8) Of the other two members of a Tribunal—

(a) one must have experience in, or knowledge of, the provision of conveyancing services; and

(b) the other must have experience in, or knowledge of, accountancy.

(9) The **[**[F62]Secretary of State**]** shall appoint a person to be Secretary to the Tribunals.

(10) On receipt of notice of an appeal which is being made to a Tribunal, the Secretary shall inform the **[**[F62]Secretary of State**]** and the **[**[F62]Secretary of State**]** shall appoint a Tribunal to hear that appeal.

(11) Schedule 6 shall have effect with respect to the Tribunals.

**Textual Amendments**

**F62** Words in ss. 39-41 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(a)** (with arts. 6, 8)

**F447** S. 41(7) substituted (21.7.2008) by Tribunals, Courts and Enforcement Act 2007 (c. 15), ss. 50(6), 148, **Sch. 10 para. 21**; S.I. 2008/1653, **art. 2(d)** (with arts. 3, 4)

## 42 Appeals from Tribunals on points of law.

(1) At the instance of a person aggrieved by a decision of a Tribunal, or at the instance of the Board, an appeal shall lie to the High Court on any question of law arising from that decision.

(2) If, on an appeal to the High Court under this section, the court is of the opinion that the decision appealed against was wrong in law, it shall remit the matter for re-hearing and determination by the Tribunal concerned or, where it is not reasonably practicable for the case to be re-heard by that Tribunal, by another Tribunal.

[F63](3) . . . . . .

**Textual Amendments**

**F63** S. 42(3) repealed (27.9.1999) by 1999 c. 22, ss. 106, 108(3)(f), **Sch. 15 Pt. III** (with Sch. 14 paras. 7(2), 36(9))

## 43 The Conveyancing Ombudsman Scheme.

(1) The Board shall, with the approval of the **[**[F64]Secretary of State**]** , make rules establishing a scheme (to be known as "the Conveyancing Ombudsman Scheme") for the investigation, by a person appointed by the Board with the approval of the **[**[F64]Secretary of State**]** , of complaints against authorised practitioners in connection with the provision by them of conveyancing services.

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(2) The person so appointed shall be known as "the Conveyancing Ombudsman".

(3) No person shall be appointed to be the Conveyancing Ombudsman if he is, or has at any time within the period of three years ending with his appointment been—

(a) involved in any capacity in the provision by an authorised practitioner of conveyancing services; or

(b) a member of the Board.

(4) Schedule 7 shall have effect for the purpose of supplementing this section.

(5) A person may be appointed to be both a member of the staff of the Board and a member of the staff of the Conveyancing Ombudsman.

(6) The Conveyancing Ombudsman may not make any charge for the use of his services.

(7) His expenses under the Scheme shall be defrayed by the Board and shall rank as expenses of the Board for the purposes of section 35.

(8) The Conveyancing Ombudsman shall submit to the Board an annual report on the discharge of his functions.

(9) The Board shall, when submitting its own annual report to the **[**[F64]Secretary of State**]** , send him a copy of the Conveyancing Ombudsman's annual report.

(10) When laying the Board's annual report before Parliament, the **[**[F64]Secretary of State**]** shall also lay before Parliament a copy of the Conveyancing Ombudsman's report.

(11) It shall be the duty of the Conveyancing Ombudsman to inform the Board of any evidence which comes to his attention suggesting that there has been, or may have been, a breach of any of the rules made under subsection (1) or of the regulations made under section 40.

(12) The Board may—

(a) pay such remuneration and travelling and other allowances to the Conveyancing Ombudsman as may be determined by the Board;

(b) pay such pension, allowances or gratuities to or in respect of the Conveyancing Ombudsman as may be so determined; and

(c) if the Conveyancing Ombudsman ceases to hold office and it appears to the Board that there are special circumstances which make it right that he should receive compensation, pay him such sum as may be so determined.

**Textual Amendments**

**F64** Words in ss. 43-45 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(a)** (with arts. 6, 8)

## 44 Compensation scheme.

(1) The Board may, with the approval of the **[**[F65]Secretary of State**]** , make rules establishing a scheme for compensating persons who have suffered loss in consequence of dishonesty on the part of authorised practitioners or their employees.

(2) The rules may, in particular—

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(a) provide for the establishment and functioning of an independent body (whether corporate or unincorporate) to administer the scheme and, subject to the rules, determine and regulate any matter relating to its operation;
(b) establish a fund out of which compensation is to be paid;
(c) provide for the levying of contributions from authorised practitioners and otherwise for financing the scheme and for the payment of contributions and other money into the fund;
(d) specify the terms and conditions on which, and the extent to which, compensation is to be payable and any circumstances in which the right to compensation is to be excluded or modified; and
(e) contain incidental and supplementary provisions.

**Textual Amendments**

**F65** Words in ss. 43-45 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(a)** (with arts. 6, 8)

## 45 Advisory and supervisory functions of [F66Office of Fair Trading] .

(1) Where the [F67Secretary of State] is considering whether—
(a) to approve any rules which the Board is proposing to make; or
(b) to make any regulations under section 40,
he shall first send a copy of the proposed rules or regulations to the [F68OFT].

(2) The [F68OFT] shall consider whether the proposed rules or regulations would have, or would be likely to have, the effect of restricting, distorting or preventing competition to any significant extent.

(3) When the [F68OFT] has completed [F69its] consideration [F69it] shall give such advice to the [F67Secretary of State] as [F69it] thinks fit.

(4) The [F68OFT]shall keep under review the rules made by the Board and the regulations made by the [F67Secretary of State] under section 40.

(5) If the [F68OFT]is of the opinion that any such rule or regulation has, or is likely to have, the effect of restricting, distorting or preventing competition to any significant extent, [F70it] shall report [F70its] opinion to the [F67Secretary of State] .

(6) Any report under subsection (5) shall state what, in the [F71OFT's]opinion, is the effect of the rule or regulation or its likely effect.

(7) The [F68OFT]may publish any advice given by [F72it]under subsection (3) or report made by [F72it] under subsection (5).

(8) The [F68OFT] shall, so far as practicable, exclude from anything published under subsection (7) any matter—
(a) which relates to the affairs of a particular person; and
(b) the publication of which would, or might in the [F73its] opinion, seriously and prejudicially affect the interests of that person.

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**Textual Amendments**

**F66** Words in s. 45 sidenote substituted (1.4.2003) by 2002 c. 40, ss. 278, 279, Sch. 25, para. 23(2)(g); S.I. 2003/766, **art. 2**, Sch. (with art. 3)

**F67** Words in ss. 43-45 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(a)** (with arts. 6, 8)

**F68** Words in s. 45 substituted (1.4.2003) by 2002 c. 40, ss. 278, 279, Sch. 25, para. 23(2)(a); S.I. 2003/766, **art. 2**, Sch. (with art. 3)

**F69** Words in s. 45(3) substituted (1.4.2003) by 2002 c. 40, ss. 278, 279, Sch. 25, para. 23(2)(b); S.I. 2003/766, **art. 2**, Sch. (with art. 3)

**F70** Words in s. 45(5) substituted (1.4.2003) by 2002 c. 40, ss. 278, 279, Sch. 25, para. 23(2)(c); S.I. 2003/766, **art. 2**, Sch. (with art. 3)

**F71** Word in s. 45(6) substituted (1.4.2003) by 2002 c. 40, ss. 278, 279, Sch. 25, para. 23(2)(d); S.I. 2003/766, **art. 2**, Sch. (with art. 3)

**F72** Words in s. 45(7) substituted (1.4.2003) by 2002 c. 40, ss. 278, 279, Sch. 25, para. 23(2)(e); S.I. 2003/766, **art. 2**, Sch. (with art. 3)

**F73** Word in s. 45(8)(b) substituted (1.4.2003) by 2002 c. 40, ss. 278, 279, Sch. 25, para. 23(f); S.I. 2003/766, **art. 2**, Sch. (with art. 3)

## 46 Investigatory powers of [F74OFT].

(1) For the purpose of investigating any matter under section 45, the **[**F75OFT**]** may by notice in writing—

(a) require any person to produce to **[**F75it**]** or to any person appointed by **[**F75it**]** for the purpose, at a time and place specified in the notice, any documents which are specified or described in the notice and which—

(i) are in that person's custody or under that person's control; and

(ii) relate to any matter relevant to the investigation; or

(b) require any person carrying on any business to furnish to **[**F75it**]** (within such time and in such manner and form as the notice may specify) such information as may be specified or described in the notice.

(2) A person shall not be required under this section to produce any document or disclose any information which he would be entitled to refuse to produce or disclose on grounds of legal professional privilege in proceedings in the High Court.

(3) F76. . . . . .

**Textual Amendments**

**F74** Words in s. 46 sidenote substituted (1.4.2003) by 2002 c. 40, ss. 278, 279, Sch. 25, para. 23(3)(b); S.I. 2003/766, **art. 2**, Sch. (with art. 3)

**F75** Words in s. 46(1) substituted (1.4.2003) by 2002 c. 40, ss. 278, 279, Sch. 25, para. 23(3)(a); S.I. 2003/766, **art. 2**, Sch. (with art. 3)

**F76** S. 46(3) repealed (1.4.2003) by 2002 c. 40, ss. 278, 279, Sch. 25, para. 23(3)(c), Sch. 26; S.I. 2003/766, **art. 2**, Sch. (with art. 3)

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### [F77 46A Enforcement of notices under section 46

(1) The High Court may, on an application by the OFT, enquire into whether any person ("the defaulter") has refused or otherwise failed, without reasonable excuse, to comply with a notice under section 46(1).

(2) An application under subsection (1) shall include details of the possible failure which the OFT considers has occurred.

(3) In enquiring into a case under subsection (1), the High Court shall hear any witness who may be produced against or on behalf of the defaulter and any statement which may be offered in defence.

(4) Subsections (5) and (6) apply where the High Court is satisfied, after hearing any witnesses and statements as mentioned in subsection (3), that the defaulter has refused or otherwise failed, without reasonable excuse, to comply with the notice under section 46(1).

(5) The High Court may punish the defaulter as it would have been able to punish him had he been guilty of contempt of court.

(6) Where the defaulter is a body corporate, the High Court may punish any director or officer of the defaulter as it would have been able to punish that director or officer had the director or officer been guilty of contempt of court.**]**

**Textual Amendments**

**F77** Ss. 46A, 46B inserted (1.4.2003) by 2002 c. 40, ss. 278, 279, Sch. 25 para. 23(4); S.I. 2003/766, **art. 2**, Sch. (with art. 3)

### [F78 46B Altering, etc. documents required to be produced under section 46

(1) A person commits an offence if he intentionally alters, suppresses or destroys a document which he has been required to produce by a notice under section 46(1).

(2) A person who commits an offence under subsection (1) shall be liable—
  (a) on summary conviction, to a fine not exceeding the statutory maximum;
  (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.**]**

**Textual Amendments**

**F78** Ss. 46A, 46B inserted (1.4.2003) by 2002 c. 40, ss. 278, 279, Sch. 25 para. 23(4); S.I. 2003/766, **art. 2**, Sch. (with art. 3)

### 47 Power to obtain information and require production of documents.

(1) The Board may serve a notice on any—
  (a) authorised practitioner;
  (b) officer or employee of an authorised practitioner;
  (c) qualified person who is acting, or has acted, on behalf of an authorised practitioner; or

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(d) officer or employee of such a qualified person,

requiring him to provide the Board (within such time and at such place as may be specified in the notice) with such document, or documents of such a description, or with such information, as may be so specified.

(2) The Board shall not exercise its powers under subsection (1) except for the purpose of obtaining such information as it thinks reasonably necessary in connection with the discharge of any of its functions.

(3) The Board's power under this section to require a person to produce any document includes power—

(a) if the document is produced, to take copies of it or extracts from it and to require that person, or any other person who is or was a director or officer of, or is or was at any time employed by or acting as an employee of, the practitioner concerned, to provide an explanation of the document;

(b) if the document is not produced, to require the person who was required to produce it to state, to the best of his knowledge and belief, where it is.

(4) The Board's power under this section may be exercised in relation to a person who falls within subsection (1)(c) or (d) only in relation to the provision of conveyancing services on behalf of the authorised practitioner concerned.

(5) Any person who, without reasonable excuse, fails to comply with a requirement imposed on him under this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding level five on the standard scale.

(6) Any person who, in response to any requirement imposed on him under this section, knowingly or recklessly provides any information or explanation or makes any statement which is false or misleading in a material particular shall be liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum; and

(b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.

(7) Where any person from whom production of a document is required under this section claims a lien on the document, the production of it shall be without prejudice to the lien.

(8) Nothing in this section shall compel—

(a) the production of a document containing a communication which is privileged from disclosure in legal proceedings in England and Wales; or

(b) the furnishing of information contained in such a communication.

(9) In this section "document" includes any information recorded in any form and, in relation to information recorded otherwise than in legible form, references to its production include references to producing a copy in legible form.

**48 Investigations on behalf of the Board.**

(1) If it appears to the Board desirable to do so—

(a) in connection with the discharge of any of its functions; and

(b) in the interests of customers or potential customers of an authorised practitioner,

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it may appoint one or more competent persons ("the investigators") to investigate and report to it on the state and conduct of the affairs of that authorised practitioner.

(2) The Board shall give written notice of any such appointment to the authorised practitioner concerned.

(3) If the investigators think it necessary for the purposes of their investigation, they may also investigate the affairs of any qualified person who is acting, or has acted, on behalf of the authorised practitioner (so far as concerns the provision of conveyancing services on behalf of the authorised practitioner), after giving the qualified person written notice of their investigation.

**[**[F79](4) Subsection (4A) applies if an authorised practitioner whose affairs are under investigation is—

(a) a person with permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits or to effect or carry out contracts of insurance; or

(b) an EEA firm of the kind mentioned in paragraph 5(b) or (d) of Schedule 3 to that Act which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule) either—

(i) to accept deposits, or

(ii) to effect or carry out contracts of insurance.

(4A) The **[**[F80]Secretary of State**]** may give a direction with a view to limiting the scope of the investigation to matters concerned with the provision of conveyancing services.

(4B) Subsection (4) must be read with—

(a) section 22 of the Financial Services and Markets Act 2000;

(b) any relevant order under that section; and

(c) Schedule 2 to that Act.**]**

(5) Any such direction may be general or be given with respect to a particular investigation.

(6) It shall be the duty of every person whose affairs are being investigated and of any officer or employee of his—

(a) to produce to the investigators, within such time and at such place as they may reasonably require, all documents relating to the provision of conveyancing services by the practitioner which are in that person's custody or power;

(b) to provide the investigators, within such time as they may require, with such information as they may reasonably require with respect to the provision of those services; and

(c) to give the investigators such assistance in connection with the investigation as he is reasonably able to give.

(7) The investigators may take copies of, or extracts from, any document produced to them under subsection (6).

(8) This section applies in relation to a former authorised practitioner or former qualified person as it applies in relation to an authorised practitioner or qualified person.

(9) Any person who, without reasonable excuse, fails to produce any document, or provide any information, which it is his duty to produce under subsection (6) shall be guilty

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of an offence and liable on summary conviction to a fine not exceeding level five on the standard scale.

(10) Any person who, in response to any requirement imposed on him under this section, knowingly or recklessly provides any information or explanation or makes any statement which is false or misleading in a material particular shall be liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum; and

(b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.

(11) Nothing in this section shall compel the production by an authorised practitioner or qualified person acting on his behalf of a document containing a privileged communication made by him or to him in that capacity.

**Textual Amendments**

**F79** S. 48(4)-(4B) substituted for s. 48(4) (1.12.2001) by S.I. 2001/3649, **arts. 1**, 322

**F80** Words in s. 48 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(a)** (with arts. 6, 8)

## 49 Restrictions on disclosure of information.

(1) Subject to section 50, restricted information which relates to the business or other affairs of any person shall not be disclosed—

(a) by the Board or any member of its staff;

(b) by any person appointed as an investigator under section 48 or any officer or servant of his; or

(c) by any person obtaining it directly or indirectly from a person mentioned in paragraph (a) or (b),

without the consent of the person from whom it was obtained and, if they are different, the person to whom it relates.

(2) Subject to subsection (3), information is restricted information for the purposes of this section if it was obtained (whether or not in response to any requirement that it be provided) for the purposes of, or in the discharge of functions under, any provision made by or under this Act.

(3) Information shall not be treated as restricted information for the purposes of this section if it has been made available to the public by virtue of being disclosed in any circumstances in which, or for any purpose for which, disclosure is not prevented by this section.

(4) Any person who contravenes this section shall be guilty of an offence and liable—

(a) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both;

(b) on summary conviction, to a fine not exceeding the statutory maximum.

## 50 Exceptions from restrictions on disclosure.

(1) Section 49 shall not prevent the disclosure of information—

(a) with a view to the institution, or otherwise for the purposes, of any criminal proceedings;

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(b) with a view to the institution, or otherwise for the purposes, of any civil proceedings arising under or by virtue of this Act;

(c) in a summary or collection of information framed in such a way as not to enable the identity of any person to whom the information relates to be ascertained; or

(d) in pursuance of any Community obligation.

(2) Section 49 shall not prevent the disclosure of information for the purpose of enabling or assisting—

(a) [F81] . . . . . .

(b) the Board to discharge any of its functions;

(c) the Law Society, the General Council of the Bar, the Council for Licensed Conveyancers or the Faculty Office of the Archbishop of Canterbury to discharge any of its functions;

[F82](d) . . . . . .

**[**[F83](e) a recognised investment exchange or a recognised clearing house (both within the meaning given by section 285 of the Financial Services and Markets Act 2000) to discharge any of its functions;**]**

(f) the Bank of England to discharge any of its functions;

**[**[F84](fa) the Financial Services Authority to discharge its functions under the legislation relating to friendly societies or to industrial and provident societies, under the Building Societies Act 1986 or under the Financial Services and Markets Act 2000;

(g) the Secretary of State or the Treasury to discharge any function conferred by this Act, the Financial Services and Markets Act 2000 or any enactment relating to competition, companies or insolvency;

(h) the competent authority for the purposes of Part 6 of the Financial Services and Markets Act 2000 to discharge its functions under that Part;

(ha) a person appointed under—

(i) section 167 of the Financial Services and Markets Act 2000 (general investigations),

(ii) section 168 of that Act (investigations in particular cases),

(iii) section 169(1)(b) of that Act (investigation in support of overseas regulator),

(iv) section 284 of that Act (investigations into affairs of certain collective investment schemes), or

(v) regulations made as a result of section 262(2)(k) of that Act (investigations into open-ended investment companies),

to conduct an investigation to discharge his functions;

(hb) any inspector appointed by the Secretary of State under this Act or any enactment relating to competition, companies or insolvency to discharge his functions under that enactment;

(hc) a body designated under section 326(1) of the Financial Services and Markets Act 2000 to discharge its functions in its capacity as a body designated under that section;**]**

(i) an official receiver to discharge any of his functions under any enactment relating to insolvency;

(j) a body which is a recognised professional body under section 391 of the [M20]Insolvency Act 1986 to discharge any of its functions as such a body;

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[F85](k) . . . . . .

[F82](l) . . . . . .

(m) the [[F86]OFT to discharge any of its] functions under—

(i) this Act;

(ii) the [M21]Fair Trading Act 1973 [F87]. . . ;

(iii) the [M22]Consumer Credit Act 1974;

[F88](iv) . . . . . .

(v) the [M23]Estate Agents Act 1979;

(vi) the [M24]Competition Act 1980;

[F89](vii) . . . . . .

(viii) [F90]. . . . . .

[[F91](ix) the Competition Act 1998;]

[[F92](x) the Financial Services and Markets Act 2000;]

[[F93][[F94](xi)] the Enterprise Act 2002;]

[[F95](xii) the Business Protection from Misleading Marketing Regulations 2008;

(xiii) the Consumer Protection from Unfair Trading Regulations 2008;]

(n) the [[F96]Competition Commission] to discharge any of its functions under the Fair Trading Act 1973 and [[F96], the Competition Act 1980 and the Competition Act 1998];

(o) the Scottish Conveyancing and Executry Services Board to discharge any of its functions;

(p) an authority in a country or territory outside the United Kingdom to discharge any functions corresponding to—

(i) the functions of the Board, [F97]. . . or the [[F98]Financial Services Authority]; or

(ii) those functions of the Secretary of State mentioned in paragraph (g);

(q) the Insolvency Practitioners Tribunal to discharge any of its functions under the Insolvency Act 1986;

[[F99](r) the Financial Services Tribunal to discharge any function it has in relation to proceedings before it by virtue of the Financial Services and Markets Act 2000 (Transitional Provisions) (Partly Completed Procedures) Order 2001;

(s) the Financial Services and Markets Tribunal to discharge any of its functions.]

[[F100](t) the Pensions Regulator Tribunal to discharge any of its functions.]

(3) Subject to subsection (4), section 49 shall not prevent the disclosure of information for the purpose of enabling or assisting any public or other authority for the time being designated for the purposes of this section by an order made by the [[F101]Secretary of State] to discharge any functions which are specified in the order.

(4) An order under subsection (3) designating an authority for the purposes of this section may—

(a) impose conditions subject to which the disclosure of information is permitted by subsection (3); and

(b) otherwise restrict the circumstances in which disclosure is permitted.

(5) Where information has been disclosed by one person (“the first person") to another, by virtue of subsection (2), section 49 shall not prevent that other person from disclosing

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that information to any person to whom it could have been disclosed by the first person by virtue of subsection (2).

(6) The **[**[F101]Secretary of State**]** may by order modify the application of any provision of this section so as—

(a) to prevent the disclosure of information by virtue of that provision; or

(b) to restrict the extent to which disclosure of information is permitted by virtue of that provision.

**Textual Amendments**

**F81** S. 50(2)(a) repealed (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(2)** (with arts. 6, 8)

**F82** S. 50(2)(d)(l) repealed (1.12.2001) by S.I. 2001/3649, **arts. 1**, 323(2)(a)

**F83** S. 50(2)(e) substituted (1.12.2001) by S.I. 2001/3649, **arts. 1**, 323(3)

**F84** S. 50(2)(fa)-(hc) substituted for s. 50(2)(fa)-(h) (1.12.2001) by S.I. 2001/3649, **arts. 1**, 323(4)

**F85** S. 50(2)(k) omitted (30.4.2001) by virtue of S.I. 2001/1283, **art. 3(5)**

**F86** Words in s. 50(2)(m) substituted (1.4.2003) by 2002 c. 40, ss. 278, 279, Sch. 25, para. 23(5)(a); S.I. 2003/766, **art. 2**, Sch. (with art. 3)

**F87** Words in s. 50(2)(m)(ii) repealed (26.5.2008) by The Consumer Protection from Unfair Trading Regulations 2008 (S.I. 2008/1277), reg. 30(3), **Sch. 4 Pt. 1** (with reg. 28(2)(3))

**F88** S. 50(2)(m)(iv) repealed (1.3.2000) by S.I. 2000/311, **art. 25**

**F89** S. 50(2)(m)(vii) repealed (1.12.2001) by S.I. 2001/3649, **arts. 1**, 323(2)(b)

**F90** S. 50(2)(m)(viii) repealed (26.5.2008) by The Consumer Protection from Unfair Trading Regulations 2008 (S.I. 2008/1277), regs. 30(1)(3), Sch. 2 para. 48(a), **Sch. 4 Pt. 1** (with reg. 28(2)(3))

**F91** S. 50(2)(m)(ix) inserted (1.4.1999) by S.I. 1999/506, **art. 28(a)**

**F92** S. 50(2)(m)(x) inserted (1.12.2001) by S.I. 2001/3649, **arts. 1**, 323(5)

**F93** S. 50(2)(m)(x) inserted (1.4.2003) by 2002 c. 40, ss. 278, 279, Sch. 25, para. 23(5)(b); S.I. 2003/766, **art. 2**, Sch. (with art. 3)

**F94** S. 50(2)(m)(x) renumbered (20.6.2003) as s. 50(2)(m)(xi) by The Enterprise Act 2002 (Consequential and Supplemental Provisions) Order 2003 (S.I. 2003/1398), art. 2, **Sch. para. 13(2)**

**F95** S. 50(2)(m)(xii)(xiii) inserted (26.5.2008) by The Consumer Protection from Unfair Trading Regulations 2008 (S.I. 2008/1277), reg. 30(1), **Sch. 2 para. 48(b)** (with reg. 28(2)(3))

**F96** Words in s. 50(2)(n) substituted (1.4.1999) by S.I. 1999/506, **art. 28(b)**

**F97** Words in s. 50(2)(p)(i) repealed (1.12.2001) by S.I. 2001/3649, **arts. 1**, 323(2)(c)

**F98** Words in s. 50(2)(p)(i) substituted (1.6.1998) by 1998 c. 11, s. 23, **Sch. 5 Pt. IV Ch. II para. 67(b)**; S.I. 1998/1120, **art. 2**

**F99** S. 50(2)(r)(s) substituted for s. 50(2)(r) (1.12.2001) by S.I. 2001/3649, **arts. 1**, 323(6)

**F100** S. 50(2)(t) inserted (6.4.2005) by Pensions Act 2004 (c. 35), ss. 102(4), 322(1), **Sch. 4 para. 21** (with s. 313); S.I. 2005/275, **art. 2(7)(12)**, Sch. Pt. 7

**F101** Words in s. 50(3)(6) substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(a)** (with arts. 6, 8)

**Marginal Citations**

**M20** 1986 c. 45.

**M21** 1973 c. 41.

**M22** 1974 c. 39.

**M23** 1979 c. 38.

**M24** 1980 c. 21.

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## 50 Exceptions from restrictions on disclosure. E+W

(1) Section 49 shall not prevent the disclosure of information—

(a) with a view to the institution, or otherwise for the purposes, of any criminal proceedings;

(b) with a view to the institution, or otherwise for the purposes, of any civil proceedings arising under or by virtue of this Act;

(c) in a summary or collection of information framed in such a way as not to enable the identity of any person to whom the information relates to be ascertained; or

(d) in pursuance of any Community obligation.

(2) Section 49 shall not prevent the disclosure of information for the purpose of enabling or assisting—

(a) [F81] . . . . . .

(b) the Board to discharge any of its functions;

(c) the Law Society, the General Council of the Bar, the Council for Licensed Conveyancers or the Faculty Office of the Archbishop of Canterbury to discharge any of its functions;

[F82](d) . . . . . .

**[**[F83](e) a recognised investment exchange or a recognised clearing house (both within the meaning given by section 285 of the Financial Services and Markets Act 2000) to discharge any of its functions;**]**

(f) the Bank of England to discharge any of its functions;

**[**[F84](fa) the Financial Services Authority to discharge its functions under the legislation relating to friendly societies or to industrial and provident societies, under the Building Societies Act 1986 or under the Financial Services and Markets Act 2000;

(g) the Secretary of State or the Treasury to discharge any function conferred by this Act, the Financial Services and Markets Act 2000 or any enactment relating to competition, companies or insolvency;

(h) the competent authority for the purposes of Part 6 of the Financial Services and Markets Act 2000 to discharge its functions under that Part;

(ha) a person appointed under—

(i) section 167 of the Financial Services and Markets Act 2000 (general investigations),

(ii) section 168 of that Act (investigations in particular cases),

(iii) section 169(1)(b) of that Act (investigation in support of overseas regulator),

(iv) section 284 of that Act (investigations into affairs of certain collective investment schemes), or

(v) regulations made as a result of section 262(2)(k) of that Act (investigations into open-ended investment companies),

to conduct an investigation to discharge his functions;

(hb) any inspector appointed by the Secretary of State under this Act or any enactment relating to competition, companies or insolvency to discharge his functions under that enactment;

(hc) a body designated under section 326(1) of the Financial Services and Markets Act 2000 to discharge its functions in its capacity as a body designated under that section;**]**

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(i) an official receiver to discharge any of his functions under any enactment relating to insolvency;

(j) a body which is a recognised professional body under section 391 of the [M20]Insolvency Act 1986 to discharge any of its functions as such a body;

[F85](k) . . . . . .

[F82](l) . . . . . .

(m) the **[**[F86]OFT to discharge any of its**]** functions under—

(i) this Act;

(ii) the [M21]Fair Trading Act 1973 (other than Part II);

(iii) the [M22]Consumer Credit Act 1974;

[F88](iv) . . . . . .

(v) the [M23]Estate Agents Act 1979;

(vi) the [M24]Competition Act 1980;

[F89](vii) . . . . . .

(viii) the [M123]Control of Misleading Advertisements Regulations 1988;

**[**[F91](ix) the Competition Act 1998;**]**

**[**[F92](x) the Financial Services and Markets Act 2000;**]**

**[**[F93]**[**[F94](xi)**]** the Enterprise Act 2002;**]**

(n) the **[**[F96]Competition Commission**]** to discharge any of its functions under the Fair Trading Act 1973 and **[**[F96], the Competition Act 1980 and the Competition Act 1998**]**;

(o) the Scottish Conveyancing and Executry Services Board to discharge any of its functions;

(p) an authority in a country or territory outside the United Kingdom to discharge any functions corresponding to—

(i) the functions of the Board, [F97]. . . or the **[**[F98]Financial Services Authority**]**; or

(ii) those functions of the Secretary of State mentioned in paragraph (g);

(q) the Insolvency Practitioners Tribunal to discharge any of its functions under the Insolvency Act 1986;

**[**[F99](r) the Financial Services Tribunal to discharge any function it has in relation to proceedings before it by virtue of the Financial Services and Markets Act 2000 (Transitional Provisions) (Partly Completed Procedures) Order 2001;

(s) the Financial Services and Markets Tribunal to discharge any of its functions.**]**

**[**[F100](t) the Pensions Regulator Tribunal to discharge any of its functions.**]**

(3) Subject to subsection (4), section 49 shall not prevent the disclosure of information for the purpose of enabling or assisting any public or other authority for the time being designated for the purposes of this section by an order made by the **[**[F101]Secretary of State**]** to discharge any functions which are specified in the order.

(4) An order under subsection (3) designating an authority for the purposes of this section may—

(a) impose conditions subject to which the disclosure of information is permitted by subsection (3); and

(b) otherwise restrict the circumstances in which disclosure is permitted.

(5) Where information has been disclosed by one person (“the first person") to another, by virtue of subsection (2), section 49 shall not prevent that other person from disclosing

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that information to any person to whom it could have been disclosed by the first person by virtue of subsection (2).

(6) The **[**[F101]Secretary of State**]** may by order modify the application of any provision of this section so as—

(a) to prevent the disclosure of information by virtue of that provision; or

(b) to restrict the extent to which disclosure of information is permitted by virtue of that provision.

**Textual Amendments**

**F81** S. 50(2)(a) repealed (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(2)** (with arts. 6, 8)

**F82** S. 50(2)(d)(l) repealed (1.12.2001) by S.I. 2001/3649, **arts. 1**, 323(2)(a)

**F83** S. 50(2)(e) substituted (1.12.2001) by S.I. 2001/3649, **arts. 1**, 323(3)

**F84** S. 50(2)(fa)-(hc) substituted for s. 50(2)(fa)-(h) (1.12.2001) by S.I. 2001/3649, **arts. 1**, 323(4)

**F85** S. 50(2)(k) omitted (30.4.2001) by virtue of S.I. 2001/1283, **art. 3(5)**

**F86** Words in s. 50(2)(m) substituted (1.4.2003) by 2002 c. 40, ss. 278, 279, Sch. 25, para. 23(5)(a); S.I. 2003/766, **art. 2**, Sch. (with art. 3)

**F88** S. 50(2)(m)(iv) repealed (1.3.2000) by S.I. 2000/311, **art. 25**

**F89** S. 50(2)(m)(vii) repealed (1.12.2001) by S.I. 2001/3649, **arts. 1**, 323(2)(b)

**F91** S. 50(2)(m)(ix) inserted (1.4.1999) by S.I. 1999/506, **art. 28(a)**

**F92** S. 50(2)(m)(x) inserted (1.12.2001) by S.I. 2001/3649, **arts. 1**, 323(5)

**F93** S. 50(2)(m)(x) inserted (1.4.2003) by 2002 c. 40, ss. 278, 279, Sch. 25, para. 23(5)(b); S.I. 2003/766, **art. 2**, Sch. (with art. 3)

**F94** S. 50(2)(m)(x) renumbered (20.6.2003) as s. 50(2)(m)(xi) by The Enterprise Act 2002 (Consequential and Supplemental Provisions) Order 2003 (S.I. 2003/1398), art. 2, **Sch. para. 13(2)**

**F96** Words in s. 50(2)(n) substituted (1.4.1999) by S.I. 1999/506, **art. 28(b)**

**F97** Words in s. 50(2)(p)(i) repealed (1.12.2001) by S.I. 2001/3649, **arts. 1**, 323(2)(c)

**F98** Words in s. 50(2)(p)(i) substituted (1.6.1998) by 1998 c. 11, s. 23, **Sch. 5 Pt. IV Ch. II para. 67(b)**; S.I. 1998/1120, **art. 2**

**F99** S. 50(2)(r)(s) substituted for s. 50(2)(r) (1.12.2001) by S.I. 2001/3649, **arts. 1**, 323(6)

**F100** S. 50(2)(t) inserted (6.4.2005) by Pensions Act 2004 (c. 35), ss. 102(4), 322(1), **Sch. 4 para. 21** (with s. 313); S.I. 2005/275, **art. 2(7)(12)**, Sch. Pt. 7

**F101** Words in s. 50(3)(6) substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(a)** (with arts. 6, 8)

**Marginal Citations**

**M20** 1986 c. 45.

**M21** 1973 c. 41.

**M22** 1974 c. 39.

**M23** 1979 c. 38.

**M24** 1980 c. 21.

**M123** S.I. 1988/915.

## 51 Board's intervention powers.

(1) The powers conferred on the Board by this section may be exercised if it appears to the Board to be desirable to do so for the purpose of protecting the interests of the clients, or prospective clients, of an authorised practitioner.

(2) The Board may, in particular, exercise any such power where it appears to it—

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(a) that an authorised practitioner who is an individual is no longer fit to provide conveyancing services;
(b) that any person carrying on the business of an authorised practitioner is not fit to provide such services; or
(c) that an authorised practitioner has failed, or is likely to fail, to comply with any regulation made under section 40.

(3) The Board may direct the authorised practitioner not to dispose of, or otherwise deal with, except in accordance with the terms of the direction—
(a) any assets belonging to any client of the authorised practitioner and held by or under the control of the authorised practitioner in connection with his business as an authorised practitioner; or
(b) any assets of such a kind which are specified in the direction.

(4) The Board may direct the authorised practitioner to transfer to the Board, or to such persons ("the trustees") as may be specified in the direction—
(a) all assets belonging to any client of that practitioner and held by or under his control in connection with his business as an authorised practitioner; or
(b) any assets of such a kind which are specified in the direction.

(5) Any assets which have been transferred as a result of a direction given under subsection (4) shall be held by the Board, or by the trustees, on trust for the client concerned.

(6) The trustees may deal with any assets which have been transferred to them only in accordance with directions given to them by the Board.

(7) In this section—

"assets" includes any sum of money held (in whatever form and whether or not in any bank, building society or other account) by the authorised practitioner or on behalf of the client concerned and any instrument or other document belonging to that client; and

"authorised practitioner" includes a person whose authorisation has been suspended or revoked under section 39.

(8) Any direction under this section—
(a) must be given in writing;
(b) must state the reason why it is being given;
(c) shall take effect on such date as may be specified in the direction (which may be the date on which it is served on the authorised practitioner);
(d) may be varied or revoked by a further direction given by the Board.

**52 Board's intervention powers: supplemental provisions.**

(1) In this section—

"the intervention powers" means the powers given to the Board by section 51; and

"a direction" means a direction given under that section.

(2) An authorised practitioner to whom a direction is given may appeal against it to a Conveyancing Appeal Tribunal.

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(3) Any authorised practitioner to whom a direction is given shall comply with it as soon as it takes effect (and whether or not he proposes to appeal).

(4) If, on an application made to the High Court by the Board, the court is satisfied—

(a) that an authorised practitioner has failed, within a reasonable time, to comply with any direction given to it; or

(b) that there is a reasonable likelihood that an authorised practitioner will so fail,

it may make an order requiring the authorised practitioner, and any other person whom the court considers it appropriate to subject to its order, to take such steps as the court may direct with a view to securing compliance with the direction.

**[**[F102](5) Subsection (6) applies to an authorised practitioner who—

(a) has permission under any provision of the Financial Services and Markets Act 2000 to carry on a regulated activity; or

(b) is an appointed representative of a person with such permission;

and "regulated activity" and "appointed representative" have the meaning given in that Act.

[F102](6) In relation to an authorised practitioner to whom this subsection applies, the powers of intervention may be exercised only after consultation with the Financial Services Authority.**]**

**Textual Amendments**

**F102** S. 52(5)(6) substituted for s. 52(5)-(8) (1.12.2001) by S.I. 2001/3649, **arts. 1**, 324

*Licensed conveyancers*

**53 The Council for Licensed Conveyancers.**

(1) Subject to subsection (2), the Council for Licensed Conveyancers shall have the powers necessary to enable it to become—

(a) an authorised body for the purposes of granting rights of audience under section 27(2)(a);

(b) an authorised body for the purposes of granting rights to conduct litigation under section 28(2)(a); and

(c) an approved body for the purposes of granting, in accordance with section 55, exemption from the provisions of section 23(1) of the Solicitors Act 1974 (preparation of probate papers).

(2) The Council may exercise the powers given to it by this section only with respect to persons who are licensed conveyancers.

(3) Where the Council—

(a) becomes an authorised body for the purposes of section 27 and grants any right of audience;

(b) becomes an authorised body for the purposes of section 28 and grants any right to conduct litigation; or

(c) becomes an approved body for the purposes of section 55 and grants an exemption under that section,

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it shall do so by issuing a licence to the licensed conveyancer to whom the right or exemption is being granted.

(4) Any such licence may be granted as a separate licence or as part of a composite licence comprising the licensed conveyancer's licence issued under Part II of the Administration of Justice Act 1985 and any other licence which the Council may grant to the licensed conveyancer concerned.

(5) The Council's general duty shall include the duty to ensure that the standards of competence and professional conduct among licensed conveyancers who are granted rights of audience, rights to conduct litigation or an exemption under section 55 are sufficient to secure adequate protection for consumers, and that the advocacy, litigation or (as the case may be) probate services provided by such persons are provided both economically and efficiently.

(6) Where the Council exercises any of its powers in connection with—

(a) an application under **[**[F103]Schedule 4**]** for authorisation or an application under Schedule 9 for approval; or

(b) the granting of any right of audience or right to conduct litigation or of an exemption under section 55,

it shall do so subject to any requirements to which it is subject in accordance with the provisions of this Act relating to the grant of any such right or exemption.

(7) Schedule 8 makes further provision in connection with the powers given to the Council by this section and the provision made by the Act of 1985 in relation to licensed conveyancers, including amendments of Part II of that Act.

(8) The **[**[F104]Secretary of State**]** may by order make such—

(a) amendments of, or modifications to, the provisions of Part II of the Act of 1985; or

(b) transitional or consequential provision,

as he considers necessary or expedient in connection with the provision made by this section and Schedule 8.

(9) Subject to any provision made by this section, Schedule 8 or any order made by the **[**[F104]Secretary of State**]** under subsection (8), the provisions of Part II of the Act of 1985 shall, with the necessary modifications, apply with respect to—

(a) any application for an advocacy, litigation or probate licence;

(b) any such licence;

(c) the practice of any licensed conveyancer which is carried on by virtue of any such licence;

(d) rules made by the Council under Schedule 8;

(e) the management and control by licensed conveyancers (or by licensed conveyancers together with persons who are not licensed conveyancers) of bodies corporate carrying on businesses which include the provision of advocacy, litigation or probate services; and

(f) any other matter dealt with by this section or Schedule 8,

as they apply with respect to the corresponding matters dealt with by Part II of that Act.

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**Textual Amendments**

**F103** Words in s. 53(6)(a) substituted (1.1.2000) by 1999 c.22, s. 43, **Sch. 6 para. 8** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)**

**F104** Words in s. 53 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(a)** (with arts. 6, 8)

**Commencement Information**

**I16** S. 53 wholly in force at 7.12.2004; s. 53 in force at 1.4.1991 (except in so far as it relates to certain exemptions under section 55) see s. 124(3) and S.I. 1991/608, art. 2, Sch.; s. 53 otherwise in force at 7.12.2004 by S.I. 2004/2950, **art. 2**

*Probate services*

## 54 Preparation of papers for probate etc.

(1) In section 23 of the [M25]Solicitors Act 1974 (preparation of papers for probate etc. by unqualified persons), the following subsections shall be substituted for subsections (2) and (3)—

"(2) Subsection (1) does not apply to—

(a) a barrister;

(b) a duly certificated notary public;

(c) the Public Trustee;

(d) the Official Solicitor;

**[**[F105](e) a person who—

(i) has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits or to effect or carry out contracts of insurance, and

(ii) satisfies the conditions mentioned in subsection (2A);

(f) an EEA firm of the kind mentioned in paragraph 5(b) or (d) of Schedule 3 to that Act—

(i) which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule) either to accept deposits or to effect or carry out contracts of insurance, and

(ii) which satisfies those conditions;**]**

(h) any subsidiary (as defined by section 736(1) of the Companies Act 1985) of a body falling within paragraph (e), **[**[F106]or (f)**]**—

(i) whose business, or any part of whose business, consists of acting as trustee or executor; and

(ii) which satisfies those conditions.

(2A) The conditions are that the body is a member of, or otherwise subject to, a scheme which—

(a) has been established (whether or not exclusively) for the purpose of dealing with complaints about the provision of probate services; and

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(b) complies with such requirements as may be prescribed by regulations made by the **[**[F107]Secretary of State**]** with respect to matters relating to such complaints.

**[**[F108](2AB) Paragraphs (e) and (f) of subsection (2) must be read with—

(a) section 22 of the Financial Services and Markets Act 2000;

(b) any relevant order under that section; and

(c) Schedule 2 to that Act.**]**

(3) Subsection (1) also does not apply to—

(a) any act done by an officer or employee of a body corporate at a time when it is exempt from subsection (1) by virtue of any of paragraphs (e) to (h) of subsection (2) or by virtue of section 55 of the Courts and Legal Services Act 1990 (preparation of probate papers etc.); or

(b) any act done by any person at the direction and under the supervision of another person if—

(i) that other person was at the time his employer, a partner of his employer or a fellow employee; and

(ii) the act could have been done by that other person for or in expectation of any fee, gain or reward without committing an offence under this section.

(4) For the avoidance of doubt, where a person does any act which would constitute an offence under subsection (1) but for an exemption given to him by this section or by or under any other enactment, he shall not be guilty of an offence under section 22 by virtue of having done that act."

(2) In section 115 of the [M26]Supreme Court Act 1981 (grants to trust corporations) the following subsection shall be added at the end—

"(4) Subsections (1) to (3) shall also apply in relation to any body which is exempt from the provisions of section 23(1) of the Solicitors Act 1974 (unqualified persons not to prepare papers for probate etc.) by virtue of any of paragraphs (e) to (h) of subsection (2) of that section."

(3) If a person who applies for any grant of probate or letters of administration—

(a) makes a statement in his application, or supports his application with a document, which he knows to be false or misleading in a material particular; or

(b) recklessly makes a statement in his application, or supports his application with a document, which is false or misleading in a material particular,

he shall be guilty of an offence.

(4) Any person guilty of an offence under subsection (3) shall be liable—

(a) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both;

(b) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum or to both.

(5) In subsection (3) "letters of administration" includes all letters of administration of the effects of deceased persons, whether with or without a will annexed, and whether granted for general, special or limited purposes.

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**Textual Amendments**

**F105** S. 54(1): in the inserted subsection (2), paras. (e)(f) substituted for paras. (e)-(g) (1.12.2001) by S.I. 2001/3649, **arts. 1**, 325(2)

**F106** S. 54(1): in the inserted subsection (2), words in para. (h) substituted (1.12.2001) by S.I. 2001/3649, **arts. 1**, 325(3)

**F107** Words in s. 54 in the substituted s. 23(2A) of the Solicitors Act 1974 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(b)** (with arts. 6, 8)

**F108** S. 54(1): after the inserted para. (2A), para. (2AB) inserted (1.12.2001) by S.I. 2001/3649, **arts. 1**, 325(4)

**Marginal Citations**

**M25** 1974 c. 47.

**M26** 1981 c. 54.

## 55 Preparation of probate papers etc: exemption from section 23(1) of Solicitors Act 1974.

(1) The provisions of section 23(1) of the [M27]Solicitors Act 1974 (preparation of papers for probate etc. by unqualified persons) shall not apply to any person to whom exemption from those provisions is granted by an approved body.

(2) An approved body may only grant such an exemption to a person who is one of its members and who satisfies it—

(a) that his business is, and is likely to continue to be, carried on by fit and proper persons or, in the case of an individual, that he is a fit and proper person;

(b) that he, and any person employed by him in the provision of probate services, is suitably trained;

(c) that satisfactory arrangements will at all times be in force for covering adequately the risk of any claim made against him in connection with the provision of probate services by him, however arising;

(d) that he is a member of, or otherwise subject to, a scheme which—

(i) has been established (whether or not exclusively) for the purpose of dealing with complaints about the provision of probate services; and

(ii) complies with such requirements as may be prescribed by regulations made by the **[**[F109]Secretary of State**]** with respect to matters relating to such complaints; and

(e) that he has in force satisfactory arrangements to protect his clients in the event of his ceasing to provide probate services.

(3) In this section "approved body" means a professional or other body which is approved by the **[**[F109]Secretary of State**]** under Schedule 9.

(4) The approval of any body under Schedule 9 may be revoked under that Schedule.

**Textual Amendments**

**F109** Words in s. 55 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(c)** (with arts. 6, 8)

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**Marginal Citations**
**M27** 1974 c. 47.

## 56 Administration of oaths etc. by justices in certain probate business.

(1) Every justice shall have power to administer any oath or take any affidavit which is required for the purposes of an application for a grant of probate or letters of administration made in any non-contentious or common form probate business.

(2) A justice before whom any oath or affidavit is taken or made under this section shall state in the jurat or attestation at what place and on what date the oath or affidavit is taken or made.

(3) No justice shall exercise the powers conferred by this section in any proceedings in which he is interested.

(4) A document purporting to be signed by a justice administering an oath or taking an affidavit shall be admitted in evidence without proof of the signature and without proof that he is a justice.

(5) In this section—

"affidavit" has the same meaning as in the [M28]Commissioners for Oaths Act 1889;

"justice" means a justice of the peace;

"letters of administration" includes all letters of administration of the effects of deceased persons, whether with or without a will annexed, and whether granted for general, special or limited purposes; and

"non-contentious or common form probate business" has the same meaning as in section 128 of the [M29]Supreme Court Act 1981.

**Commencement Information**
**I17** S. 56 wholly in force at 1.7.1991 see s. 124(3) and S.I. 1991/1364, art. 2, **sch.**

**Marginal Citations**
**M28** 1889 c. 10.
**M29** 1981 c. 54.

## 57 Notaries

(1) Public notaries shall no longer be appointed to practise only within particular districts in England, or particular districts in Wales.

(2) It shall no longer be necessary to serve a period of apprenticeship before being admitted as a public notary.

(3) Accordingly, the following enactments relating to public notaries shall cease to have effect—

(a) section 2 of the [M30]Public Notaries Act 1801 (which provides that no person shall be admitted as a public notary unless he has served as an apprentice for seven years);

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(b) section 1 of the [M31]Public Notaries Act 1833 (which restricts the requirement to serve an apprenticeship to London and an area of ten miles from the Royal Exchange);
(c) section 2 of the Public Notaries Act 1833 (appointment of public notaries to practise within particular districts in England);
(d) section 3 of the [M32]Public Notaries Act 1843 (which reduced the period of apprenticeship to five years);
(e) section 37 of the [M33]Welsh Church Act 1914 (appointment of public notaries to practise within particular districts in Wales); and
(f) section 29 of the [M34]Administration of Justice Act 1969 (which reduced the period of apprenticeship for public notaries in London).

(4) The Master may by rules make provision—
(a) as to the educational and training qualifications which must be satisfied before a person may be granted a faculty to practise as a public notary;
(b) as to further training which public notaries are to be required to undergo;
(c) for regulating the practice, conduct and discipline of public notaries;
(d) supplementing the provision made by subsections (8) and (9);
(e) as to the keeping by public notaries of records and accounts;
(f) as to the handling by public notaries of clients' money;
(g) as to the indemnification of public notaries against losses arising from claims in respect of civil liability incurred by them;
(h) as to compensation payable for losses suffered by persons in respect of dishonesty on the part of public notaries or their employees; and
(i) requiring the payment, in such circumstances as may be prescribed, of such reasonable fees as may be prescribed, including in particular fees for—
(i) the grant of a faculty;
(ii) the issue of a practising certificate by the Court of Faculties of the Archbishop of Canterbury; or
(iii) the entering in that court of a practising certificate issued under the [M35]Solicitors Act 1974.

(5) The repeal of section 2 of the Act of 1833 and section 37 of the Act of 1914 by this Act shall not affect any appointment made under either of those sections; but the Master may by rules make such provision as he considers necessary or expedient in consequence of either, or both, of those repeals.

(6) Rules made under subsection (5) may, in particular, provide for the grant by the Master of a new faculty for any person to whom the Notary Public (Welsh Districts) Rules 1924 applied immediately before the commencement of this section, in place of the faculty granted to him by the Clerk of the Crown in Chancery.

(7) Subsections (4) to (6) shall not be taken to prejudice—
(a) any other power of the Master to make rules; or
(b) any rules made by him under any such power.

(8) With effect from the operative date, any restriction placed on a qualifying district notary, in terms of the district within which he may practise as a public notary, shall cease to apply.

(9) In this section—

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"Master" means the Master of the Faculties;

"the operative date" means the date on which subsection (1) comes into force or, if on that date the notary concerned is not a qualifying district notary (having held his faculty for less than five years)—

(a) the date on which he becomes a qualifying district notary; or

(b) such earlier date, after the commencement of subsection (1), as the Master may by rules prescribe for the purpose of this subsection;

"prescribed" means prescribed by rules made under this section; and

"qualifying district notary" means a person who—

(a) holds a faculty as a notary appointed under section 2 of the Act of 1833 or section 37 of the Act of 1914; and

(b) has held it for a continuous period of at least five years.

(10) Section 5 of the [M36]Ecclesiastical Licences Act 1533 (which amongst other things now has the effect of requiring faculties to be registered by the Clerk of the Crown in Chancery) shall not apply in relation to any faculty granted to a public notary.

[F110](11) . . . . . .

**Textual Amendments**

**F110** S. 57(11) repealed (1.11.1999) by 1999 c.22, s. 106, **Sch. 15 Pt. II** (with Sch. 14 paras. 7(2), 36(9)); S.I. 1999/2657, art. 3(b), **Sch. 2 Pt. II para. 3(a)**

**Commencement Information**

**I18** S. 57 wholly in force at 1.7.1991 see s. 124(3) and S.I. 1991/1364, art. 2, **Sch.**

**Marginal Citations**

**M30** 1801 c. 79.
**M31** 1833 c. 70.
**M32** 1843 c. 90.
**M33** 1914 c. 91.
**M34** 1969 c. 58.
**M35** 1974 c. 47.
**M36** 1533 c. 21.

*Miscellaneous*

## [[F111]58 Conditional fee agreements.

(1) A conditional fee agreement which satisfies all of the conditions applicable to it by virtue of this section shall not be unenforceable by reason only of its being a conditional fee agreement; but (subject to subsection (5)) any other conditional fee agreement shall be unenforceable.

(2) For the purposes of this section and section 58A—

(a) a conditional fee agreement is an agreement with a person providing advocacy or litigation services which provides for his fees and expenses, or any part of them, to be payable only in specified circumstances; and

(b) a conditional fee agreement provides for a success fee if it provides for the amount of any fees to which it applies to be increased, in specified

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circumstances, above the amount which would be payable if it were not payable only in specified circumstances.

(3) The following conditions are applicable to every conditional fee agreement—

(a) it must be in writing;

(b) it must not relate to proceedings which cannot be the subject of an enforceable conditional fee agreement; and

(c) it must comply with such requirements (if any) as may be prescribed by the **[**[F112]Lord Chancellor**]**.

(4) The following further conditions are applicable to a conditional fee agreement which provides for a success fee—

(a) it must relate to proceedings of a description specified by order made by the **[**[F112]Lord Chancellor**]**;

(b) it must state the percentage by which the amount of the fees which would be payable if it were not a conditional fee agreement is to be increased; and

(c) that percentage must not exceed the percentage specified in relation to the description of proceedings to which the agreement relates by order made by the **[**[F112]Lord Chancellor**]**.

(5) If a conditional fee agreement is an agreement to which section 57 of the [M37]Solicitors Act 1974 (non-contentious business agreements between solicitor and client) applies, subsection (1) shall not make it unenforceable.**]**

**Textual Amendments**

**F111** Ss. 58, 58A substituted (1.4.2000) for s. 58 by 1999 c. 22, **s. 27(1)** (with Sch. 14 para. 7(2)); S.I. 2000/774, **art. 2(b)** (with arts. 3-5)

**F112** Words in s. 58 substituted (12.1.2006) by The Transfer of Functions (Lord Chancellor and Secretary of State) Order 2005 (S.I. 2005/3429), art. 8, **Sch. para. 2**

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

**C17** S. 58: transfer of functions (12.1.2006) by The Transfer of Functions (Lord Chancellor and Secretary of State) Order 2005 (S.I. 2005/3429), **art. 3** (with arts. 4, 5)

**C18** S. 58(3)(c) extended (27.9.1999) by 1999 c. 22, ss. 105, 108(3), **Sch. 14 Pt. III para. 11** (with Sch. 14 para. 7(2))

**C19** S. 58(4) extended (27.9.1999) by 1999 c.22, ss. 105, 108(3), **Sch. 14 Pt. III para. 10** (with Sch. 14 para. 7(2))

**Marginal Citations**

**M37** 1974 c.47.

## [F113]58A Conditional fee agreements: supplementary.

(1) The proceedings which cannot be the subject of an enforceable conditional fee agreement are—

(a) criminal proceedings, a part from proceedings under section 82 of the [M38] Environmental Protection Act 1990; and

(b) family proceedings.

(2) In subsection (1) "family proceedings" means proceedings under any one or more of the following—

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(a) the [M39]Matrimonial Causes Act 1973;

**[**[F114](b) the Adoption and Children Act 2002;**]**

(c) the [M40]Domestic Proceedings and Magistrates' Courts Act 1978;

(d) Part III of the [M41]Matrimonial and Family Proceedings Act 1984;

(e) Parts I, II and IV of the [M42]Children Act 1989;

(f) Part IV of the [M43]Family Law Act 1996; [F115]. . .

**[**[F116](fa) Chapter 2 of Part 2 of the Civil Partnership Act 2004 (proceedings for dissolution etc. of civil partnership);

(fb) Schedule 5 to the 2004 Act (financial relief in the High Court or a county court etc.);

(fc) Schedule 6 to the 2004 Act (financial relief in magistrates' courts etc.);

(fd) Schedule 7 to the 2004 Act (financial relief in England and Wales after overseas dissolution etc. of a civil partnership); and**]**

(g) the inherent jurisdiction of the High Court in relation to children.

(3) The requirements which the **[**[F117]Lord Chancellor**]** may prescribe under section 58(3)(c)—

(a) include requirements for the person providing advocacy or litigation services to have provided prescribed information before the agreement is made; and

(b) may be different for different descriptions of conditional fee agreements (and, in particular, may be different for those which provide for a success fee and those which do not).

(4) In section 58 and this section (and in the definitions of "advocacy services" and "litigation services" as they apply for their purposes) "proceedings" includes any sort of proceedings for resolving disputes (and not just proceedings in a court), whether commenced or contemplated.

(5) Before making an order under section 58(4), the **[**[F117]Lord Chancellor**]** shall consult—

(a) the designated judges;

(b) the General Council of the Bar;

(c) the Law Society; and

(d) such other bodies as he considers appropriate.

(6) A costs order made in any proceedings may, subject in the case of court proceedings to rules of court, include provision requiring the payment of any fees payable under a conditional fee agreement which provides for a success fee.

(7) Rules of court may make provision with respect to the assessment of any costs which include fees payable under a conditional fee agreement (including one which provides for a success fee).

**Textual Amendments**

**F113** Ss. 58, 58A substituted (1.4.2000) for s. 58 by 1999 c.22, **s. 27(1)** (with Sch. 14 para. 7(2)); S.I. 2000/774, **art. 2(b)** (with arts. 3-5)

**F114** S. 58A(2)(b) substituted (30.12.2005) by 2002 c. 38, ss. 139, 148(1), Sch. 3 para. 80 (with savings in Sch. 4 paras. 6-8, 22); S.I. 2005/2213, **art. 2**

**F115** Word in s. 58A(2)(f) repealed (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 261(1)(4), 263, Sch. 27 para. 138, **Sch. 30**; S.I. 2005/3175, **art. 2**, Sch. 1

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**F116** S. 58A(2)(fa)-(fd) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 261(1), 263, Sch. 27 para. 138; S.I. 2005/3175, **art. 2**, Sch. 1

**F117** Words in s. 58A substituted (12.1.2006) by The Transfer of Functions (Lord Chancellor and Secretary of State) Order 2005 (S.I. 2005/3429), art. 8, **Sch. para. 2**

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

**C20** S. 58A: transfer of functions (12.1.2006) by The Transfer of Functions (Lord Chancellor and Secretary of State) Order 2005 (S.I. 2005/3429), **art. 3** (with arts. 4, 5)

**C21** S. 58A(6)(7) excluded (1.4.2000) by S.I. 2000/900, **art. 2(1)(a)(b)**

**Marginal Citations**

**M38** 1990 c.43.
**M39** 1973 c.18.
**M40** 1978 c.22.
**M41** 1984 c.42.
**M42** 1989 c.41.
**M43** 1996 c.27.

VALID FROM 12/11/2009

### [F118 58AA Damages-based agreements relating to employment matters

(1) A damages-based agreement which relates to an employment matter and satisfies the conditions in subsection (4) is not unenforceable by reason only of its being a damages-based agreement.

(2) But a damages-based agreement which relates to an employment matter and does not satisfy those conditions is unenforceable.

(3) For the purposes of this section—

(a) a damages-based agreement is an agreement between a person providing advocacy services, litigation services or claims management services and the recipient of those services which provides that—

(i) the recipient is to make a payment to the person providing the services if the recipient obtains a specified financial benefit in connection with the matter in relation to which the services are provided, and

(ii) the amount of that payment is to be determined by reference to the amount of the financial benefit obtained;

(b) a damages-based agreement relates to an employment matter if the matter in relation to which the services are provided is a matter that is, or could become, the subject of proceedings before an employment tribunal.

(4) The agreement—

(a) must be in writing;

(b) must not provide for a payment above a prescribed amount or for a payment above an amount calculated in a prescribed manner;

(c) must comply with such other requirements as to its terms and conditions as are prescribed; and

(d) must be made only after the person providing services under the agreement has provided prescribed information.

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(5) Regulations under subsection (4) are to be made by the Lord Chancellor and may make different provision in relation to different descriptions of agreements.

(6) Before making regulations under subsection (4) the Lord Chancellor must consult—
- (a) the designated judges,
- (b) the General Council of the Bar,
- (c) the Law Society, and
- (d) such other bodies as the Lord Chancellor considers appropriate.

(7) In this section—

"payment" includes a transfer of assets and any other transfer of money's worth (and the reference in subsection (4)(b) to a payment above a prescribed amount, or above an amount calculated in a prescribed manner, is to be construed accordingly);

"claims management services" has the same meaning as in Part 2 of the Compensation Act 2006 (see section 4(2) of that Act).

(8) Nothing in this section applies to an agreement entered into before the coming into force of the first regulations made under subsection (4).**]**

**Textual Amendments**

**F118** S. 58AA inserted (12.11.2009) by Coroners and Justice Act 2009 (c. 25), **ss. 154(2)**, 182(1)(e) (with s. 180, Sch. 22)

PROSPECTIVE

**[F119 58B Litigation funding agreements.**

(1) A litigation funding agreement which satisfies all of the conditions applicable to it by virtue of this section shall not be unenforceable by reason only of its being a litigation funding agreement.

(2) For the purposes of this section a litigation funding agreement is an agreement under which—
- (a) a person ("the funder") agrees to fund (in whole or in part) the provision of advocacy or litigation services (by someone other than the funder) to another person ("the litigant"); and
- (b) the litigant agrees to pay a sum to the funder in specified circumstances.

(3) The following conditions are applicable to a litigation funding agreement—
- (a) the funder must be a person, or person of a description, prescribed by the Secretary of State;
- (b) the agreement must be in writing;
- (c) the agreement must not relate to proceedings which by virtue of section 58A(1) and (2) cannot be the subject of an enforceable conditional fee agreement or to proceedings of any such description as may be prescribed by the Secretary of State;

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(d) the agreement must comply with such requirements (if any) as may be so prescribed;

(e) the sum to be paid by the litigant must consist of any costs payable to him in respect of the proceedings to which the agreement relates together with an amount calculated by reference to the funder's anticipated expenditure in funding the provision of the services; and

(f) that amount must not exceed such percentage of that anticipated expenditure as may be prescribed by the Secretary of State in relation to proceedings of the description to which the agreement relates.

(4) Regulations under subsection (3)(a) may require a person to be approved by the Secretary of State or by a prescribed person.

(5) The requirements which the Secretary of State may prescribe under subsection (3)(d) —

(a) include requirements for the funder to have provided prescribed information to the litigant before the agreement is made; and

(b) may be different for different descriptions of litigation funding agreements.

(6) In this section (and in the definitions of "advocacy services" and "litigation services" as they apply for its purposes) "proceedings" includes any sort of proceedings for resolving disputes (and not just proceedings in a court), whether commenced or contemplated.

(7) Before making regulations under this section, the Secretary of State shall consult—

(a) the designated judges;

(b) the General Council of the Bar;

(c) the Law Society; and

(d) such other bodies as he considers appropriate.

(8) A costs order made in any proceedings may, subject in the case of court proceedings to rules of court, include provision requiring the payment of any amount payable under a litigation funding agreement.

(9) Rules of court may make provision with respect to the assessment of any costs which include fees payable under a litigation funding agreement.**]**

**Textual Amendments**

**F119** S. 58B inserted (prosp.) by 1999 c. 22, **ss. 28**, 108(1) (with Sch. 14 para. 7(2))

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

**C22** S. 58B: transfer of functions (12.1.2006) by The Transfer of Functions (Lord Chancellor and Secretary of State) Order 2005 (S.I. 2005/3429), **art. 3** (with arts. 4, 5)

**F120 59** . . . . . .

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**Textual Amendments**

**F120** S. 59 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)**

## 60 Regulation of right of Scottish and Northern Ireland lawyers to practise in England and Wales.

(1) The **[**[F121]Secretary of State**]** may by regulations prescribe circumstances in which, and conditions subject to which, a practitioner who is qualified to practise in Scotland or Northern Ireland may, in such capacity as may be prescribed, exercise in England and Wales—

(a) prescribed rights of audience; or

(b) prescribed rights to conduct litigation,

without being entitled to do so apart from the regulations.

(2) The **[**[F121]Secretary of State**]** may by regulations make provision for the purpose of enabling practitioners who are qualified to practise in Scotland or Northern Ireland to become qualified to practise in England and Wales on terms, and subject to conditions, corresponding or similar to those on which practitioners who are qualified to practise in member States may become qualified to practise in that jurisdiction.

(3) Regulations made under subsection (1) may, in particular—

(a) prescribe any right of audience which may not be exercised by a person in England and Wales unless he is instructed to act together with a person who has that right of audience there;

(b) prescribe legal services which may not be provided by any person practising by virtue of the regulations;

(c) prescribe the title or description which must be used by any person practising by virtue of the regulations;

(d) provide for the means by which the qualification of any person claiming to be entitled to practise by virtue of the regulations is to be verified;

(e) provide for such professional or other body as may be prescribed to have power to investigate and deal with any complaint made against a person practising by virtue of the regulations.

(4) Regulations made under subsection (1) or (2) may modify any rule of law or practice which the **[**[F121]Secretary of State**]** considers should be modified in order to give effect to the regulations.

(5) In this section "practitioner" means—

(a) a member of the Bar of Northern Ireland or a solicitor of the Supreme Court of Northern Ireland or an advocate or solicitor in Scotland; and

(b) any person falling within such category as may be prescribed.

**Textual Amendments**

**F121** Words in s. 60 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(c)** (with arts. 6, 8)

***Status:*** *Point in time view as at 12/01/2006. This version of this Act contains provisions that are not valid for this point in time.*
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VALID FROM 01/01/2010

**[F122 60A Procedural requirements relating to recommendations for the purposes of section 60**

(1) Before making a recommendation under this section, the Legal Services Board must publish a draft of—
  (a) the proposed recommendation, and
  (b) the proposed draft regulations.

(2) The draft must be accompanied by a notice which states that representations about the proposals may be made to the Board within a specified period.

(3) Before making the recommendation, the Board must have regard to any representations duly made.

(4) If the draft regulations to be annexed to the recommendation differ from the draft regulations published under subsection (1)(b) in a way which is, in the opinion of the Board, material, the Board must, before making the recommendation, publish the draft recommendations along with a statement detailing the changes made and the reasons for the changes.**]**

**Textual Amendments**

**F122** S. 60A inserted (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 208, 211, **Sch. 21 para. 90** (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(h)** (with art. 9)

## 61 Right of barrister to enter into contract for the provision of his services.

(1) Any rule of law which prevents a barrister from entering into a contract for the provision of his services as a barrister is hereby abolished.

(2) Nothing in subsection (1) prevents the General Council of the Bar from making rules (however described) which prohibit barristers from entering into contracts or restrict their right to do so.

## 62 Immunity of advocates from actions in negligence and for breach of contract.

**F123** . . . . . .

**Textual Amendments**

**F123** S. 62 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **s. 1(1)**, {Sch. 1 Pt. 1 Group. 4}

## 63 Legal professional privilege.

(1) This section applies to any communication made to or by a person who is not a barrister or solicitor at any time when that person is—
  (a) providing advocacy or litigation services as an authorised advocate or authorised litigator;

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(b) providing conveyancing services as an authorised practitioner; or
(c) providing probate services as a probate practitioner.

(2) Any such communication shall in any legal proceedings be privileged from disclosure in like manner as if the person in question had at all material times been acting as his client's solicitor.

(3) In subsection (1), "probate practitioner" means a person to whom section 23(1) of the [M44]Solicitors Act 1974 (unqualified person not to prepare probate papers etc.) does not apply.

**Commencement Information**

**I19** S. 63 partly in force; s. 63 not in force at Royal Assent see s. 124; s. 63(1)(a)(2) in force 1. 4. 1991 see s. 124(3) and S.I. 1991/608, **art. 2**

**Marginal Citations**

**M44** 1974 c. 47.

## 64 Discrimination by, or in relation to, barristers.

(1) The following shall be inserted in the [M45]Sex Discrimination Act 1975 after section 35—

*" Barristers*

### 35A Discrimination by, or in relation to, barristers.

(1) It is unlawful for a barrister or barrister's clerk, in relation to any offer of a pupillage or tenancy, to discriminate against a woman—
(a) in the arrangements which are made for the purpose of determining to whom it should be offered;
(b) in respect of any terms on which it is offered; or
(c) by refusing, or deliberately omitting, to offer it to her.

(2) It is unlawful for a barrister or barrister's clerk, in relation to a woman who is a pupil or tenant in the chambers in question, to discriminate against her—
(a) in respect of any terms applicable to her as a pupil or tenant;
(b) in the opportunities for training, or gaining experience, which are afforded or denied to her;
(c) in the benefits, facilities or services which are afforded or denied to her; or
(d) by terminating her pupillage or by subjecting her to any pressure to leave the chambers or other detriment.

(3) It is unlawful for any person, in relation to the giving, withholding or acceptance of instructions to a barrister, to discriminate against a woman.

(4) In this section—
"barrister's clerk" includes any person carrying out any of the functions of a barrister's clerk; and

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"pupil", "pupillage", "tenancy" and "tenant" have the meanings commonly associated with their use in the context of a set of barristers' chambers.

(5) Section 3 applies for the purposes of this section as it applies for the purposes of any provision of Part II.

(6) This section does not apply to Scotland."

(2) The following shall be inserted in the [M46]Race Relations Act 1976 after section 26—

*" Barristers*

**26A Discrimination by, or in relation to, barristers.**

(1) It is unlawful for a barrister or barrister's clerk, in relation to any offer of a pupillage or tenancy, to discriminate against a person—
  (a) in the arrangements which are made for the purpose of determining to whom it should be offered;
  (b) in respect of any terms on which it is offered; or
  (c) by refusing, or deliberately omitting, to offer it to him.

(2) It is unlawful for a barrister or barrister's clerk, in relation to a pupil or tenant in the chambers in question, to discriminate against him—
  (a) in respect of any terms applicable to him as a pupil or tenant;
  (b) in the opportunities for training, or gaining experience which are afforded or denied to him;
  (c) in the benefits, facilities or services which are afforded or denied to him; or
  (d) by terminating his pupillage or by subjecting him to any pressure to leave the chambers or other detriment.

(3) It is unlawful for any person, in relation to the giving, withholding or acceptance of instructions to a barrister, to discriminate against any person.

(4) In this section—

"barrister's clerk" includes any person carrying out any of the functions of a barrister's clerk; and

"pupil", "pupillage", "tenancy" and "tenant" have the meanings commonly associated with their use in the context of a set of barristers' chambers.

(5) This section does not apply to Scotland."

**Marginal Citations**

**M45** 1975 c. 65.
**M46** 1976 c. 74.

***Status:*** *Point in time view as at 12/01/2006. This version of this Act contains provisions that are not valid for this point in time.*
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**65 Discrimination by, or in relation to, advocates.**

(1) The following shall be inserted in the [M47]Sex Discrimination Act 1975 after section 35A (as inserted by this Act)—

*" Advocates*

**35B Discrimination by, or in relation to, advocates.**

(1) It is unlawful for an advocate, in relation to taking any person as his pupil, to discriminate against a woman—
   (a) in the arrangements which he makes for the purpose of determining whom he will take as his pupil;
   (b) in respect of any terms on which he offers to take her as his pupil; or
   (c) by refusing, or deliberately omitting, to take her as his pupil.

(2) It is unlawful for an advocate, in relation to a woman who is a pupil, to discriminate against her—
   (a) in respect of any terms applicable to her as a pupil;
   (b) in the opportunities for training, or gaining experience, which are afforded or denied to her;
   (c) in the benefits, facilities or services which are afforded or denied to her; or
   (d) by terminating the relationship or by subjecting her to any pressure to terminate the relationship or other detriment.

(3) It is unlawful for any person, in relation to the giving, withholding or acceptance of instructions to an advocate, to discriminate against a woman.

(4) In this section—

"advocate" means a member of the Faculty of Advocates practising as such; and

"pupil" has the meaning commonly associated with its use in the context of a person training to be an advocate.

(5) Section 3 applies for the purposes of this section as it applies for the purposes of any provision of Part II.

(6) This section does not apply to England and Wales."

(2) The following shall be inserted in the [M48]Race Relations Act 1976 after section 26A (as inserted by this Act)—

*" Advocates*

**26B Discrimination by, or in relation to, advocates.**

(1) It is unlawful for an advocate, in relation to taking any person as his pupil, to discriminate against a person—
   (a) in the arrangements which he makes for the purpose of determining whom he will take as his pupil;

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(b) in respect of any terms on which he offers to take any person as his pupil; or

(c) by refusing, or deliberately omitting, to take a person as his pupil.

(2) It is unlawful for an advocate, in relation to a person who is a pupil, to discriminate against him—

(a) in respect of any terms applicable to him as a pupil;

(b) in the opportunities for training, or gaining experience, which are afforded or denied to him;

(c) in the benefits, facilities or services which are afforded or denied to him; or

(d) by terminating the relationship or by subjecting him to any pressure to terminate the relationship or other detriment.

(3) It is unlawful for any person, in relation to the giving, withholding or acceptance of instructions to an advocate, to discriminate against any person.

(4) In this section—

"advocate" means a member of the Faculty of Advocates practising as such; and

"pupil" has the meaning commonly associated with its use in the context of a person training to be an advocate.

(5) This section does not apply to England and Wales.".

**Marginal Citations**

**M47** 1975 c. 65.

**M48** 1976 c. 74.

## 66 Multi-disciplinary and multi-national practices.

(1) Section 39 of the [M49]Solicitors Act 1974 (which, in effect, prevents solicitors entering into partnership with persons who are not solicitors) shall cease to have effect.

(2) Nothing in subsection (1) prevents the Law Society making rules which prohibit solicitors from entering into any unincorporated association with persons who are not solicitors, or restrict the circumstances in which they may do so.

(3) Section 10 of the [M50]Public Notaries Act 1801 (which, in effect, prevents notaries entering into partnership with persons who are not notaries) shall cease to have effect.

(4) Nothing in subsection (3) prevents the Master of the Faculties making rules which prohibit notaries from entering into any unincorporated association with persons who are not notaries, or restrict the circumstances in which they may do so.

(5) It is hereby declared that no rule of common law prevents barristers from entering into any unincorporated association with persons who are not barristers.

(6) Nothing in subsection (5) prevents the General Council of the Bar from making rules which prohibit barristers from entering into any such unincorporated association, or restrict the circumstances in which they may do so.

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**Marginal Citations**
**M49** 1974 c. 47.
**M50** 1801 c. 79.

**[F124]67** . . . . . .

**Textual Amendments**
**F124** S. 67 repealed (31.7.2000) by 1999 c.22, s. 106, **Sch. 15 Pt. II** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2000/1920, **art. 2(c)**

## 68 Preparation of documents etc. by registered patent agents and trade mark agents.

(1) Section 22 of the [M51]Solicitors Act 1974 (unqualified person not to prepare certain instruments) shall be amended as follows.

(2) In subsection (2) (persons exempt from subsection (1)), the following paragraphs shall be inserted after paragraph (a)—

"(aa) a registered trade mark agent drawing or preparing any instrument relating to any design, trade mark or service mark;

(ab) a registered patent agent drawing or preparing any instrument relating to any invention, design, technical information, trade mark or service mark."

(3) The following subsection shall be inserted after subsection (3)—

"(3A) In subsection (2)—

"registered trade mark agent" has the same meaning as in section 282(1) of the Copyright, Designs and Patents Act 1988; and

"registered patent agent" has the same meaning as in section 275(1) of that Act."

**Marginal Citations**
**M51** 1974 c. 47

## 69 Exemption from liability for damages etc.

(1) Neither the **[**[F125]Secretary of State**]** nor any of the designated judges shall be liable in damages for anything done or omitted in the discharge or purported discharge of any of their functions under this Part.

(2) For the purposes of the law of defamation, the publication by the **[**[F125]Secretary of State**]** , a designated judge or the **[**[F126]OFT**]**of any advice or reasons given by or to him **[**[F127]or it**]** in the exercise of functions under this Part shall be absolutely privileged.

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**Textual Amendments**

**F125** Words in s. 69 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(c)** (with arts. 6, 8)

**F126** Word in s. 69(2) substituted (1.4.2003) by 2002 c. 40, ss. 278, 279, Sch. 25 para. 23(6)(a); S.I. 2003/766, **art. 2**, Sch. (with art. 3)

**F127** Word in s. 69(2) inserted (1.4.2003) by 2002 c. 40, ss. 278, 279, Sch. 25 para. 23(6)(b); S.I. 2003/766, **art. 2**, Sch. (with art. 3)

**Commencement Information**

**I20** S. 69 wholly in force at 1.4.1991 see s. 124(3) and S.I. 1991/608, art. 2, **Sch.**

*Offences*

## 70 Offences.

(1) If any person does any act in the purported exercise of a right of audience, or right to conduct litigation, in relation to any proceedings or contemplated proceedings when he is not entitled to exercise that right he shall be guilty of an offence.

(2) If any person does any act in the purported exercise of any right granted to authorised practitioners by virtue of this Act when he is not an authorised practitioner he shall be guilty of an offence.

(3) If any person—

(a) wilfully pretends—

(i) to be entitled to exercise any right of audience in relation to any proceedings, or contemplated proceedings; or

(ii) to be entitled to exercise any right to conduct litigation in relation to any proceedings, or contemplated proceedings,

when he is not so entitled;

(b) wilfully pretends to be an authorised practitioner when he is not; or

(c) with the intention of implying falsely that he is so entitled, or is such a practitioner, takes or uses any name, title or description,

he shall be guilty of an offence.

(4) A person guilty of an offence under subsection (1) or (2) shall be liable—

(a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum or to both; or

(b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.

(5) A person guilty of an offence under subsection (3) shall be liable, on summary conviction, to a fine not exceeding level 4 on the standard scale.

(6) A person guilty of an offence under this section, by virtue of subsection (1), shall also be guilty of contempt of the court concerned and may be punished accordingly.

(7) Subsection (8) applies where an offence under this section is committed by a body corporate.

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(8) If the offence is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of—

(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,

he (as well as the body corporate) shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

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

**C23** S. 70 modified (22.5.2000) by S.I. 2000/1119, regs. 1(1), 37, Sch. 3 Pt. 2 (as amended (1.1.2010) by S.I. 2009/1587, **art. 2(6)(a)**; S.I. 2009/3250, **art. 2(b)(i)** (with art. 9))

## PART III

### JUDICIAL AND OTHER OFFICES AND JUDICIAL PENSIONS

*Judicial appointments*

### 71 Qualification for judicial and certain other appointments.

(1) In section 10(3) of the [M52]Supreme Court Act 1981—

(a) in paragraph (b) (qualification for appointment as Lord Justice of Appeal) for the words "unless he is a barrister of at least fifteen years' standing or a judge of the High Court" there shall be substituted—

"unless—

(i) he has a 10 year High Court qualification within the meaning of section 71 of the Courts and Legal Services Act 1990; or

(ii) he is a judge of the High Court;";

(b) in paragraph (c) (qualification for appointment as puisne judge of the High Court) for the words "unless he is a barrister of at least ten years' standing" there shall be substituted—

"unless—

(i) he has a 10 year High Court qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990; or

(ii) he is a Circuit judge who has held that office for at least 2 years."

(2) Schedule 10 shall have effect for the purpose of making amendments to other enactments, measures and statutory instruments which relate to qualification for judicial and certain other appointments.

(3) For the purposes of this section, a person has—

(a) a "Supreme Court qualification" if he has a right of audience in relation to all proceedings in the Supreme Court;

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(b) a "High Court qualification" if he has a right of audience in relation to all proceedings in the High Court;

(c) a "general qualification" if he has a right of audience in relation to any class of proceedings in any part of the Supreme Court, or all proceedings in county courts or magistrates' courts;

(d) a "Crown Court qualification" if he has a right of audience in relation to all proceedings in the Crown Court;

(e) a "county court qualification" if he has a right of audience in relation to all proceedings in county courts;

(f) a "magistrates' court qualification" if he has a right of audience in relation to all proceedings in magistrates' courts.

(4) References in subsection (3) to a right of audience are references to a right of audience granted by an authorised body.

(5) Any reference in any enactment, measure or statutory instrument to a person having such a qualification of a particular number of years' length shall be construed as a reference to a person who—

(a) for the time being has that qualification, and

(b) has had it for a period (which need not be continuous) of at least that number of years.

**[**[F128](6) Any period during which a person had a right of audience but was, as a result of disciplinary proceedings, prevented by the authorised body concerned from exercising it shall not count towards the period mentioned in subsection (5)(b).**]**

[F129](7) . . . . . .

[F129](8) . . . . . .

**Textual Amendments**

**F128** S. 71(6) substituted (27.9.1999) by 1999 c. 22, s. 43, Sch. 6 paras. 4, **9** (with Sch. 14 para. 7(2)); S.I. 1999/2657, **art. 2(a)**

**F129** S. 71(7)(8) repealed (27.9.1999) by 1999 c.22, s. 106, **Sch. 15 Pt. II** (with Sch. 14 paras. 7(2), 36(9)); S.I. 1999/2657, art. 2(d)(ii)(a), **Sch. 2 Pt. I para. 2(c)**

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

**C24** S. 71 applied (E.W.S.) (17.6.1992) by Child Support Act 1991 (c. 48, SIF 20), **s. 54** (with s. 9(2)); S.I. 1992/1431, art. 2, **Sch.**

**C25** S. 71 applied (E.W.S.) (1.7.1992) by Social Security Administration Act 1992 (c. 5, SIF 113:1), **ss. 191**, 192(4)

**C26** S. 71 modified (1.4.1999) by 1998 c. 41, s. 45(7), **Sch. 7 Pt. III para. 26(2)(a)** (with s. 73); S.I. 1999/505, **art. 2**

**C27** S. 71 applied (1.3.2000) by S.I. 2000/261, **rule 2(2)(a)**

**C28** S. 71 applied (28.4.2003) by 2002 c. 9, ss. 107, 136(2), Sch. 9 para. 4(2) (with s. 129); S.I. 2003/1028, **art. 2**

**Marginal Citations**

**M52** 1981 c. 54.

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*Judges*

**72 Presiding Judges.**

(1) For each of the Circuits there shall be at least two Presiding Judges, appointed from among the puisne judges of the High Court.

(2) There shall be a Senior Presiding Judge for England and Wales, appointed from among the Lords Justices of Appeal.

(3) Any appointment under subsection (1) or (2) shall be made by the Lord Chief Justice with the agreement of the Lord Chancellor.

(4) In this section "the Circuits" means—
- (a) the Midland and Oxford Circuit;
- (b) the North Eastern Circuit;
- (c) the Northern Circuit;
- (d) the South Eastern Circuit;
- (e) the Western Circuit; and
- (f) the Wales and Chester Circuit,

or such other areas of England and Wales as the Lord Chancellor may from time to time, after consulting the Lord Chief Justice, direct.

(5) A person appointed as a Presiding Judge or as the Senior Presiding Judge shall hold that office in accordance with the terms of his appointment.

(6) In section 4 of the [M53]Supreme Court Act 1981 (composition of High Court)—
- (a) in subsection (1), after the words "Vice-Chancellor" there shall be inserted—
  "(dd) the Senior Presiding Judge"; and
- (b) in subsection (6) for the words "or Vice-Chancellor" there shall be substituted " Vice-Chancellor or Senior Presiding Judge" ".

**Marginal Citations**
**M53** 1981 c. 54.

**73 Delegation of certain administrative functions of Master of the Rolls.**

(1) Where the Master of the Rolls expects to be absent at a time when it may be appropriate for any relevant functions of his to be exercised, he may appoint a judge of the Supreme Court to exercise those functions on his behalf.

(2) Where the Master of the Rolls considers that it would be inappropriate for him to exercise any such functions in connection with a particular matter (because of a possible conflict of interests or for any other reason), he may appoint a judge of the Supreme Court to exercise those functions on his behalf in connection with that matter.

(3) Where the Master of the Rolls is incapable of exercising his relevant functions, the Lord Chancellor may appoint a judge of the Supreme Court to exercise, on behalf of the Master of the Rolls, such of those functions as the Lord Chancellor considers appropriate.

(4) Any appointment under this section shall be in writing and shall specify—

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(a) the functions which may be exercised by the appointed judge; and
(b) the period for which the appointment is to have effect.

(5) In this section "relevant functions" means any functions of the Master of the Rolls under—
(a) section 144A of the [M54]Law of Property Act 1922 (functions in relation to manorial documents);
(b) section 7(1) of the [M55]Public Records Act 1958 (power to determine where records of the Chancery of England are to be deposited);
(c) the [M56]Solicitors Act 1974 (which gives the Master of the Rolls various functions in relation to solicitors);
(d) section 9 of, and Schedule 2 to, the [M57]Administration of Justice Act 1985 (functions in relation to incorporated practices).

**Marginal Citations**
**M54** 1922 c. 16.
**M55** 1958 c. 51.
**M56** 1974 c. 47.
**M57** 1985 c. 61.

## 74 District judges.

(1) The offices of—
(a) registrar, assistant registrar and deputy registrar for each county court district; and
(b) district registrar, assistant district registrar and deputy district registrar for each district registry of the High Court,

shall become the offices of district judge, assistant district judge and deputy district judge respectively.

(2) The office of registrar of the principal registry of the Family Division of the High Court shall become the office of district judge of the principal registry of the Family Division.

(3) Any reference in any enactment, instrument or other document to an office which is, or includes, one to which this section applies shall be construed as a reference to, or (as the case may be) as including a reference to, that office by its new name.

(4) In section 14 of the [M58]County Courts Act 1984 (power of judge to impose penalty for an assault on an officer of the court) after subsection (2) there shall be inserted—

"(3) A district judge, assistant district judge or deputy district judge shall have the same powers under this section as a judge."

(5) In section 55 of that Act (power of judge to impose penalty for refusal to give evidence) after subsection (4) there shall be inserted—

"(4A) A district judge, assistant district judge or deputy district judge shall have the same powers under this section as a judge."

(6) In section 118 of that Act (power of judge to commit for contempt) after subsection (2) there shall be inserted—

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"(3) A district judge, assistant district judge or deputy district judge shall have the same powers under this section in relation to proceedings before him as a judge."

(7) In section 42 of the [M59]Matrimonial and Family Proceedings Act 1984 (which allows certain county court proceedings to be taken in the principal registry of the Family Division) the following subsection shall be inserted after subsection (4)—

"(4A) Where a district judge of the principal registry is exercising jurisdiction in any matrimonial cause or matter which could be exercised by a district judge of a county court, he shall have the same powers in relation to those proceedings as if he were a district judge of a county court and the proceedings were in a county court."

**Commencement Information**

**I21** S. 74 wholly in force; S. 74(1)-(3) in force at 1.1.1991 see s. 124(3) and S.I. 1990/2484, **s. 74(4)-(7)** in force at 1.7.1991 see s. 124(3) and S.I. 1991/1364, art. 2, **Sch.**

**Marginal Citations**

**M58** 1984 c. 28.
**M59** 1984 c. 42.

## 75 Judges etc. barred from legal practice.

No person holding as a full-time appointment any of the offices listed in Schedule 11 shall—

(a) provide any advocacy or litigation services (in any jurisdiction);
(b) provide any conveyancing or probate services;
(c) practise as a barrister, solicitor, public notary or licensed conveyancer, or be indirectly concerned in any such practice;
(d) practise as an advocate or solicitor in Scotland, or be indirectly concerned in any such practice; or
(e) act for any remuneration to himself as an arbitrator or umpire.

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

**C29** S. 75 applied (1.9.1992) by Child Support Act 1991 (c. 48, SIF 20), ss. 21(4), 22(5), Sch. 3 para. 4(6), **Sch. 4 para.3**, (with s. 9(2)); S.I. 1992/1938, **art.2**

## 76 Judicial oaths.

(1) A person holding any of the following offices—

(a) district judge, including district judge of the principal registry of the Family Division;
(b) Master of the Queen's Bench Division;
(c) Master of the Chancery Division;
(d) Registrar in Bankruptcy of the High Court;
(e) Taxing Master of the Supreme Court;

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(f) Admiralty Registrar,

shall take the oath of allegiance and the judicial oath before a judge of the High Court or a Circuit judge.

(2) The [M60]Promissory Oaths Act 1868 shall have effect as if the offices listed in the Second Part of the Schedule to that Act included those offices.

**Marginal Citations**
**M60** 1868 c. 72.

*Supreme Court Officers*

**77 Age for retirement of certain Supreme Court officers.**

(1) In section 92 of the [M61]Supreme Court Act 1981 (tenure of office) for subsection (2) there shall be substituted—

"(2) Subsection (1) applies to the offices listed in column 1 of Part II of Schedule 2 except the office of Queen's Coroner and Attorney and Master of the Crown Office and Registrar of Criminal Appeals.

(2A) Subject to the following provisions of this section, a person who holds an office to which this subsection applies shall vacate it at the end of the completed year of service in the course of which he attains the age of sixty-two years.

(2B) Subsection (2A) applies to the offices listed in column 1 of Part I of Schedule 2 and the office of Queen's Coroner and Attorney and Master of the Crown Office and Registrar of Criminal Appeals.

(2C) For the purposes of subsections (1) and (2A) a person who has successively held two or more offices listed in column 1 of Part I or II of Schedule 2 shall be treated as completing a year of service on the anniversary of his appointment to the first of them."

(2) After subsection (3) of that section (retirement age increased in certain circumstances to 75 years) there shall be inserted—

"(3A) Where the Lord Chancellor considers it desirable in the public interest to retain in office a person who holds an office to which subsection (2A) applies after the time when he would otherwise retire in accordance with that subsection, the Lord Chancellor may from time to time authorise the continuance in office of that person until such date, not being later than the date on which he attains the age of sixty-five years, as he thinks fit."

(3) In subsection (4) of that section (person to hold office during good behaviour) after the words "subsection (1)" there shall be inserted " or (2A)" ".

**Marginal Citations**
**M61** 1981 c. 54.

***Status:*** *Point in time view as at 12/01/2006. This version of this Act contains provisions that are not valid for this point in time.*
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## 78 Registrar of Criminal Appeals.

(1) The office of Registrar of Criminal Appeals shall be combined with the office of Queen's Coroner and Attorney and Master of the Crown Office.

(2) After section 13 of the [M62]Judicial Pensions Act 1981 there shall be inserted—

"**13A Registrar of Criminal Appeals.**

There may be paid to persons who have held the office of Queen's Coroner and Attorney and Master of the Crown Office and Registrar of Criminal Appeals such superannuation allowances as the Lord Chancellor may, with the approval of the Treasury, determine."

(3) [F130] . . . . . .

(4) [F130] . . . . . .

**Textual Amendments**

**F130** S. 78(3)(4) repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **s. 1(1)**, {Sch. 1 Pt. 1 Group. 4}

**Marginal Citations**

**M62** 1981 c. 20.

*Judicial pensions*

## 79 Widowers' pensions.

(1) The following section shall be inserted in the Judicial Pensions Act 1981, after section 18 (which sets out the conditions on which a widow's pension is payable)—

"**18A Widowers' pensions.**

(1) Section 18 above shall have effect in relation to the death of a female person as it has effect in relation to the death of a male person but as if—

(a) for the words "widow", "widow's pension" and "wife" there were substituted " widower" ", " widower's pension" " and " husband" "; and

(b) for the words "his", "he" and "him" there were substituted " hers" ", " she" " and " her" ".

(2) The transitional provisions in Part IV of Schedule 2 to this Act shall have effect in relation to widowers' pensions."

(2) The transitional provisions set out in Schedule 12 shall be inserted in the Act of 1981 as Part IV of Schedule 2 to that Act.

**Commencement Information**

**I22** S. 79 wholly in force at 1.1.1992 see s. 124(3) and S.I. 1991/2730, **art. 2**,Sch.

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## 80 Widows' and widowers' pensions: supplemental.

For section 19 of the Judicial Pensions Act 1981 (determination of widow's pension) there shall be substituted—

"**19 Widows' and widowers' pensions.**

(1) No widow's or widower's pension may be granted if the marriage with the deceased took place after he or she retired from relevant service.

(2) A widow's or widower's pension shall come to an end on the death of the widow or widower.

(3) Where a widow's or widower's pension is payable the Treasury may, on or at any time after the re-marriage of the widow or widower, direct that it shall cease to be payable.

(4) Where such a direction has been given the Treasury may at any time direct that payment of the pension is to be resumed.

(5) The annual amount of a widow's or widower's pension may be one half of the annual amount of the personal pension."

**Commencement Information**

**I23** S. 80 wholly in force at 1.1.1992 see s. 124(3) and S.I. 1991/2730, **art. 2**,Sch.

PROSPECTIVE

## 81 Transfer of accrued rights to and from judicial pension schemes.

Schedule 13 amends the Judicial Pensions Act 1981 by inserting a new Schedule 1A, which makes provision for the transfer of accrued rights into and out of the judicial pension schemes constituted by that Act and the [M63]Sheriffs' Pensions (Scotland) Act 1961.

**Marginal Citations**

**M63** 1961 c. 42.

## 82 Voluntary contributions.

(1) In the Judicial Pensions Act 1981, the following section shall be inserted after section 33—

"**33A Voluntary contributions.**

(1) Regulations shall make provision entitling any member of a judicial pension scheme constituted by this Act or the Sheriffs' Pensions (Scotland) Act 1961 to make voluntary contributions towards the cost of the provision of additional benefits under the scheme.

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(2) The regulations—

(a) may not prohibit the payment of voluntary contributions;

(b) may not impose any limit on the amount which any member may pay by way of voluntary contributions other than an upper limit corresponding to that for the time being fixed by or under section 594 of the Income and Corporation Taxes Act 1988 (exempt statutory schemes);

(c) must secure that any voluntary contributions paid by a member of a scheme are used to provide prescribed additional benefits for or in respect of him; and

(d) must secure that the value of such additional benefits is reasonable, having regard to—

(i) the amount paid by way of voluntary contributions;

(ii) the value of the other benefits provided under the scheme; and

(iii) the general value of benefits available to a person under any contract of life insurance entered into by him with an insurance company to which Part II of the Insurance Companies Act 1982 (regulation of insurance companies carrying on insurance business within the United Kingdom) applies.

(3) The regulations may, in particular—

(a) provide that the value of additional benefits offered on payment of voluntary contributions shall be determined in accordance with prescribed rules based on tables prepared for the purposes of the regulations by the Government Actuary; and

(b) prescribe the manner in which it is to be determined in any case whether the amount of a person's contributions exceeds any limit imposed by virtue of subsection (2)(b) above.

(4) Nothing in subsection (2) shall be taken to prevent the regulations from limiting the overall amount which a member may pay by way of voluntary contributions by reference to the maximum entitlement of members under the scheme.

(5) Regulations made under this section may make provision for consequential and incidental matters, including, in particular, consequential provision with respect to any enactment referring or relating to lump sums payable under Part II of this Act.

(6) Regulations under this section may be made—

(a) by the Lord Chancellor; or

(b) in relation to pensions for service in offices existing only in Scotland, by the Secretary of State,

with the consent of the Treasury.

(7) The power to make regulations under this section shall be exercisable by statutory instrument.

(8) Any such statutory instrument shall be subject to annulment in pursuance of a resolution of either House of Parliament."

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[F131](2) . . . . . .

(3) In Article 14 of the [M64]Social Security (Northern Ireland) Order 1986 (voluntary contributions in Northern Ireland) the following paragraph shall be inserted after paragraph (10)—

"(10A) This Article does not apply in relation to any pension payable under the Judicial Pensions Act 1981."

**Textual Amendments**

**F131** S. 82(2) repealed (7.2.1994) by 1993 c. 48, s. 188, **Sch. 5 Pt. I**; S.I. 1994/86, **art. 2**

**Marginal Citations**

**M64** S.I. 1986/1888 (N.I. 18).

## 83 Period of service to qualify for certain superannuation benefits.

(1) In each of the following provisions (which among other things require a minimum number of years service for qualification for superannuation benefits)—

(a) section 7(1) of the Judicial Pensions Act 1981 (stipendiary magistrates);

(b) section 9(1) of that Act (Judge Advocate General);

(c) paragraph 4(1)(b) of Schedule 1 to that Act (Supreme Court officers etc); and

(d) section 1(1) of the Sheriffs' Pensions (Scotland) Act 1961,

for the words "5 years", or "five years", there shall be substituted, in each case, " 2 years" ".

(2) In section 7(3) of the Act of 1981 (rate of pension payable to a stipendiary magistrate) for "(a)" there shall be substituted—

"(a) if the period of service amounts to less than 5 (but not less than 2) years, 6/80ths of his last annual salary,

(aa)".

(3) In section 9 of the Act of 1981 (rate of pension payable to Judge Advocate General) the following subsection shall be inserted after subsection (3)—

"(3A) The annual rate of pension payable under this section to a person retiring after less than 5 (but not less than 2) years service shall be 6/80ths of his last annual salary."

(4) In paragraph 4(4) of Schedule 1 to the Act of 1981 (rate of pension payable to an officer of the Supreme Court etc.) for "(a)" there shall be substituted—

"(a) if the period of relevant service amounts to less than 5 (but not less than 2) years, 6/80ths of his last annual salary,

(aa)".

(5) In subsections (2) and (3) of section 3 of the Sheriffs' Pensions (Scotland) Act 1961 (rate of pension payable to sheriff and salaried sheriff-substitute) for "(a)" there shall, in each case, be substituted—

"(a) where the period of his relevant service exceeds two years but is less than five years, six eightieths of his last annual salary;

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***Changes to legislation:*** *Courts and Legal Services Act 1990 is up to date with all changes known to be in force on or before 26 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(aa)".

## 84 Abolition of abatement of salary rule for judges etc.

F132 . . . . . .

**Textual Amendments**

**F132** S. 84 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **s. 1(1)**, {Sch. 1 Pt. 1 Group. 4}

# PART IV

## SOLICITORS

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

**C30** Pt. 4: transfer of functions (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), arts. 4, 5, **Sch. 1** (with arts. 6, 8)

## 85 Practising certificates for employed solicitors.

After section 1 of the [M65]Solicitors Act 1974 (qualifications for practising as solicitor) there shall be inserted the following section—

"**1A Practising certificates: employed solicitors.**

A person who has been admitted as a solicitor and whose name is on the roll shall, if he would not otherwise be taken to be acting as a solicitor, be taken for the purposes of this Act to be so acting if he is employed in connection with the provision of any legal services—

(a) by any person who is qualified to act as a solicitor;

(b) by any partnership at least one member of which is so qualified; or

(c) by a body recognised by the Council of the Law Society under section 9 of the Administration of Justice Act 1985 (incorporated practices)."

**Marginal Citations**

**M65** 1974 c. 47.

## 86 Commencement, expiry and replacement of practising certificates.

The following section shall be substituted for section 14 of the Solicitors Act 1974 (date and expiry of practising certificates)—

"**14 Commence-ment, expiry and replacement of practising certificates.**

(1) Every practising certificate shall have effect from the beginning of the day ("the commencement date") on which it is issued.

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(2) The Master of the Rolls may, with the concurrence of the Lord Chancellor and the Lord Chief Justice, make regulations—

(a) prescribing the date ("the replacement date") by which each solicitor who has a practising certificate which is for the time being in force must apply for a new practising certificate if he wishes to continue to have one; and

(b) requiring every practising certificate to specify its replacement date.

(3) The Society shall enter the commencement date and replacement date of each practising certificate in the register kept under section 9.

(4) Without prejudice to section 28(1), any regulations under subsection (2) may—

(a) provide for different replacement dates for different categories of solicitor or in different circumstances;

(b) provide for the Society to specify different replacement dates to those prescribed by the regulations in respect of individual solicitors;

(c) make such transitional, incidental and supplemental provision, in connection with any provision for different replacement dates (including different dates specified by the Society), as the Master of the Rolls considers expedient.

(5) Where a practising certificate is in force with respect to a solicitor, the Society may withdraw the certificate if—

(a) the replacement date for that certificate has passed; but

(b) he has not applied for a new practising certificate.

(6) A practising certificate shall expire —

(a) where the solicitor's name is removed from or struck off the roll, immediately upon the occurrence of that event;

(b) where it is withdrawn under subsection (5), immediately upon the occurrence of that event;

(c) where a new practising certificate is issued to the solicitor, on the commencement of the new certificate;

(d) where the Society refuses to issue the solicitor with a new practising certificate—

(i) immediately after the replacement date for the existing certificate has passed; or,

(ii) if that date has already passed, immediately upon the Society taking its decision not to issue him with a new certificate.

(7) Where any practising certificate expires in the circumstances mentioned in subsection (6)(a), (b) or (d) the date of its expiry shall be entered in the register kept under section 9."

**Commencement Information**

**I24** S. 86 wholly in force at 1.7.1991 see s. 124(3) and S.I. 1991/1364, art. 2, **Sch.**

***Status:*** *Point in time view as at 12/01/2006. This version of this Act contains provisions that are not valid for this point in time.*
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**87 Fees payable on issue of practising certificates.**

In section 11 of the [M66]Solicitors Act 1974 (fees payable on issue of practising certificates), the following subsections shall be substituted for subsections (2) and (2A)—

"(2) An order under subsection (1) may specify reduced fees for practising certificates in such circumstances as may be so specified.

(2A) Subsection (2B) applies where an order under subsection (1) specifies a reduced fee in the case of a solicitor whose income, from his practice as a solicitor, is, during such period as may be so specified, less than an amount so specified.

(2B) The question whether, for the purposes of any such order, the income of a solicitor during the specified period falls below the specified amount shall be determined in accordance with regulations made by the Master of the Rolls with the concurrence of the Lord Chancellor and the Lord Chief Justice."

**Marginal Citations**
**M66** 1974 c. 47.

**88 Additional fee payable by certain solicitors on applying for practising certificates.**

The following section shall be inserted in the Solicitors Act 1974 after section 12—

"**12A Additional fee payable by certain solicitors on applying for practising certificates.**

(1) Where a solicitor applies for a practising certificate at a time when section 12 has effect in relation to him by reason of the circumstances mentioned in section 12(1)(ee), he shall pay an additional fee to the Society when making his application.

(2) The amount of that additional fee—
(a) shall be fixed by order of the Master of the Rolls made with the concurrence of the Lord Chancellor and the Lord Chief Justice; and
(b) shall be designed to provide reasonable compensation to the Society for the additional cost of dealing with such applications."

**89 Foreign lawyers: recognised bodies and partnerships with solicitors.**

(1) The Law Society shall maintain a register of foreign lawyers for the purposes of this section.

(2) A foreign lawyer who wishes to be registered under this section must apply to the Society in accordance with the requirements of Part I of Schedule 14.

(3) The power to make rules under—
(a) the following provisions of the Solicitors Act 1974—
(i) section 31 (professional practice, conduct and discipline);
(ii) section 32 (accounts and trust accounts);

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(iii) section 34 (accountants' reports);
(iv) section 36 (Compensation Fund); and
(v) section 37 (professional indemnity); and

(b) section 9 of the Administration of Justice Act 1985 (incorporated practices),

shall also be exercisable in relation to registered foreign lawyers.

(4) Subject to the provisions of Schedule 14, any such power may be exercised so as—

(a) to make different provision with respect to solicitors who enter into multi-national partnerships to the provision made with respect to other solicitors;

(b) to make different provision with respect to the management and control of recognised bodies by solicitors and registered foreign lawyers to the provision made with respect to the management and control of recognised bodies by solicitors;

(c) to make different provision with respect to registered foreign lawyers who are members of multi-national partnerships to the provision made with respect to solicitors; or

(d) to make different provision with respect to officers of recognised bodies who are registered foreign lawyers to the provision made with respect to officers of recognised bodies who are solicitors.

(5) Subject to the provisions of Schedule 14, the **[**[F133]Secretary of State**]** may by order provide that any enactment or instrument—

(a) passed or made before the commencement of this section;

(b) having effect in relation to solicitors; and

(c) specified in the order,

shall have effect with respect to registered foreign lawyers as it has effect with respect to solicitors.

(6) An order under subsection (5) may provide for an enactment or instrument to have effect with respect to registered foreign lawyers subject to such additions, omissions or other modifications as the **[**[F133]Secretary of State**]** sees fit to specify in the order.

(7) Subject to the provisions of Schedule 14, the **[**[F133]Secretary of State**]** may by order provide that any enactment or instrument—

(a) passed or made before the commencement of this section;

(b) having effect in relation to recognised bodies; and

(c) specified in the order,

shall, in its application in relation to recognised bodies whose officers include one or more registered foreign lawyers, have effect with such additions, omissions or other modifications as the **[**[F133]Secretary of State**]** sees fit to specify in the order.

(8) Schedule 14 shall have effect for the purposes of supplementing this section.

(9) In this section and in Schedule 14—

"foreign lawyer" means a person who is not a solicitor or barrister but who is a member, and entitled to practise as such, of a legal profession regulated within a jurisdiction outside England and Wales;

**[**[F134]"multi-national partnership" means a partnership whose members consist of one or more registered foreign lawyers and one or more other lawyers as permitted by rules made under section 31 of the Solicitors Act 1974;**]**

***Status:*** *Point in time view as at 12/01/2006. This version of this Act contains provisions that are not valid for this point in time.*
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"recognised body" has the same meaning as in section 9 of the Administration of Justice Act 1985 (management and control by solicitors of incorporated practices); and

"registered foreign lawyer" means a foreign lawyer who is registered under this section.

**Textual Amendments**

**F133** Words in s. 89 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(c)** (with arts. 6, 8)

**F134** S. 89(9): definition of "multi-national partnership" substituted (22.5.2000) by S.I. 2000/1119, regs. 1(1), 37, **Sch. 4 para. 14(1)(2)**

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

**C31** S. 89(5)-(7) amended (27.9.1999) by 1999 c.22, s. 48, **Sch. 7 para. 15** (with Sch. 14 para. 7(2)); S.I. 1999/2657, **art. 2(a)**

**Commencement Information**

**I25** S. 89 wholly in force at 14.10.1991 see s. 124(3) and S.I. 1991/1883, art. 3, **Sch.**

## 90 The Compensation Fund: incorporated practices.

In paragraph 6 of Schedule 2 to the [M67]Administration of Justice Act 1985 (payments into the Compensation Fund by bodies recognised under section 9 of that Act), the following sub-paragraphs shall be substituted for sub-paragraph (1)—

"(1) On an application under section 9 of this Act a body corporate shall pay to the Society, with any fee required to be paid by virtue of subsection (2)(a) of that section, a contribution to the Compensation Fund of such amount as the Council may from time to time determine.

(1A) On being required to do so by the Society, every recognised body shall pay a further contribution to the Compensation Fund of such amount as the Council may from time to time determine.

(1B) The Society may only require a contribution under sub-paragraph (1A) if—

(a) the recognised body has held or received clients' money at any time within the twelve-month period; and

(b) no such contribution has been required from that body within that period.

(1C) In sub-paragraph (1B) "the twelve-month period", in relation to any requirement for payment of a further contribution, means the period of twelve months ending immediately before the day on which the requirement is imposed.

(1D) Schedule 2 to the 1974 Act shall apply to amounts paid to the Society in pursuance of sub-paragraph (1) or (1A) of this paragraph as if they were annual contributions or special levies paid in pursuance of paragraph (a) or (b) of paragraph 2(1) of that Schedule."

**Status:** *Point in time view as at 12/01/2006. This version of this Act contains provisions that are not valid for this point in time.*
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**Marginal Citations**
**M67** 1985 c. 61.

## 91 Power of Law Society to intervene in solicitors' practices.

(1) In paragraph 1 of Schedule 1 to the Solicitors Act 1974 (circumstances in which Society may intervene in solicitors' practices) the following paragraphs shall be added at the end—

"(h) the Council are satisfied that a sole solicitor has abandoned his practice;

(i) the Council are satisfied that a sole solicitor is incapacitated by age to such an extent as to be unable to attend to his practice;

(j) any power conferred by this Schedule has been exercised in relation to a sole solicitor by virtue of sub-paragraph (1)(a) and he has acted as a sole solicitor within the period of eighteen months beginning with the date on which it was so exercised;

(k) the Council are satisfied that a person has acted as a solicitor at a time when he did not have a practising certificate which was in force;

(l) the Council are satisfied that a solicitor has failed to comply with any condition, subject to which his practising certificate was granted or otherwise has effect, to the effect that he may act as a solicitor only—

(i) in employment which is approved by the Society in connection with the imposition of that condition;

(ii) as a member of a partnership which is so approved;

(iii) as an officer of a body recognised by the Council of the Law Society under section 9 of the Administration of Justice Act 1985 and so approved; or

(iv) in any specified combination of those ways."

(2) In section 15 of the Act of 1974 (suspension of practising certificates) the following subsections shall be inserted after subsection (1)—

"(1A) Where the power conferred by paragraph 6(1) or 9(1) of Schedule 1 has been exercised in relation to a solicitor by virtue of paragraph 1(1)(a)(i), (c) (so far as it applies to rules made by virtue of section 32) or (e) of that Schedule, the exercise of that power shall operate immediately to suspend any practising certificate of that solicitor for the time being in force.

(1B) Subsection (1A) does not apply if, at the time when the power referred to there is exercised, the Society directs that subsection (1A) is not to apply in relation to the solicitor concerned.

(1C) If, at the time when the power referred to in subsection (1A) is exercised, the Society gives a direction to that effect, the solicitor concerned may continue to act in relation to any matter specified in the direction as if his practising certificate had not been suspended by virtue of subsection (1A), but subject to such conditions (if any) as the Society sees fit to impose."

(3) In section 16 of the Act of 1974 (duration of suspension of practising certificates) in subsection (3) the following paragraph shall be inserted after paragraph (c)—

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"(d) by virtue of section 15(1A)".

**92 Functions of the Solicitors Disciplinary Tribunal.**

(1) Section 47 of the [M68]Solicitors Act 1974 (jurisdiction and powers of the Tribunal) shall be amended as follows.

(2) The following subsections shall be substituted for subsections (1) and (2)—

"(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;

(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 subsection (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 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;

(c) the payment by that solicitor or former solicitor of a penalty not exceeding £5,000, which shall be forfeit to Her Majesty;

(d) in the circumstances referred to in subsection (2A), the exclusion of that solicitor from legal aid work (either permanently or for a specified period);

(e) the termination of that solicitor's unspecified period of suspension from practice;

(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."

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(3) In subsection (2A) for the words "(2)(bb)" there shall be substituted " (2)(d)" ".

(4) After subsection (3) there shall be inserted—

"(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."

(5) In section 48(2) of that Act (recording and publishing of orders of the Tribunal)—

(a) for the words "(a) to (e)" there shall be substituted " (a) to (i)" ";

(b) in paragraph (a) after the word "solicitor" there shall be inserted " or former solicitor" ";

(c) in paragraph (b) for the words "paragraph (d) or (e) of that subsection" there shall be substituted " paragraph (e), (f), (h) or (i) of section 47(2)" ".

(6) In section 49(1)(a) of that Act (appeal from Tribunal to the Master of the Rolls) for the words "47(1)(b)" there shall be substituted " 47(1)(d), (e) or (f)" ".

**Marginal Citations**

**M68** 1974 c. 47.

## 93 Redress for inadequate professional services.

(1) Section 44A of the [M69]Solicitors Act 1974 (powers of Council to impose sanctions for inadequate professional services) shall cease to have effect.

(2) In its place, the following shall be inserted in that Act after section 37—

*" Inadequate professional services*

### 37A Redress forinadequateprofessionalservices.

Schedule 1A shall have effect with respect to the provision by solicitors of services which are not of the quality which it is reasonable to expect of them."

(3) The provisions set out in Schedule 15 shall be inserted in that Act as Schedule 1A.

(4) [F135]. . . . . .

**Textual Amendments**

**F135** S. 93(4) repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **s. 1(1)**, {Sch. 1 Pt. 1 Group. 4}

**Commencement Information**

**I26** S. 93 wholly in force at 1. 4.1991 see s. 124(3) and S.I. 1991/608, art. 2, **Sch.**

**Marginal Citations**

**M69** 1974 c. 47.

***Status:*** *Point in time view as at 12/01/2006. This version of this Act contains provisions that are not valid for this point in time.*
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**94 Solicitors charged with or convicted of fraud or serious crime.**

(1) In section 13A of the Solicitors Act 1974 (imposition of conditions while practising certificates are in force), the following shall be added at the end of subsection (2)—

"; or

(d) he has been charged with, or convicted of—

(i) an offence involving dishonesty or deception; or

(ii) a serious arrestable offence (as defined by section 116 of the Police and Criminal Evidence Act 1984)."

(2) In subsection (5) of section 13A of that Act the following paragraph shall be added at the end— " This subsection does not apply to the exercise of the Society's powers under this section by virtue of subsection (2)(d). "

(3) After section 13A of that Act there shall be inserted the following section—

"**13B Suspension of practising certificates where solicitors convicted of fraud or serious crime.**

(1) Where—

(a) a solicitor has been convicted of—

(i) an offence involving dishonesty or deception; or

(ii) a serious arrestable offence (as defined by section 116 of the Police and Criminal Evidence Act 1984); and

(b) the Society has made an application to the Tribunal under section 47 with respect to him,

the Society may direct that any practising certificate of his which is for the time being in force be suspended.

(2) Any such suspension shall be for such period, not exceeding six months, as the Society shall specify in the direction.

(3) If, before the specified period expires—

(a) the Tribunal determines the Society's application;

(b) the conviction is quashed or set aside; or

(c) the Society withdraws its application to the Tribunal,

the suspension shall cease to have effect.

(4) Where the specified period comes to an end without any of the events mentioned in subsection (3) having occurred, the Society may direct that the suspension be continued for such period, not exceeding six months, as it shall specify in the direction.

(5) A suspension under this section may only be extended once under subsection (4).

(6) Nothing in this section is to be taken as in any way affecting the Tribunal's power to suspend a solicitor from practice.

(7) A solicitor in whose case a direction is given under subsection (1) or (4) may appeal to the Master of the Rolls against the direction within one month of being notified of it.

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(8) In an appeal under subsection (7), the Master of the Rolls may—

(a) affirm the suspension;

(b) direct that the appellant's certificate shall not be suspended but shall have effect subject to such conditions as the Master of the Rolls thinks fit;

(c) by order revoke the direction; or

(d) make such other order as he thinks fit."

**95 Appeals against refusal to restore solicitor's name to roll under section 8 of the 1974 Act.**

In section 8 of the [M70]Solicitors Act 1974 (removal or restoration of name at solicitor's request) the following subsections shall be added at the end—

"(4) An appeal from any decision of the Society under subsection (2) shall lie to the Master of the Rolls.

(5) The Master of the Rolls may make regulations about appeals to him under this section."

**Marginal Citations**

**M70** 1974 c. 47.

**96 Powers of entry etc. of local weights and measures authorities.**

The following section shall be inserted in the [M71]Solicitors Act 1974 after section 22 (unqualified person not to prepare certain instruments)—

"**22A Powers of entry etc. of local weights and measures authorities.**

(1) Any authorised officer who has reasonable cause to suspect that an offence may have been committed under section 22 may, at any reasonable time—

(a) enter any premises which are not used solely as a dwelling;

(b) require any officer, agent or other competent person on the premises who is, or may be, in possession of information relevant to an investigation under section 22, to provide such information;

(c) require the production of any document which may be relevant to such an investigation;

(d) take copies, or extracts, of any such documents;

(e) seize and retain any document which he has reason to believe may be required as evidence in proceedings for an offence under section 22.

(2) Any person exercising any power given by subsection (1) shall, if asked to do so, produce evidence that he is an authorised officer.

(3) A justice of the peace may issue a warrant under this section if satisfied, on information on oath given by an authorised officer, that there is reasonable cause to believe that an offence may have been committed under section 22 and that—

***Status:*** *Point in time view as at 12/01/2006. This version of this Act contains provisions that are not valid for this point in time.*
***Changes to legislation:*** *Courts and Legal Services Act 1990 is up to date with all changes known to be in force on or before 26 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) entry to the premises concerned, or production of any documents which may be relevant to an investigation under section 22, has been or is likely to be refused to an authorised officer; or

(b) there is reasonable cause to believe that, if production of any such document were to be required by the authorised officer without a warrant having been issued under this section, the document would not be produced but would be removed from the premises or hidden, tampered with or destroyed.

(4) A warrant issued under this section shall authorise the authorised officer accompanied, where he considers it appropriate, by a constable or any other person—

(a) to enter the premises specified in the information, using such force as is reasonably necessary; and

(b) to exercise any of the powers given to the authorised officer by subsection (1).

(5) If a person—

(a) intentionally obstructs an authorised officer in the exercise of any power under this section;

(b) intentionally fails to comply with any requirement properly imposed on him by an authorised officer in the exercise of any such power;

(c) fails, without reasonable excuse, to give to an authorised officer any assistance or information which he may reasonably require of him for the purpose of exercising any such power; or

(d) in giving to an authorised officer any information which he has been required to give to an authorised officer exercising any such power, makes any statement which he knows to be false or misleading in a material particular,

he shall be guilty of an offence.

(6) A person guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(7) Nothing in this section shall be taken to require any person to answer any question put to him by an authorised officer, or to give any information to an authorised officer, if to do so might incriminate him.

(8) In this section—

"authorised officer" means any officer of a local weights and measures authority who is authorised by the authority to exercise the powers given by subsection (1); and

"document" includes information recorded in any form.

(9) In relation to information recorded otherwise than in legible form, references in this section to its production include references to producing a copy of the information in legible form."

**Marginal Citations**

**M71** 1974 c. 47.

**Status:** *Point in time view as at 12/01/2006. This version of this Act contains provisions that are not valid for this point in time.*
**Changes to legislation:** *Courts and Legal Services Act 1990 is up to date with all changes known to be in force on or before 26 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## 97 Committees and sub-committees of the Council.

The following section shall be substituted for section 79 of the [M72]Solicitors Act 1974 (committees of the Council)—

"**79 Committees and sub-committees of the Council.**

(1) Subject to any provision to the contrary made by or under any enactment, the Council may arrange for any of its functions (other than reserved functions) to be discharged by—
  (a) a committee of the Council;
  (b) a sub-committee of such a committee; or
  (c) an individual (whether or not a member of the Society's staff).

(2) Where, by virtue of subsection (1)(a), any of the Council's functions may be discharged by a committee, the committee may arrange for the discharge of any of those functions by—
  (a) a sub-committee of that committee; or
  (b) an individual (whether or not a member of the Society's staff).

(3) Where, by virtue of subsection (1) or (2), any of the Council's functions may be discharged by a sub-committee, the sub-committee may arrange for the discharge of any of those functions by a member of the Society's staff.

(4) Subsections (2) and (3) shall have effect subject to any contrary direction given by the Council.

(5) Subject to any direction given by the Council under subsection (4), subsection (3) shall have effect subject to any contrary direction given by the committee concerned.

(6) Any power given by subsection (1), (2) or (3) may be exercised so as to impose restrictions or conditions on the body or individual by whom the functions concerned are to be discharged.

(7) A committee of the Council, and any sub-committee of such a committee, discharging functions delegated under this section may include persons other than—
  (a) members of the Council;(b) members of the Society;(c) solicitors.

(8) The majority of the members of any such committee or sub-committee may be persons who may be included by virtue of subsection (7).

(9) The number and term of office of the members of such a committee and the number of those members necessary to form a quorum, shall be fixed by the Council.

(10) Subject to any restriction or condition imposed by the Council, the number and term of office of the members of such a sub-committee and the number of those members necessary to form a quorum, shall be fixed by the committee concerned.

(11) The validity of any proceedings of such a committee or sub-committee shall not be affected by any casual vacancy among its members.

(12) In this section "reserved functions" means—

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(a) the function of making rules or regulations under section 2, 31, 32, 34, 36, or 37 or under section 9 of the Administration of Justice Act 1985 (incorporated practices);

(b) the function of setting fees or financial contributions under paragraph 2(1) of Schedule 2 or section 8(2) or under paragraph 6 of Schedule 2 to the Administration of Justice Act 1985."

**Marginal Citations**

**M72** 1974 c. 47.

## 98 Agreements with solicitors for payment by hourly rates.

(1) Section 57 of the [M73]Solicitors Act 1974 (non-contentious business agreements) shall be amended in accordance with subsections (2) to (4).

(2) In subsection (2) (method of payment which may be agreed), after the words "gross sum" there shall be inserted " or by reference to an hourly rate" ".

(3) In subsection (4), for the words "Subject to subsection (5)" there shall be substituted " Subject to subsections (5) and (7)" ".

(4) After subsection (5) there shall be inserted the following subsections—

"(6) Subsection (7) applies where the agreement provides for the remuneration of the solicitor to be by reference to an hourly rate.

(7) If, on the taxation of any costs, the agreement is relied on by the solicitor and the client objects to the amount of the costs (but is not alleging that the agreement is unfair or unreasonable), the taxing officer may enquire into—

(a) the number of hours worked by the solicitor; and

(b) whether the number of hours worked by him was excessive."

(5) In section 59(1) of the Act of 1974 (method of payment which may be agreed in contentious business agreement) after the words "gross sum" there shall be inserted " or by reference to an hourly rate" ".

(6) In section 60(1) of the Act of 1974 (which among other things provides for section 69 of that Act not to apply to contentious business agreements), after the word "or" there shall be inserted " (except in the case of an agreement which provides for the solicitor to be remunerated by reference to an hourly rate)" ".

(7) In section 61 of the Act of 1974 (enforcement of contentious business agreements), the following subsections shall be inserted after subsection (4)—

"(4A) Subsection (4B) applies where a contentious business agreement provides for the remuneration of the solicitor to be by reference to an hourly rate.

(4B) If on the taxation of any costs the agreement is relied on by the solicitor and the client objects to the amount of the costs (but is not alleging that the agreement is unfair or unreasonable), the taxing officer may enquire into—

(a) the number of hours worked by the solicitor; and

(b) whether the number of hours worked by him was excessive."

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**Marginal Citations**
**M73** 1974 c. 47.

## PART V

### ARBITRATION

**[F136]99** . . . . . .

**Textual Amendments**
**F136** S. 99 repealed (31.1.1997) by 1996 c. 23, s. 107(2), **Sch. 4** (with s. 81(2)); S.I. 1996/3146, **art. 3**

**100 Specific powers of arbitrator exercisable by High Court.**

After section 43 of the [M74]Supreme Court Act 1981 there shall be inserted the following section—

"**43A Specific powers of arbitrator exercisable by High Court.**

In any cause or matter proceeding in the High Court in connection with any contract incorporating an arbitration agreement which confers specific powers upon the arbitrator, the High Court may, if all parties to the agreement agree, exercise any such powers."

**Commencement Information**
**I27** S.100 wholly in force at 1. 4.1991 see s. 124(3) and S.I. 1991/608, art. 2, **Sch.**

**Marginal Citations**
**M74** 1981 c. 54.

**[F137]101** . . . . . .

**Textual Amendments**
**F137** S. 101 repealed (31.1.1997) by 1996 c. 23, s. 107(2), **Sch. 4** (with s. 81(2)); S.I. 1996/3146, **art. 3**

**[F138]102** . . . . . .

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**Textual Amendments**

**F138** S. 102 repealed (31.1.1997) by 1996 c. 23, s. 107(2), **Sch. 4** (with s. 81(2)); S.I. 1996/3146, **art. 3**

**[F139]103 . . . . . .**

**Textual Amendments**

**F139** S. 103 repealed (31.1.1997) by 1996 c. 23, s. 107(2), **Sch. 4** (with s. 81(2)); S.I. 1996/ 3146, art. 3

## PART VI

### MISCELLANEOUS AND SUPPLEMENTAL

PROSPECTIVE

*Tying-in*

**104 Tying-in arrangements in connection with residential property loans.**

(1) In this section and sections 105 and 106 "residential property loan" means any loan which—

(a) is secured on land in the United Kingdom; and

(b) is made to an individual in respect of the acquisition of land which is for his residential use or the residential use of a dependant of his.

(2) No person ("the lender") shall provide a residential property loan together with one or more controlled services to another person ("the borrower") unless the conditions mentioned in subsection (3) are complied with before a relevant step is taken with respect to any of those services or the loan.

(3) The conditions are that the lender—

(a) informs the borrower by notice that the residential property loan, and each of the controlled services in question, are separate services;

(b) informs the borrower by notice whether the terms and conditions of the residential property loan will be capable of being varied by the lender after it is made;

(c) provides the borrower with a statement of—

(i) the price which will be payable by the borrower for each of the controlled services if they are all provided in accordance with the terms proposed by the lender; and

(ii) the extent to which (if at all) the terms and conditions of the residential property loan would differ if it were to be provided by the lender without the controlled services in question being provided by the lender; and

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(d) informs the borrower by notice that, if the borrower declines to take from the lender any of the controlled services in question, the lender will not on that account refuse to provide the residential property loan.

(4) A person who—

(a) in the course of his business provides, or makes arrangements for the provision of, controlled services together with residential property loans; and

(b) advertises or in any other manner promotes—

(i) the provision of any controlled service or any residential property loan; or

(ii) the making by him of any such arrangements,

shall comply with such requirements as to the information to be given, or which may not be given, in any such advertisement or promotion as the Secretary of State may by regulations impose.

**105 Tying-in arrangements: supplemental provisions.**

(1) In section 104, this section and section 106 "controlled services" means any services of a description prescribed by order made by the Secretary of State.

(2) The order may, in particular, prescribe any description of—

(a) banking, insurance, investment, trusteeship, executorship or other financial services;

(b) services relating to the acquisition, valuation, surveying or disposal of property;

(c) conveyancing services; or

(d) removal services.

(3) For the purposes of section 104(1), the Secretary of State may by order specify—

(a) the circumstances in which land is to be treated as being for a person's residential use; and

(b) who are to be treated as a person's dependants.

(4) Section 104(2) shall not apply in relation to the provision of a controlled service if the lender proves—

(a) that the provision of that service was not connected with the transaction in respect of which the borrower required the residential property loan in question; or

(b) where it was so connected, that the lender did not know, and had no reasonable cause to know, that it was.

(5) For the purposes of section 104, this section and section 106—

(a) where the lender is a member of a group of companies, the lender and all the other members of the group shall be treated as one; and

(b) where the lender derives any financial benefit from the provision of a controlled service by any other person, the lender shall be treated as providing that service.

(6) In subsection (5), "a group of companies" means a holding company and its subsidiaries within the meaning of **[**[F140]section 1159 of the Companies Act 2006**]**.

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(7) The Secretary of State may by order provide that, in such cases or for such purposes as may be prescribed by the order, paragraph (a) or (b) of subsection (5) shall not have effect.

(8) For the purposes of section 104—

"notice" means a notice in writing given in the form prescribed by regulations made by the Secretary of State;

"price" shall have the meaning given by order made by the Secretary of State;

"relevant step", in relation to any controlled service or residential property loan, means such step as may be prescribed by order made by the Secretary of State in relation to that service or loan (taken by such person as may be so prescribed); and

"statement" means a statement in writing given in the form prescribed by regulations made by the Secretary of State.

(9) In relation to land in Scotland—

(a) "conveyancing services" has the same meaning as in the [M75]Law Reform (Miscellaneous Provisions) (Scotland) Act 1990; and

(b) the reference in section 104(1) to a loan being secured on land shall be read as a reference to its being secured over land by a standard security.

(10) Before making any order or regulations under section 104 or this section the Secretary of State shall consult the **[**[F141]FCA**]** and such other persons as he considers appropriate.

**Textual Amendments**

**F140** Words in s. 105(6) substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), arts. 1(2), 2(1), **Sch. 1 para. 118** (with art. 10)

**F141** Word in s. 105(10) substituted (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No.2) Order 2013 (S.I. 2013/1881), art. 1(2)(6), **Sch. para. 2(2)**

**Marginal Citations**

**M75** 1990 c. 40.

## 106 Tying-in: offences.

(1) If any person contravenes section 104(2) or (4) he shall be guilty of an offence.

(2) Subsection (3) applies where—

(a) a person ("the lender") has, in relation to the proposed provision to any person ("the borrower") of a residential property loan together with one or more controlled services, complied with the conditions mentioned in section 104(3); and

(b) the borrower has declined to take from the lender one or more of the controlled services.

(3) The lender shall be guilty of an offence if he refuses to provide the borrower with the residential property loan or refuses to provide it to him—

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(a) on the terms applicable if it were provided together with the controlled services; or

(b) where they differ, on terms which are compatible with the statement required by section 104(3)(c)(ii),

unless he proves that his reason for so refusing was unconnected with the borrower's having declined as mentioned in subsection (2)(b).

(4) Any person guilty of an offence under this section shall be liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum; and

(b) on conviction on indictment, to a fine.

(5) Subsection (6) applies where an offence under this section is committed by a body corporate.

(6) If the offence is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of—

(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,

he (as well as the body corporate) shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(7) The fact that a person has committed an offence under this section in connection with any agreement shall not make the agreement void, or unenforceable (whether as a whole or in part) or otherwise affect its validity or give rise to any cause of action for breach of statutory duty.

**107 Tying-in: enforcement.**

(1) Every local weights and measures authority ("an authority") and the **[**[F142]FCA**]** shall have the duty of enforcing sections 104 to 106 and any regulations made under them.

(2) Nothing in subsection (1) is to be taken as authorising a local weights and measures authority in Scotland to institute proceedings for an offence.

(3) Where an authority propose to institute proceedings for an offence under section 106 they shall give the **[**[F142]FCA**]** notice of the intended proceedings together with a summary of the facts on which the charges are to be founded.

(4) Where an authority are under a duty to give such a notice and summary they shall not institute the proceedings until—

(a) the end of the period of 28 days beginning with the date on which they gave the required notice and summary; or

(b) if earlier, the date on which the **[**[F142]FCA**]** notifies them of receipt of the notice and summary.

(5) Every authority shall, whenever the **[**[F142]FCA**]** requires, report to **[**[F143]it**]** in such form and with such particulars as **[**[F143]it**]** requires on the exercise of their functions under this section.

(6) A duly authorised officer of the **[**[F142]FCA**]** or of an authority ("an authorised officer") who has reasonable cause to suspect that an offence may have been committed under section 106 may, at any reasonable time—

(a) enter any premises which are not used solely as a dwelling;

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(b) require any officer, agent or other competent person on the premises who is, or may be, in possession of information relevant to an investigation in connection with the provision made by section 104 or 105 to provide such information;

(c) require the production of any document which may be relevant to such an investigation;

(d) take copies, or extracts, of any such documents;

(e) seize and retain any document which he has reason to believe may be required as evidence in proceedings for an offence under section 106.

(7) Any authorised officer exercising any power given by subsection (6) shall, if asked to do so, produce evidence that he is such an officer.

(8) A justice of the peace may issue a warrant under this section if satisfied, on information on oath given by an authorised officer, that there is reasonable cause to believe that an offence may have been committed under section 106 and that—

(a) entry to the premises concerned, or production of any documents which may be relevant to an investigation in connection with the provision made by section 104 or 105, has been or is likely to be refused to the authorised officer; or

(b) there is reasonable cause to believe that, if production of any such document were to be required by the authorised officer without a warrant having been issued under this section, the document would not be produced but would be removed from the premises or hidden, tampered with or destroyed.

(9) In the application of this section to Scotland, "justice of the peace" includes a sheriff and "information on oath" shall be read as "evidence on oath".

(10) A warrant issued under this section shall authorise the authorised officer (accompanied, where he considers it appropriate, by a constable or any other person) —

(a) to enter the premises specified in the information, using such force as is reasonably necessary; and

(b) to exercise any of the powers given to the authorised officer by subsection (6).

(11) If a person—

(a) intentionally obstructs an authorised officer in the exercise of any power under this section;

(b) intentionally fails to comply with any requirement properly imposed on him by an authorised officer in the exercise of any such power;

(c) fails, without reasonable excuse, to give to an authorised officer any assistance or information which he may reasonably require of him for the purpose of exercising any such power; or

(d) in giving to an authorised officer any information which he has been required to give to an authorised officer exercising any such power, makes any statement which he knows to be false or misleading in a material particular,

he shall be guilty of an offence.

(12) A person guilty of an offence under subsection (11)(a), (b) or (c) shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(13) A person guilty of an offence under subsection (11)(d) shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

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(14) Nothing in this section shall be taken to require any person to answer any question put to him by an authorised officer, or to give any information to an authorised officer, if to do so might incriminate him.

(15) In this section "document" includes information recorded in any form.

(16) In relation to information recorded otherwise than in legible form, references in this section to its production include references to producing a copy of the information in legible form.

**[**[F144](17) The functions of the FCA under this section are to be treated for the purposes of the Financial Services and Markets Act 2000 as functions conferred on the FCA by or under that Act.**]**

**Textual Amendments**

**F142** Word in s. 107 substituted (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No.2) Order 2013 (S.I. 2013/1881), art. 1(2)(6), **Sch. para. 2(3)(a)**

**F143** Words in s. 107(5) substituted (1.4.2003) by 2002 c. 40, ss. 278, 279, Sch. 25, para. 23(8)(b); S.I. 2003/766, **art. 2**, Sch. (with art. 3)

**F144** S. 107(17) inserted (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No.2) Order 2013 (S.I. 2013/1881), art. 1(2)(6), **Sch. para. 2(3)(b)**

*Miscellaneous*

[F145]**108** . . . . . .

**Textual Amendments**

**F145** S. 108 repealed (19.6.1997) by 1997 c. 25, ss. 73(1), 74(1), **Sch. 6 Pt. I** (with Sch. 4 para. 27)

## 109 Liability of resident magistrates etc. in Northern Ireland for damages and costs.

(1) The [M76]Magistrates' Courts (Northern Ireland) Order 1981 shall be amended as follows.

(2) For Articles 5 and 6 (general immunity of resident magistrates etc.) there shall be substituted the following Articles—

"5 **Immunity of resident magistrates etc. for acts within jurisdiction.**

No action shall lie against any resident magistrate, justice of the peace or clerk of petty sessions in respect of any act or omission of his—

(a) in the execution of his duty—

(i) as such a magistrate or justice; or

(ii) as such a clerk exercising, by virtue of any statutory provision, any function of a magistrates' court; and

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(b) with respect to any matter within his jurisdiction.

6 **Immunity for certain acts beyond jurisdiction.**

An action shall lie against any resident magistrate, justice of the peace or clerk of petty sessions in respect of any act or omission of his—

(a) in the purported exercise of his duty—

(i) as such a magistrate or justice; or

(ii) as such a clerk exercising, by virtue of any statutory provision, any function of a magistrates' court; but

(b) with respect to a matter which is not within his jurisdiction,

if, but only if, it is proved that he acted in bad faith."

(3) After Article 145 there shall be inserted the following Article—

"145A **Immunity of county court judges hearing appeals under this Part.**

Articles 5, 6 and 10 shall apply in relation to a county court judge sitting in connection with an appeal under this Part as they apply in relation to a resident magistrate."

(4) [F146] . . . . . .

(5) [F147] . . . . . .

(6) [F147] . . . . . .

**Textual Amendments**

**F146** S. 109(4) repealed (1.4.2005) by 2002 c. 26, ss. 86, 87(2), Sch. 13; S.R. 2005/109, **art. 2**, Sch.

**F147** S. 109(5)(6) repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **s. 1(1)**, {Sch. 1 Pt. 1 Group. 4}

**Marginal Citations**

**M76** S.I. 1981/1675 (N.I. 26).

**110 Jurisdiction of the Parliamentary Commissioner for Administration.**

(1) In section 5 of the [M77]Parliamentary Commissioner Act 1967 (matters subject to investigation), the following subsection shall be added at the end—

"(6) For the purposes of this section, administrative functions exercisable by any person appointed by the Lord Chancellor as a member of the administrative staff of any court or tribunal shall be taken to be administrative functions of the Lord Chancellor's Department or, in Northern Ireland, of the Northern Ireland Court Service."

(2) In Schedule 3 to that Act (matters not subject to investigation), the following paragraph shall be inserted after paragraph 6—

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"6A Action taken by any person appointed by the Lord Chancellor as a member of the administrative staff of any court or tribunal, so far as that action is taken at the direction, or on the authority (whether express or implied), of any person acting in a judicial capacity or in his capacity as a member of the tribunal."

**Marginal Citations**

**M77** 1967 c. 13.

## 111 Costs against legal representatives etc. in criminal proceedings.

The following section shall be inserted after section 19 of the Prosecution of Offences Act 1985—

"**19A Costs against legal representatives etc.**

(1) In any criminal proceedings—
(a) the Court of Appeal;
(b) the Crown Court; or
(c) a magistrates' court,

may disallow, or (as the case may be) order the legal or other representative concerned to meet, the whole of any wasted costs or such part of them as may be determined in accordance with regulations.

(2) Regulations shall provide that a legal or other representative against whom action is taken by a magistrates' court under subsection (1) may appeal to the Crown Court and that a legal or other representative against whom action is taken by the Crown Court under subsection (1) may appeal to the Court of Appeal.

(3) In this section—

"legal or other representative", in relation to any proceedings, means a person who is exercising a right of audience, or a right to conduct litigation, on behalf of any party to the proceedings;

"regulations" means regulations made by the Lord Chancellor; and

"wasted costs" means any costs incurred by a party—
(a) as a result of any improper, unreasonable or negligent act or omission on the part of any representative or any employee of a representative; or
(b) which, in the light of any such act or omission occurring after they were incurred, the court considers it is unreasonable to expect that party to pay."

**Commencement Information**

**I28** S. 111 wholly in force at 1.5.1991 see s. 124(3) and S.I. 1991/985, **art. 2(a)**

***Status:*** *Point in time view as at 12/01/2006. This version of this Act contains provisions that are not valid for this point in time.*
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## 112 Costs against legal representatives in magistrates' courts.

The following section shall be inserted in the [M78] Magistrates' Courts Act 1980 after section 145 (which contains supplementary provisions about rules of court)—

### "145A Rules: costs order against legal representative.

(1) In any civil proceedings, a magistrates' court may disallow or (as the case may be) order the legal or other representative concerned to meet the whole of any wasted costs or such part of them as may be determined in accordance with rules.

(2) In subsection (1), "wasted costs" means any costs incurred by a party—
- (a) as a result of any improper, unreasonable or negligent act or omission on the part of any legal or other representative or any employee of such a representative; or
- (b) which, in the light of any such act or omission occurring after they were incurred, the court considers it is unreasonable to expect that party to pay.

(3) In this section "legal or other representative", in relation to any proceedings, means any person who is exercising a right of audience, or a right to conduct litigation, on behalf of any party to the proceedings.

(4) Rules made by virtue of this section may, in particular, make provision as to the destination of any payment required to be made under the rules (including provision for the reimbursement of sums paid by the Legal Aid Board).

(5) Rules made by virtue of this section—
- (a) shall require a magistrates' court which proposes to act under the rules against a legal or other representative to allow him a reasonable opportunity to appear before it and show cause why it should not do so;
- (b) shall provide that action may be taken under the rules either on the application of any party to the proceedings or on the motion of the court;
- (c) shall provide that no such action shall be taken after the end of the period of six months beginning with the date on which the proceedings are disposed of by the court; and
- (d) shall provide that a legal or other representative against whom action is taken under the rules may appeal to the Crown Court."

**Commencement Information**

**I29** S. 112 wholly in force at 1.10.1991 see s. 124(3) and S.I. 1991/1883, **art.2**

**Marginal Citations**

**M78** 1980 c. 43.

## 113 Administration of oaths and taking of affidavits.

(1) In this section—

"authorised person" means—

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(a) any authorised advocate or authorised litigator, other than one who is a solicitor (in relation to whom provision similiar to that made by this section is made by section 81 of the [M79] Solicitors Act 1974); or

(b) any person who is a member of a professional or other body prescribed by the **[**[F148]Secretary of State**]** for the purposes of this Section; and

"general notary" means any public notary other than—

(a) an ecclesiastical notary; [F149]. . .

(b) . . . . . .

(2) Section 1(1) of the [M80] Commissioners for Oaths Act 1889 (appointment of commissioners by Lord Chancellor) shall cease to have effect.

(3) Subject to the provisions of this section, every authorised person shall have the powers conferred on a commissioner for oaths by the Commissioners for Oaths Acts 1889 and 1891 and section 24 of the [M81]Stamp Duties Management Act 1891; and any reference to such a commissioner in an enactment or instrument (including an enactment passed or instrument made after the commencement of this Act) shall include a reference to an authorised person unless the context otherwise requires.

(4) Subject to the provisions of this section, every general notary shall have the powers conferred on a commissioner for oaths by the Commissioners for Oaths Acts 1889 and 1891; and any reference to such a concede in an enactment or instrument (including an enactment passed or instrument made after the commencement of this Act) shall include a reference to a general notary unless the context otherwise requires.

(5) No person shall exercise the powers conferred by this section in any proceedings in which he is interested.

(6) A person exercising such powers and before whom any oath or affidavit is taken or made shall state in the jurat or attestation at which place and on what date the oath or affidavit is taken or made.

(7) A document containing such a statement and purporting to be sealed or signed by an authorised person or general notary shall be admitted in evidence without proof of the seal or signature, and without proof that he is an authorised person or general notary.

(8) The **[**[F148]Secretary of State**]** may, with the concurrence of the Lord Chief Justice and the Master of the Rolls, by order prescribe the fees to be charged by authorised persons exercising the powers of commissioners for oaths by virtue of this section in respect of the administration of an oath or the taking of an affidavit.

(9) In this section "affidavit" has the same meaning as in the Commissioners for Oaths Act 1889.

(10) Every—

(a) solicitor who holds a practising certificate which is in force;

(b) authorised person;

(c) general notary; [F150]. . .

(d) . . . . . .

shall have the right to use the title "Commissioner for Oaths".

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**Textual Amendments**

**F148** Words in s. 113(1)(8) substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(c)** (with arts. 6, 8)

**F149** S. 113(1): in definition of "general notary" para. (b) and preceding word repealed (1.11.1999) by 1999 c. 22, s. 106, **Sch. 15 Pt. II** (with Sch. 14 paras. 7(2), 36(9)); S.I. 1999/2679, art. 3(b), **Sch. 2 Pt. II para. 3(b)**

**F150** S. 113(10)(d) and preceding word repealed (1.11.1999) by 1999 c. 22, s. 106, **Sch. 15 Pt. II** (with Sch. 14 paras. 7(2), 36(9)); S.I. 1999/2679, art. 3(b), **Sch. 2 Pt. II para. 3(b)**

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

**C32** S. 113: transfer of functions (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), arts. 4, 5, **Sch. 1** (with arts. 6, 8)

**Commencement Information**

**I30** S. 113 wholly in force at 1. 4.1991 see s. 124(3) and S.I. 1991/608, art. 2, **Sch.**

**Marginal Citations**

**M79** 1974 c. 47.

**M80** 1889 c. 10.

**M81** 1891 c. 38.

## 114 Bail applications.

**F151** . . . . . .

**Textual Amendments**

**F151** S. 114 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **s. 1(1)**, {Sch. 1 Pt. 1 Group. 4}

## 115 Law reports.

A report of a case made by a person who is not a barrister but who is a solicitor or has a Supreme Court qualification (within the meaning of section 71) shall have the same authority as if it had been made by a barrister.

**Commencement Information**

**I31** S. 115 wholly in force at 1. 4.1991 see s. 124(3) and S.I. 1991/608, art. 2, **Sch.**

## 116 Provision with respect to the Children Act 1989.

(1) The provisions of Part I of Schedule 16 shall have effect for the purpose of making amendments to the [M82] or to provisions of other enactments amended by that Act.

(2) Part II of Schedule 16 shall have effect for the purpose of making further provision consequential on the Act of 1989.

(3) The general rule making power of any authority having power to make rules of court for Northern Ireland shall include power to make any provision which may be made

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under section 93 of the Act of 1989 (rules of court) subject to the modifications that in subsection (2)—

(a) paragraphs (e) and (i) shall be omitted; and

(b) in paragraphs (f) and (g) the references to England and Wales shall be read as references to Northern Ireland.

**Commencement Information**

**I32** S. 116 in force 14.10.1991 so far as it relates to Sch. 16, paras. 1-7 and 9-42 see s. 124(3) and S.I. 1991/1883, art. 3, **Sch.**

**I33** S. 116(3) wholly in force at 1.1.1992 see s. 124(3) and S.I. 1991/2730, **art. 2**,Sch.

**Marginal Citations**

**M82** 1989 c. 41.

**[F152]117 . . . . . .**

**Textual Amendments**

**F152** S. 117 repealed (19.6.1997) by 1997 c. 25, ss. 73(1), 74(1), **Sch. 6 Pt. I** (with Sch. 4 para. 27)

PROSPECTIVE

**118 Functions of Treasury.**

(1) The Judicial Pensions Act 1981 shall have effect subject to the following amendments (which reflect the transfer of functions from the Minister of the Civil Service to the Treasury effected by the Transfer of Functions (Minister for the [M83] Civil Service and Treasury) Order 1981).

(2) In section 10(1), and paragraph 23(2) of Schedule 1, for the words “the Minister for the Civil Service" there shall be substituted “ the Treasury ”.

(3) In section 29, for the words “the Minister for the Civil Service or any other Minister" there shall be substituted “ the Treasury or any Minister of the Crown ”.

(4) In the following provisions—

(a) sections 3(4), 5(6), 7(5), 8(1), 11(a) and (b), 12(5), 13(4)(b), 15, 18(2), 20(4), 21(5), 22(1), 23(4), 25(1)(a) and 32(2);

(b) paragraphs 4(1)(b)(ii), 8, 10(2), 14(2), 15(2),(5) and (7), 17, 20(1) and (2) and 22 of Schedule 1; and

(c) paragraph 2(2) of Schedule 2,

for the words “the Minister", wherever they occur, there shall be substituted “ the Treasury ”.

(5) In section 21(4), for the words “the Minister may, if he" there shall be substituted “ the Treasury may, if it ”.

(6) In section 22(4)—

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(a) for the "Minister", where it first occurs, there shall be substituted " Treasury "; and

(b) for the words from "if the Minister" to "he thinks fit" there shall be substituted " if the Treasury does specially so direct, it may, if it thinks fit ".

(7) In Schedule 1—

(a) in paragraph 8(2), for the words "to him" there shall be substituted " to it ";

(b) in paragraph 15(7), for the words "he is satisfied" there shall be substituted " it is satisfied ";

(c) in paragraph 17(1), for the words "he shall" there shall be substituted " it shall "; and

(d) in paragraph 21, for the word "Minister", where it first occurs, there shall be substituted " Treasury " and for the words "he thinks" there shall be substituted " it thinks ".

(8) In section 33, the definition of "the Minister" shall be omitted.

**Marginal Citations**

**M83** S.I. 1981/1670

*Supplemental*

## 119 Interpretation.

(1) In this Act—

"administration", in relation to letters of administration, has the same meaning as in section 128 of the [M84]Supreme Court Act 1981;

"advocacy services" means any services which it would be reasonable to expect a person who is exercising, or contemplating exercising, a right of audience in relation to any proceedings, or contemplated proceedings, to provide;

"authorised advocate" means any person (including a barrister or solicitor) who has a right of audience granted by an authorised body in accordance with the provisions of this Act;

"authorised body" and "appropriate authorised body"—

(a) in relation to any right of audience or proposed right of audience, have the meanings given in section 27; and

(b) in relation to any right to conduct litigation or proposed right to conduct litigation, have the meanings given in section 28;

"authorised litigator" means any person (including a solicitor) who has a right to conduct litigation granted by an authorised body in accordance with the provisions of this Act;

"authorised practitioner" has the same meaning as in section 37;

**[**[F153]"Consultative Panel" means the Legal Services Consultative Panel;**]**

"conveyancing services" means the preparation of transfers, conveyances, contracts and other documents in connection with, and other services ancillary to, the disposition or acquisition of estates or interests in land;

"court" includes—

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(a) any tribunal which the Council on Tribunals is under a duty to keep under review;

(b) any court-martial; and

(c) a statutory inquiry within the meaning of **[**[F154]section 16(1) of the Tribunals and Inquiries Act 1992**]**;

"designated judge" means the Lord Chief Justice, the Master of the Rolls, **[**[F155]the President of the Queen's Bench Division, the President of the Family Division or the Chancellor of the High Court**]**;

[F156] . . . . . .

"duly certificated notary public" has the same meaning as it has in the [M85]Solicitors Act 1974 by virtue of section 87(1) of that Act;

"the general principle" has the meaning given in section 17(4);

"licensed conveyancer" has the same meaning as it has in the [M86]Administration of Justice Act 1985 by virtue of section 11 of that Act;

"litigation services" means any services which it would be reasonable to expect a person who is exercising, or contemplating exercising, a right to conduct litigation in relation to any proceedings, or contemplated proceedings, to provide;

"member", in relation to any professional or other body (other than any body established by this Act), includes any person who is not a member of that body but who may be subject to disciplinary sanctions for failure to comply with any of that body's rules;

"multi-national partnership" has the meaning given by section 89(9);

**[**[F157]"officer", in relation to a limited liability partnership, means a member of the limited liability partnership;**]**

**[**[F158]"the OFT" means the Office of Fair Trading;**]**

"probate services" means the drawing or preparation of any papers on which to found or oppose a grant of probate or a grant of letters of administration and the administration of the estate of a deceased person;

"prescribed" means prescribed by regulations under this Act;

"proceedings" means proceedings in any court;

"qualification regulations" and "rules of conduct"—

(a) in relation to any right of audience or proposed right of audience, have the meanings given in section 27; and

(b) in relation to any right to conduct litigation or proposed right to conduct litigation, have the meanings given in section 28;

"qualified person" has the meaning given in section 36(6);

"registered foreign lawyer" has the meaning given by section 89(9);

"right of audience" means the right to **[**[F159]appear before and address a court including the right to call and examine**]** witnesses;

"right to conduct litigation" means the right—

(a) to **[**[F160]issue**]** proceedings before any court; and

(b) to perform any ancillary functions in relation to proceedings (such as entering appearances to actions);

"solicitor" means solicitor of the Supreme Court; and

"the statutory objective" has the meaning given in section 17(2).

(2) For the purposes of the definition of "conveyancing services" in subsection (1)—

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"disposition"—

(i) does not include a testamentary disposition or any disposition in the case of such a lease as is referred to in section 54(2) of the [M87]Law of Property Act 1925 (short leases); but

(ii) subject to that, includes in the case of leases both their grant and their assignment; and

"acquisition" has a corresponding meaning.

(3) In this Act any reference (including those in sections 27(9) and 28(5)) to rules of conduct includes a reference to rules of practice.

**Textual Amendments**

**F153** S. 119(1): definition of "Consultative Panel" inserted (1.1.2000) by 1999 c.22, **s. 35(3)** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)**

**F154** Words in para. (c) in the definition of "court" in s. 119(1) substituted (1.10.1992) by Tribunals and Inquiries Act 1992 (c. 53, SIF 127), ss. 18(1), 19(2), **Sch. 3 para. 35**

**F155** S. 119(1): words in definition of "designated judge" substituted (1.10.2005) by Constitutional Reform Act 2005 (c. 4), ss. 15(1), 148, **Sch. 4 para. 216**; S.I. 2005/2505, **art. 2(c)**

**F156** S. 119(1): definition of "the Director" repealed (1.4.2003) by 2002 c. 40, ss. 278, 279, Sch. 25 para. 23(9)(a), Sch. 26; S.I. 2003/766, **art. 2**, Sch. (with art. 3)

**F157** S. 119(1): definition of "officer" inserted (6.4.2001) by S.I. 2001/1090, reg. 9(1), **Sch. 5 para. 17**

**F158** S. 119(1): definition of "the OFT" inserted (1.4.2003) by 2002 c. 40, ss. 278, 279, Sch. 25 para. 23(9)(b); S.I. 2003/766, **art. 2**, Sch. (with art. 3)

**F159** S. 119(1): words in definition of "right of audience" substituted (27.9.1999) by 1999 c. 22, s. 43, **Sch. 6 para. 10(1)(2)** (with Sch. 14 para. 7(2)); S.I. 1999/2657, **art. 2(a)**

**F160** S. 119(1): word in para. (a) in definition of "right to conduct litigation" substituted (27.9.1999) by 1999 c.22, s. 43, **Sch. 6 para. 10(1)(3)** (with Sch. 14 para. 7(2)); S.I. 1999/2657, **art. 2(a)**

**Marginal Citations**

**M84** 1981 c. 54.

**M85** 1974 c. 47.

**M86** 1985 c. 61.

**M87** 1925 c. 20.

## 120 Regulations and orders.

(1) Any power to make orders or regulations conferred by this Act shall be exercisable by statutory instrument.

(2) Any such regulations or order may make different provision for different cases or classes of case.

(3) Any such regulations or order may contain such incidental, supplemental or transitional provisions or savings as the person making the regulations or order considers expedient.

(4) No instrument shall be made under section [F161]. . ., 26(1), 37(10), 40(1), **[**[F162]58(4),**]** 60, 89(5) or (7), 125(4) **[**[F163], paragraph 24 of Schedule 4, paragraph 4**]** or 6 of Schedule 9 or paragraph 9(c) of Schedule 14 unless a draft of the instrument has been approved by both Houses of Parliament.

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(5) An Order in Council shall not be made in pursuance of a recommendation made under **[**[F164] Part I or Part IV of Schedule 4**]** unless a draft of the Order has been approved by both Houses of Parliament.

(6) Any other statutory instrument made under this Act other than one under section 124(3) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

**Textual Amendments**

**F161** Words in s. 120(4) omitted (27.4.1997) by virtue of 1997 c. 12, **Sch. 2 para. 4**; S.I. 1997/841, **art. 3**

**F162** Words in s. 120(4) substituted (1.4.2000) by 1999 c. 22, **s. 27(2)** (with Sch. 14 para. 7(2); S.I. 2000/774, **art. 2(b)** (with arts. 3-5)

**F163** Words in s. 120(4) substituted (1.1.2000) by 1999 c. 22, s. 43, **Sch. 6 para. 11(1)(2)** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)**

**F164** Words in s. 120(5) substituted (1.1.2000) by 1999 c. 22, s. 43, **Sch. 6 para. 11(1)(3)** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)**

## 121 Financial provisions.

Any expenses incurred by the Lord Chancellor under this Act shall be payable out of money provided by Parliament.

## 122 Power to make corresponding provision for Northern Ireland.

An Order in Council made under paragraph 1(1)(b) of Schedule 1 to the [M88]Northern Ireland Act 1974 which contains a statement—

(a) that it amends the law in Northern Ireland with respect to —

(i) the pensions of county court judges and resident magistrates, and

(ii) pensions in relation to which provisions of the [M89]Judicial Pensions Act (Northern Ireland) 1951 apply; and

(b) that it is made only for purposes corresponding to those of—

(i) sections 79 to 83 and Schedules 12 and 13 and such other provisions of this Act as are consequential on those sections and those Schedules;

(ii) section 118,

shall not be subject to sub-paragraphs (4) and (5) of paragraph 1 of that Schedule (affirmative resolution of both Houses of Parliament) but shall be subject to annulment in pursuance of a resolution of either House of Parliament.

**Marginal Citations**

**M88** 1974 c. 28.

**M89** 1951 c. 20. (N.I.).

## 123 Extent.

(1) The following provisions of this Act extend to Scotland—

(a) section 65;

(b) section 71(2), so far as necessary;

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(c) sections 79 to 83;
(d) sections 104 to 107;
(e) section 116, this section and sections 124 and 125, so far as necessary;
F165(f) . . . . . .
(g) paragraph 8 of Schedule 3;
(h) paragraph 11 of Schedule 5;
(i) Schedule 10, so far as it amends any enactment extending to Scotland;
(j) paragraphs 5, 34 to 36, 39, 41 and 42 of Schedule 16;
(k) paragraph 1 of Schedule 17; and
(l) Schedule 20, so far as it repeals any enactment extending to Scotland.

(2) The following provisions of this Act extend to Northern Ireland—
(a) section 8;
(b) section 71(2), so far as necessary;
(c) sections 79(1) and 80 to 84;
(d) sections 109, 110, 116, 118, 121, 122, this section and sections 124 and 125 so far as necessary;
F166(e) . . . . . .
(f) paragraph 8 of Schedule 3;
(g) paragraph 11 of Schedule 5;
(h) Schedule 10, so far as it amends any enactment extending to Northern Ireland;
(i) Schedule 13;
(j) paragraphs 5, 25, 33, 35, 39 and 41 of Schedule 16;
(k) Schedules 17, 18 and 19, so far as they amend or relate to any enactment extending to Northern Ireland;
(l) Schedule 20 so far as it repeals any such enactment.

**Textual Amendments**

**F165** S. 123(1)(f) repealed (1.1.2000) by 1999 c.22, s. 106, **Sch. 15 Pt. II** (with Sch. 14 paras. 7(2), 36(9)); S.I. 1999/3344, art. 2(d), **Sch. 1 para. 4**

**F166** S. 123(2)(e) repealed (1.1.2000) by 1999 c.22, s. 106, **Sch. 15 Pt. II** (with Sch. 14 paras. 7(2), 36(9)); S.I. 1999/3344, art. 2(d), **Sch. 1 para. 4**

## 124 Commencement.

(1) The following provisions come into force on the passing of this Act—
(a) sections 1, 5, 119 to 123, this section and section 125(1); and
(b) paragraphs 2 and 3 of Schedule 17.

(2) The following provisions come into force at the end of the period of two months beginning on the day on which this Act is passed—
(a) sections 6, 8, 11, 16, 64, 65, 72, 73, 85, 87 and 88, 90 to 92, 94 to 97, 98 and 108 to 110;
(b) paragraphs 1, 11, 12, 16 and 20 of Schedule 17;
(c) paragraphs 7, 8, 14 to 16, 55 and 57 of Schedule 18; and
(d) paragraph 1 of Schedule 19.

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(3) The other provisions of this Act shall come into force on such date as may be appointed by order made by the Lord Chancellor or by the Secretary of State or by both, acting jointly.

(4) Different dates may be appointed for different provisions of this Act and for different purposes.

**Subordinate Legislation Made**

**P1** S. 124(3): power conferred by s. 124(3) partly exercised by S.I. 1990/2170, 1990/2484, 1991/608, 1991/985, 1991/1364
S. 124(3): power conferred by s. 124(3) partly exercised (17.8.1991) by S.I. 1991/1883
S. 124(3): power conferred by s. 124(3) partly exercised (3.12.1991) by S.I. 1991/2730
S. 124(3): power conferred by s. 124(3) partly exercised (22.5.1992) by S.I. 1992/1221, art. 2, **Sch.**
S. 124(3): power conferred by s. 124(3) partly exercised (23.7.1993) by S.I. 1993/2132, **arts. 2**, 3,Sch.
S. 124(3): power conferred by s. 124(3) partly exercised (6.3.1995) by S.I. 1995/641, **art. 2**

**P2** S. 124(3) power partly exercised: 7.12.2004 appointed for specified provisions by {S.I. 2004/2950}, art. 2

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

**C33** S. 124: transfer of functions (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), arts. 4, 5, **Sch. 1** (with arts. 6, 8)

## 125 Short title, minor and consequential amendments, transitionals and repeals.

(1) This Act may be cited as the Courts and Legal Services Act 1990.

(2) The minor amendments set out in Schedule 17 shall have effect.

(3) The consequential amendments set out in Schedule 18 shall have effect.

(4) The **[**[F167]Secretary of State**]** may by order make such amendments or repeals in relevant enactments as appear to him to be necessary or expedient in consequence of any provision made by Part II with respect to advocacy, litigation, conveyancing or probate services.

(5) In subsection (4) "relevant enactments" means such enactments or instruments passed or made before or in the same Session as this Act as may be specified in the order.

(6) The transitional provisions and savings set out in Schedule 19 shall have effect.

(7) The repeals set out in Schedule 20 (which include repeals of certain enactments that are spent or of no further practical utility) shall have effect.

**Textual Amendments**

**F167** Words in s. 125 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(c)** (with arts. 6, 8)

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

**C34** S. 125: transfer of functions (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), arts. 4, 5, **Sch. 1** (with arts. 6, 8)

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## Commencement Information

**I34** S. 125 partly in force; s. 125(1) in force at 1.11.1990; s. 125(7) partly in force at 1.11.1990 see s. 124(3) and S.I. 1990/2170; s. 125 partly in force at 1.1.1991 see s. 124(3) and S.I. 1990/2484; s. 125(2) in force 1.4.1991 so far as it relates to Sch. 17 paras. 4, 7, 8, 10 and 13, s. 125(3) in force at 1.4.1991 so far as it relates to Sch. 18 paras. 1 (in part), 5, 41, 48, 49, 52, 56, 58 - 63, s. 125(6) in force at 1.4.1991 so far as it relates to Sch. 19 paras. 14, 15, 17, s. 125(7) in force at 1.4.1991 so far as it relates to certain repeals in Sch. 20 see s. 124(3) and S.I. 1991/608 art. 2, Sch.

S. 125(3) in force 1.5.1991 so far as it relates to Sch. 18 para. 53 see s. 124(3) and S.I. 1991/985, **art. 2**

S. 125(2) in force 1.7.1991 so far as it relates to Sch. 17 paras. 6, 17 and 18 see s. 124(3) and S.I. 1991/1364, art. 2, **Sch.**

S. 125(3) in force 1.7.1991 so far as it relates to Sch. 18 paras. 9, 10, 17, 18 and 43-46 see s. 124(3) and S.I. 1991/1364, art. 2, **Sch.**

S. 125(6) in force 1.7.1991 so far as it relates to Sch. 19 paras. 12 and 13 see s. 124(3) and S.I. 1991/1364, art. 2, **Sch.**

S. 125(7) in force 1.7.1991 for certain purposes see s. 124(3) and S.I. 1991/1364, art. 2, **Sch.**

S. 125(4) and (5) wholly in force at 14.10.1991 see s. 124(3) and S.I. 1991/1883, art. 3, **Sch.**

S. 125(2) in force 14.10.1991 so far as it relates to Sch. 17 para. 14 see s. 124(3) and S.I. 1991/1883, art.3, **Sch.**

S. 125(3) in force 14.10.1991 so far as it relates to Sch. 18 paras. 21 and 54 see s. 124(3) and S.I. 1991/1883, art.3, **Sch.**

S. 125(7) in force 14.10.1991 for certain purposes see s. 124(3) and S.I. 1991/1883, art. 3, **Sch.**

S. 125(3) in force 1.1.1992 so far as it relates to Sch. 18 paras. 26-30 and 33-35 see s. 124(3) and S.I. 1991/2730, **art. 2**.Sch; s. 125(3) in force at 1.6.1992 so far as it relates to Sch. 18 para. 13 see s. 124(3) and S.I. 1992/1221, **reg. 2**,Sch.

S. 125(6) in force 1.1.1992 so far as it relates to Sch. 19 para. 9 see s. 124(3) and S.I. 1991/2730, art. 2, **Sch.**

S. 125(7) in force 1.1.1992 so far as it relates to certain repeals in Sch. 20 see S.I. 1991/2730, art. 2,Sch; s. 125(7) in force at 1.6.1992 for certain purposes in Sch. 20 see S.I. 1992/1221, art. 2,Sch.

S. 125(7) in force 1.10.1993 so far as it relates to certain repeals in Sch. 20 see S.I. 1993/2132, art. 3, Sch.

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# SCHEDULES

## [F168]SCHEDULE 1

. . . . . .

**Textual Amendments**

**F168** Sch. 1 repealed (1.1.2000) by 1999 c. 22, s. 106, **Sch. 15 Pt. II** (with Sch. 14 paras. 7(2), 36(9)); S.I. 1999/3344, art. 2(d), **Sch. 1 para. 4**

## [F170]SCHEDULE 2

. . . . . .

**Textual Amendments**

**F170** Sch. 2 repealed (1.1.2000) by 1999 c. 22, s. 106, **Sch. 15 Pt. II** (with Sch. 14 paras. 7(2), 36(9)); S.I. 1999/3344, art. 2(d), **Sch. 1 para. 4**

## [F171]SCHEDULE 3

Section 21.

### THE LEGAL SERVICES OMBUDSMAN

**Textual Amendments**

**F171** Sch. 3 repealed (prosp.) by Legal Services Act 2007 (c. 29), ss. 159(2)(b), 210, 211, **Sch. 23** (with ss. 29, 192, 193)

*Provision for discharge of functions*

1 (1) The **[**[F172]Secretary of State**]** may give general directions concerning the discharge of the functions of the Legal Services Ombudsman.

(2) Any such directions shall be published by the **[**[F172]Secretary of State**]** in such manner as appears to him to be appropriate.

(3) Subject to any such direction and to the provisions of this Act, the Ombudsman may make such provision as he considers appropriate for the discharge of his functions.

(4) The Ombudsman may, in particular, make provision as to—

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(a) the procedure to be followed in relation to any investigation conducted by him or on his behalf;
(b) the form and conduct of any such investigation;
(c) the form, content and publication of reports under section 23.

**Textual Amendments**

**F172** Words in Schs. 3-6 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)

*Delegation of functions*

2 (1) The Ombudsman may delegate any of his functions to such members of his staff as he thinks fit.

(2) All recommendations and reports prepared by or on behalf of the Ombudsman must be signed by him.

*Remuneration*

3 (1) The **[**[F173]Secretary of State**]** shall pay to, or in respect of, the Ombudsman, such amounts—
(a) by way of remuneration, pensions, allowances or gratuities; or
(b) by way of provision for any such benefits,
as he may determine [F174]. . ..

(2) If—
(a) the Ombudsman ceases to hold office; and
(b) it appears to the **[**[F173]Secretary of State**]** that there are special circumstances which make it right that he should receive compensation,
the **[**[F173]Secretary of State**]** may pay to him such sum as the **[**[F173]Secretary of State**]** may [F174]. . . determine.

**Textual Amendments**

**F173** Words in Schs. 3-6 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)

**F174** Words in Sch. 3 paras. 3(1)(2) repealed (27.9.1999) by 1999 c.22, s. 106, **Sch. 15 Pt. II** (with Sch. 14 paras. 7(2), 36(9)); S.I. 1999/2657, art. 2(d)(ii)(a), **Sch. 2 Pt. I para. 2(d)**

*Staff*

4 (1) The Ombudsman may appoint such staff as he thinks necessary for the discharge of his functions.

(2) Appointments shall be made by the Ombudsman on such terms and conditions (including terms as to pensions, allowances and gratuities) as he may, with the approval of the **[**[F175]Secretary of State**]**[F176]. . ., determine.

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(3) The reference in sub-paragraph (2) to pensions, allowances or gratuities includes a reference to pensions, allowances or gratuities by way of compensation to or in respect of any of the Ombudsman's staff who suffer loss of employment or loss or diminution of emoluments.

**Textual Amendments**

**F175** Words in Schs. 3-6 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)

**F176** Words in Sch. 3 para. 4(2) repealed (27.9.1999) by 1999 c.22, s. 106, **Sch. 15 Pt. II** (with Sch. 14 paras. 7(2), 36(9)); S.I. 1999/2657, art. 2(d)(ii)(a), **Sch. 2 Pt. I para. 2(d)**

*Annual and other reports*

5 (1) The Ombudsman shall make an annual report to the **[**[F177]Secretary of State**]** on the discharge of his functions during the year to which the report relates.

(2) The Ombudsman may, in addition, report to the **[**[F177]Secretary of State**]** at any time on any matter relating to the discharge of the Ombudsman's functions.

(3) The Ombudsman shall provide the **[**[F177]Secretary of State**]** with such information relating to the discharge of his functions as the **[**[F177]Secretary of State**]** may see fit to require.

(4) The **[**[F177]Secretary of State**]** shall lay before each House of Parliament a copy of any annual report made to him under sub-paragraph (1).

**Textual Amendments**

**F177** Words in Schs. 3-6 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)

*Accounts and audit*

6 (1) The Ombudsman shall keep accounts with respect to his receipts and expenditure and shall prepare a statement of accounts with respect to each financial year.

(2) The accounts shall be kept, and the statement of accounts prepared, in such form as the **[**[F178]Secretary of State**]** may, with the approval of the Treasury, direct.

(3) The accounts shall be audited by persons appointed by the **[**[F178]Secretary of State**]** in respect of each financial year.

(4) The auditors shall send to the **[**[F178]Secretary of State**]** a copy of the statement of accounts and of their report.

(5) The **[**[F178]Secretary of State**]** shall lay before each House of Parliament a copy of every statement of accounts and auditors' report sent to him under this paragraph.

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**Textual Amendments**

**F178** Words in Schs. 3-6 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)

*Financial provisions*

7 **[**[F179](1) The Secretary of State may require any professional body (within the meaning of section 22 of this Act) to make payments of such amount as the Lord Chancellor considers appropriate to the Ombudsman towards meeting the expenditure incurred (or to be incurred) by him in the discharge of his functions.

[F179](1A) To the extent that that expenditure is not met by payments under sub-paragraph (1), it shall be met by the Secretary of State out of money provided by Parliament.**]**

(2) The Ombudsman may, with the approval of the **[**[F180]Secretary of State**]**, pay fees or allowances to any person who, in the Ombudsman's opinion, is qualified to assist him in the discharge of his functions and who so assists him.

**Textual Amendments**

**F179** Sch. 3 para. 7(1)(1A) substituted (1.11.2003) for Sch. 3 para. 7(1) by Access to Justice Act 1999 (c. 22), ss. 50, 108(1) (with Sch. 14 para. 7(2)) (as amended (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, Sch. 2 para. 11(1)(d) (with arts. 6, 8)); S.I. 2003/2571, **art. 2**

**F180** Words in Schs. 3-6 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)

*Parliamentary disqualification etc.*

8 (1) In Part III of Schedule 1 to the [M92]House of Commons Disqualification Act 1975 (disqualifying offices) the following entry shall be inserted at the appropriate place — " The Legal Services Ombudsman ".

(2) The same entry shall be inserted at the appropriate place in Part III of Schedule 1 to the [M93]Northern Ireland Assembly Disqualification Act 1975.

**Marginal Citations**

**M92** 1975 c. 24.

**M93** 1975 c. 25.

*Acting Ombudsman*

9 (1) The **[**[F181]Secretary of State**]** may appoint a person to exercise the functions of the Ombudsman where—

(a) the Ombudsman's office becomes vacant; or

(b) the Ombudsman—

(i) is incapable of exercising his functions; or

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(ii) considers that it would be inappropriate for him to exercise any of his functions in connection with a particular matter (because of a possible conflict of interests or for any other reason).

(2) A person so appointed shall have the powers of the Ombudsman but shall act only in accordance with the terms on which he is appointed.

(3) The **[**[F181]Secretary of State**]** may pay to any person so appointed such remuneration as he may determine [F182]. . ..

**Textual Amendments**

**F181** Words in Schs. 3-6 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)

**F182** Words in Sch. 3 para. 9(3) repealed (27.9.1999) by 1999 c.22, s. 106, **Sch. 15 Pt. II** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2657, art. 2(d)(ii)(a), Sch. 2 Pt. I para. 2(d)

## **[**[F183]SCHEDULE 4

Section 29.**]**

### AUTHORISED BODIES

**Textual Amendments**

**F183** Sch. 4 substituted (1.1.2000) by 1999 c. 22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

## [F184]PART I

### DESIGNATION OF BODIES AND APPROVAL OF REGULATIONS AND RULES

**Textual Amendments**

**F184** Sch. 4 substituted (1.1.2000) by 1999 c. 22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

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

**C35** Sch. 4 Pt. I extended (27.9.1999) by 1999 c.22, ss. 105, 108(3), **Sch. 14 Pt. III para. 17(1)** (with Sch. 14 para. 7(2))

### ***[***[F185F186]*Secretary of State****]***

**Textual Amendments**

**F185** Words in Schs. 3-6 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)

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**F186** Sch. 4 substituted (1.1.2000) by 1999 c. 22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

F187 1 (1) If a professional or other body wishes to grant rights of audience or rights to conduct litigation to any of its members, it shall apply to the **[**F188 Secretary of State**]** in writing for him—

(a) to recommend to Her Majesty that an Order in Council be made designating the body as an authorised body for the purposes of section 27 (if it proposes to grant rights of audience) or section 28 (if it proposes to grant rights to conduct litigation); and

(b) to approve what the body proposes as qualification regulations and rules of conduct in relation to the proposed rights.

(2) An application under this paragraph shall be accompanied by—

(a) a statement of the proposed rights;

(b) the proposed qualification regulations and rules of conduct; and

(c) such explanatory material (including material about the applicant's constitution and activities) as the applicant considers is likely to be needed for the purposes of this Part of this Schedule.

(3) The applicant shall provide the **[**F188 Secretary of State**]** with such additional information as he may reasonably require.

(4) The **[**F188 Secretary of State**]** shall send a copy of—

(a) the application and accompanying material; and

(b) any information provided under sub-paragraph (3),

to the Consultative Panel, the **[**F189 OFT**]** and each of the designated judges.

**Textual Amendments**

**F187** Sch. 4 substituted (1.1.2000) by 1999 c.22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

**F188** Words in Schs. 3-6 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)

**F189** Sch. 4: "OFT" substituted (1.4.2003) in each place for "Director" by 2002 c. 40, ss. 278, 279, Sch. 25 para. 23(10)(a); S.I. 2003/766, **art. 2**, Sch. (with art. 3)

### F190 *Advice of Consultative Panel*

**Textual Amendments**

**F190** Sch. 4 substituted (1.1.2000) by 1999 c. 22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

F191 2 (1) The Consultative Panel shall consider whether the application should be granted.

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(2) The applicant shall provide the Consultative Panel with such additional information as it may reasonably require.

(3) When the Consultative Panel has completed its consideration it shall give such advice to the **[**[F192]Secretary of State**]** as it thinks fit.

(4) The Consultative Panel shall publish any advice given by it under this paragraph.

**Textual Amendments**

**F191** Sch. 4 substituted (1.1.2000) by 1999 c.22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

**F192** Words in Schs. 3-6 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)

### *[F193]Advice of **[**[F194]Office of Fair Trading**]***

**Textual Amendments**

**F193** Sch. 4 substituted (1.1.2000) by 1999 c. 22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

**F194** Words in the cross-heading before Sch. 4 para. 3 substituted (1.4.2003) by 2002 c. 40, ss. 278, 279, Sch. 25 para. 23(10)(b); S.I. 2003/766, **art. 2**, Sch. (with art. 3)

[F195]3 (1) The **[**[F196]OFT**]** shall consider whether granting the application would have, or be likely to have, any significant effect on competition.

(2) The applicant shall provide the **[**[F196]OFT**]** with such additional information as **[**[F197]it**]**may reasonably require.

(3) When the **[**[F196]OFT**]** has completed **[**[F198]its**]**consideration **[**[F198]it**]**shall give such advice to the **[**[F199]Secretary of State**]** as **[**[F198]it**]** thinks fit.

(4) The **[**[F196]OFT**]** shall publish any advice given by **[**[F200]it**]** under this paragraph.

(5) The **[**[F196]OFT**]** shall, so far as practicable, exclude from anything published under sub-paragraph (4) any matter which relates to the affairs of a particular person (other than the applicant) the publication of which would, or might in **[**[F201]its**]** opinion, seriously and prejudicially affect the interests of that person.

(6) Section 46 shall apply in relation to the investigation of any matter with a view to its consideration under this paragraph as it applies in relation to the investigation of any matter under section 45.

**Textual Amendments**

**F195** Sch. 4 substituted (1.1.2000) by 1999 c.22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

**F196** Sch. 4: "OFT" substituted (1.4.2003) in each place for "Director" by 2002 c. 40, ss. 278, 279, Sch. 25 para. 23(10)(a); S.I. 2003/766, **art. 2**, Sch. (with art. 3)

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**F197** Word in Sch. 4 para. 3(2) substituted (1.4.2003) by 2002 c. 40, ss. 278, 279, Sch. 25 para. 23(10)(b)(i); S.I. 2003/766, **art. 2**, Sch. (with art. 3)
**F198** Words in Sch. 4 para. 3(3) substituted (1.4.2003) by 2002 c. 40, ss. 278, 279, Sch. 25 para. 23(10)(b)(ii); S.I. 2003/766, **art. 2**, Sch. (with art. 3)
**F199** Words in Schs. 3-6 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)
**F200** Word in Sch. 4 para. 3(4) substituted (1.4.2003) by 2002 c. 40, ss. 278, 279, Sch. 25 para. 23(10)(b)(iii); S.I. 2003/766, **art. 2**, Sch. (with art. 3)
**F201** Word in Sch. 4 para. 3(5) substituted (1.4.2003) by 2002 c. 40, ss. 278, 279, Sch. 25 para. 23(10)(b)(iv); S.I. 2003/766, **art. 2**, Sch. (with art. 3)

### [F202] *Representations by applicant*

**Textual Amendments**
**F202** Sch. 4 substituted (1.1.2000) by 1999 c. 22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

[F203]4 (1) When the **[**[F204]Secretary of State**]** has received the advice of the Consultative Panel and the **[**[F205]OFT**]**, he shall send a copy of the advice to the applicant.

(2) The applicant shall be allowed a period of 28 days beginning with the day on which the copy is sent to him, or such other period as the applicant and the **[**[F204]Secretary of State**]** may agree, to make representations about the advice to the **[**[F204]Secretary of State**]**.

**Textual Amendments**
**F203** Sch. 4 substituted (1.1.2000) by 1999 c.22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)
**F204** Words in Schs. 3-6 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)
**F205** Sch. 4: "OFT" substituted (1.4.2003) in each place for "Director" by 2002 c. 40, ss. 278, 279, Sch. 25 para. 23(10)(a); S.I. 2003/766, **art. 2**, Sch. (with art. 3)

### [F206] *Advice of designated judges*

**Textual Amendments**
**F206** Sch. 4 substituted (1.1.2000) by 1999 c. 22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

[F207]5 (1) The **[**[F208]Secretary of State**]** shall send to each of the designated judges a copy of—
(a) the advice of the Consultative Panel and the **[**[F209]OFT**]**; and
(b) any representations made under paragraph 4(2).

***Status:*** *Point in time view as at 12/01/2006. This version of this Act contains provisions that are not valid for this point in time.*
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(2) Each of the designated judges shall then consider whether the application should be granted.

(3) The applicant shall provide each of the designated judges with such additional information as he may reasonably require.

(4) When each of the designated judges has completed his consideration he shall give such advice to the **[**[F208]Secretary of State**]** as he thinks fit.

**Textual Amendments**

**F207** Sch. 4 substituted (1.1.2000) by 1999 c.22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

**F208** Words in Schs. 3-6 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)

**F209** Sch. 4: "OFT" substituted (1.4.2003) in each place for "Director" by 2002 c. 40, ss. 278, 279, Sch. 25 para. 23(10)(a); S.I. 2003/766, **art. 2**, Sch. (with art. 3)

### *[F210]Decision by **[**[F211]Secretary of State**]***

**Textual Amendments**

**F210** Sch. 4 substituted (1.1.2000) by 1999 c. 22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

**F211** Words in Schs. 3-6 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)

[F212]6 (1) After considering—

(a) the advice given by the Consultative Panel and any representations made about it;

(b) the advice given by the **[**[F213]OFT**]** and any representations made about it; and

(c) the advice given by each of the designated judges,

the **[**[F214]Secretary of State**]** shall decide whether to grant the application.

(2) When the **[**[F214]Secretary of State**]** has made his decision he shall notify the applicant of it.

(3) If the **[**[F214]Secretary of State**]** has decided to refuse the application he shall also notify the applicant of the reasons for his decision.

**Textual Amendments**

**F212** Sch. 4 substituted (1.1.2000) by 1999 c.22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

**F213** Sch. 4: "OFT" substituted (1.4.2003) in each place for "Director" by 2002 c. 40, ss. 278, 279, Sch. 25 para. 23(10)(a); S.I. 2003/766, **art. 2**, Sch. (with art. 3)

**F214** Words in Schs. 3-6 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)

***Status:*** *Point in time view as at 12/01/2006. This version of this Act contains provisions that are not valid for this point in time.*
***Changes to legislation:*** *Courts and Legal Services Act 1990 is up to date with all changes known to be in force on or before 26 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

### [F215]*Effect of grant of application*

**Textual Amendments**

**F215** Sch. 4 substituted (1.1.2000) by 1999 c. 22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

[F216]7 Where the application is granted—

(a) the **[**[F217]Secretary of State**]** may recommend to Her Majesty that an Order in Council be made designating the body as an authorised body for the purposes of section 27 (if it proposes to grant rights of audience) or section 28 (if it proposes to grant rights to conduct litigation); and

(b) the proposed regulations and rules are approved as qualification regulations and rules of conduct in relation to the proposed rights.

**Textual Amendments**

**F216** Sch. 4 substituted (1.1.2000) by 1999 c.22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

**F217** Words in Schs. 3-6 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)

## [F218]PART II

### APPROVAL IN CASES OF ALTERED REGULATIONS, RULES OR RIGHTS

**Textual Amendments**

**F218** Sch. 4 substituted (1.1.2000) by 1999 c. 22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

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

**C36** Sch. 4 Pt. II extended (27.9.1999) by 1999 c. 22, ss. 105, 108(3), **Sch. 14 Pt. III para. 17(2)** (with Sch. 14 para. 7(2))

### [F219]*Requirement of approval*

**Textual Amendments**

**F219** Sch. 4 substituted (1.1.2000) by 1999 c. 22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

[F220]8 (1) If an authorised body makes an alteration of its qualification regulations or rules of conduct, the alteration shall not have effect unless approved by the **[**[F221]Secretary of State**]**.

***Status:*** *Point in time view as at 12/01/2006. This version of this Act contains provisions that are not valid for this point in time.*
***Changes to legislation:*** *Courts and Legal Services Act 1990 is up to date with all changes known to be in force on or before 26 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) If an authorised body makes an alteration of—

(a) any rights of audience granted by it (including the grant of a new right of audience); or

(b) any rights to conduct litigation granted by it (including the grant of a new right to conduct litigation),

the qualification regulations and rules of conduct of the body shall not have effect in relation to the rights as altered unless approved by the **[**[F221]Secretary of State**]**.

(3) If a question arises whether approval is required by virtue of this paragraph it shall be for the **[**[F221]Secretary of State**]** to decide.

**Textual Amendments**

**F220** Sch. 4 substituted (1.1.2000) by 1999 c.22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

**F221** Words in Schs. 3-6 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)

### [F222]*Application to* ***[***[F223]*Secretary of State****]***

**Textual Amendments**

**F222** Sch. 4 substituted (1.1.2000) by 1999 c. 22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

**F223** Words in Schs. 3-6 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)

[F224]9 (1) An application by a body for the **[**[F225]Secretary of State**]** to approve—

(a) an alteration of qualification regulations or rules of conduct; or

(b) qualification regulations or rules of conduct in relation to altered rights,

shall be made in writing.

(2) The application shall be accompanied by—

(a) the qualification regulations and rules of conduct;

(b) a statement of the alteration of the regulations, rules or rights; and

(c) such explanatory material as the applicant considers is likely to be needed for the purposes of this Part of this Schedule.

(3) The applicant shall provide the **[**[F225]Secretary of State**]** with such additional information as he may reasonably require.

(4) The **[**[F225]Secretary of State**]** shall—

(a) send a copy of the application and accompanying material and any information provided under sub-paragraph (3) to each of the designated judges; and

(b) consider whether it would be appropriate to seek the advice of either or both of the Consultative Panel and the **[**[F226]OFT**]**.

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**Textual Amendments**

**F224** Sch. 4 substituted (1.1.2000) by 1999 c.22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

**F225** Words in Schs. 3-6 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)

**F226** Sch. 4: "OFT" substituted (1.4.2003) in each place for "Director" by 2002 c. 40, ss. 278, 279, Sch. 25 para. 23(10)(a); S.I. 2003/766, **art. 2**, Sch. (with art. 3)

### [F227]*Early advice of designated judges*

**Textual Amendments**

**F227** Sch. 4 substituted (1.1.2000) by 1999 c. 22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

[F228]10 (1) If the **[**[F229]Secretary of State**]** considers that it would not be appropriate to seek the advice of the Consultative Panel or the **[**[F230]OFT**]**, he—

(a) shall inform each of the designated judges that that is his view; and

(b) may inform each of them of his provisional view as to whether or not the application should be granted.

(2) If so informed, each of the designated judges shall consider whether the application should be granted.

(3) The applicant shall provide each of the designated judges with such additional information as he may reasonably require.

(4) When each of the designated judges has completed his consideration he shall give such advice to the **[**[F229]Secretary of State**]** as he thinks fit.

(5) After considering the advice given by each of the designated judges, the **[**[F229]Secretary of State**]** shall consider again whether or not it would be appropriate to seek the advice of either or both of—

(a) the Consultative Panel; and

(b) the **[**[F230]OFT**]**,

before deciding whether to grant the application.

**Textual Amendments**

**F228** Sch. 4 substituted (1.1.2000) by 1999 c.22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

**F229** Words in Schs. 3-6 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)

**F230** Sch. 4: "OFT" substituted (1.4.2003) in each place for "Director" by 2002 c. 40, ss. 278, 279, Sch. 25 para. 23(10)(a); S.I. 2003/766, **art. 2**, Sch. (with art. 3)

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### [F231] *Advice of Consultative Panel*

**Textual Amendments**

**F231** Sch. 4 substituted (1.1.2000) by 1999 c. 22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

[F232]11 (1) If the **[**[F233]Secretary of State**]** decides (after considering the matter under paragraph 9(4)(b) or 10(5)) to seek the advice of the Consultative Panel, he shall send to the Consultative Panel a copy of—

(a) the application and accompanying material; and

(b) any information provided under paragraph 9(3).

(2) The Consultative Panel shall consider whether the application should be granted.

(3) The applicant shall provide the Consultative Panel with such additional information as it may reasonably require.

(4) When the Consultative Panel has completed its consideration it shall give such advice to the **[**[F233]Secretary of State**]** as it thinks fit.

(5) The Consultative Panel shall publish any advice given by it under this paragraph.

**Textual Amendments**

**F232** Sch. 4 substituted (1.1.2000) by 1999 c.22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

**F233** Words in Schs. 3-6 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)

### [F234] *Advice of **[**[F235]Office of Fair Trading**]***

**Textual Amendments**

**F234** Sch. 4 substituted (1.1.2000) by 1999 c. 22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

**F235** Words in the cross-heading before Sch. 4 para. 12 substituted (1.4.2003) by 2002 c. 40, ss. 278, 279, Sch. 25 para. 23(10)(c); S.I. 2003/766, **art. 2**, Sch. (with art. 3)

[F236]12 (1) If the **[**[F237]Secretary of State**]** decides (after considering the matter under paragraph 9(4)(b) or 10(5)) to seek the advice of the **[**[F238]OFT**]**, he shall send to the **[**[F238]OFT**]** a copy of—

(a) the application and accompanying material; and

(b) any information provided under paragraph 9(3).

(2) The **[**[F238]OFT**]** shall consider whether granting the application would have, or be likely to have, any significant effect on competition.

***Status:*** *Point in time view as at 12/01/2006. This version of this Act contains provisions that are not valid for this point in time.*
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(3) The applicant shall provide the **[**[F238]OFT**]** with such additional information as **[**[F239]it**]** may reasonably require.

(4) When the **[**[F238]OFT**]** has completed **[**[F240]its**]** consideration **[**[F240]it**]** shall give such advice to the **[**[F237]Secretary of State**]** as **[**[F240]it**]** thinks fit.

(5) The **[**[F238]OFT**]** shall publish any advice given by **[**[F241]it**]**under this paragraph.

(6) The **[**[F238]OFT**]**shall, so far as practicable, exclude from anything published under sub-paragraph (5) any matter which relates to the affairs of a particular person (other than the applicant) the publication of which would, or might in **[**[F242]its**]** opinion, seriously and prejudicially affect the interests of that person.

(7) Section 46 shall apply in relation to the investigation of any matter with a view to its consideration under this paragraph as it applies in relation to the investigation of any matter under section 45.

**Textual Amendments**

**F236** Sch. 4 substituted (1.1.2000) by 1999 c.22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

**F237** Words in Schs. 3-6 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)

**F238** Sch. 4: "OFT" substituted (1.4.2003) in each place for "Director" by 2002 c. 40, ss. 278, 279, Sch. 25 para. 23(10)(a); S.I. 2003/766, **art. 2**, Sch. (with art. 3)

**F239** Word in Sch. 4 para. 12(3) substituted (1.4.2003) by 2002 c. 40, ss. 278, 279, Sch. 25 para. 23(10)(c)(i); S.I. 2003/766, **art. 2**, Sch. (with art. 3)

**F240** Words in Sch. 4 para. 12(4) substituted (1.4.2003) by 2002 c. 40, ss. 278, 279, Sch. 25 para. 23(10)(c)(ii); S.I. 2003/766, **art. 2**, Sch. (with art. 3)

**F241** Word in Sch. 4 para. 12(5) substituted (1.4.2003) by 2002 c. 40, ss. 278, 279, Sch. 25 para. 23(10)(c)(iii); S.I. 2003/766, **art. 2**, Sch. (with art. 3)

**F242** Word in Sch. 4 para. 12(6) substituted (1.4.2003) by 2002 c. 40, ss. 278, 279, Sch. 25 para. 23(10)(c)(iv); S.I. 2003/766, **art. 2**, Sch. (with art. 3)

### [F243]*Representations by applicant*

**Textual Amendments**

**F243** Sch. 4 substituted (1.1.2000) by 1999 c. 22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

[F244]13 (1) If the **[**[F245]Secretary of State**]** has sought the advice of the Consultative Panel or the **[**[F246]OFT**]** he shall, on receiving it, send a copy to the applicant.

(2) The applicant shall be allowed a period of 28 days beginning with the day on which the copy is sent to him, or such other period as the applicant and the **[**[F245]Secretary of State**]** may agree, to make representations about the advice to the **[**[F245]Secretary of State**]**.

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**Textual Amendments**

**F244** Sch. 4 substituted (1.1.2000) by 1999 c.22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

**F245** Words in Schs. 3-6 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)

**F246** Sch. 4: "OFT" substituted (1.4.2003) in each place for "Director" by 2002 c. 40, ss. 278, 279, Sch. 25 para. 23(10)(a); S.I. 2003/766, **art. 2**, Sch. (with art. 3)

### [F247] *Advice or further advice of designated judges*

**Textual Amendments**

**F247** Sch. 4 substituted (1.1.2000) by 1999 c. 22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

[F248]14 (1) If the **[**[F249]Secretary of State**]** has sought the advice of the Consultative Panel or the **[**[F250]OFT**]** he shall, on receiving it, send to each of the designated judges a copy of—

(a) the advice; and

(b) any representations made under paragraph 13(2).

(2) Each of the designated judges shall then consider (or consider again) whether the application should be granted.

(3) The applicant shall provide each of the designated judges with such additional information as he may reasonably require.

(4) When each of the designated judges has completed his consideration he shall give such advice to the **[**[F249]Secretary of State**]** as he thinks fit.

**Textual Amendments**

**F248** Sch. 4 substituted (1.1.2000) by 1999 c.22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

**F249** Words in Schs. 3-6 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)

**F250** Sch. 4: "OFT" substituted (1.4.2003) in each place for "Director" by 2002 c. 40, ss. 278, 279, Sch. 25 para. 23(10)(a); S.I. 2003/766, **art. 2**, Sch. (with art. 3)

### [F251] *Decision by* **[**[F252] *Secretary of State***]**

**Textual Amendments**

**F251** Sch. 4 substituted (1.1.2000) by 1999 c. 22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

**F252** Words in Schs. 3-6 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)

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[F253]15 (1) After considering—

(a) any advice given by the Consultative Panel and any representations made about it;

(b) any advice given by the **[**[F254]OFT**]** and any representations made about it; and

(c) the advice given by each of the designated judges (under paragraph 10 or 14 or both of those paragraphs),

the **[**[F255]Secretary of State**]** shall decide whether to grant the application.

(2) The **[**[F255]Secretary of State**]** may not refuse the application unless he has received advice from the Consultative Panel.

(3) When the **[**[F255]Secretary of State**]** has made his decision he shall notify the applicant of it.

(4) If the **[**[F255]Secretary of State**]** has decided to refuse the application he shall also notify the applicant of the reasons for his decision.

**Textual Amendments**

**F253** Sch. 4 substituted (1.1.2000) by 1999 c.22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

**F254** Sch. 4: "OFT" substituted (1.4.2003) in each place for "Director" by 2002 c. 40, ss. 278, 279, Sch. 25 para. 23(10)(a); S.I. 2003/766, **art. 2**, Sch. (with art. 3)

**F255** Words in Schs. 3-6 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)

### [F256]*Effect of grant of application*

**Textual Amendments**

**F256** Sch. 4 substituted (1.1.2000) by 1999 c. 22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

[F257]16 Where the application is granted—

(a) in a case within sub-paragraph (1) of paragraph 8, the alteration of the qualification regulations or rules of conduct is approved; and

(b) in a case within sub-paragraph (2) of that paragraph, the qualification regulations or rules of conduct are approved in relation to the rights as altered.

**Textual Amendments**

**F257** Sch. 4 substituted (1.1.2000) by 1999 c.22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

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## [F258]PART III

### ALTERATION OF REGULATIONS AND RULES BY ORDER

**Textual Amendments**

**F258** Sch. 4 substituted (1.1.2000) by 1999 c. 22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

### [F259]*Notice to authorised body*

**Textual Amendments**

**F259** Sch. 4 substituted (1.1.2000) by 1999 c. 22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

[F260]17 (1) If the **[**[F261]Secretary of State**]** considers—

(a) that any of the qualification regulations of an authorised body may unduly restrict a right of audience or right to conduct litigation or the exercise of such a right, or

(b) that any of the rules of conduct of an authorised body may unduly restrict the exercise of such a right,

he may give written notice to the body.

(2) Before giving notice to an authorised body under sub-paragraph (1) the **[**[F261]Secretary of State**]** shall inform each of the designated judges that he intends to do so.

**Textual Amendments**

**F260** Sch. 4 substituted (1.1.2000) by 1999 c.22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

**F261** Words in Schs. 3-6 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)

### [F262]*Representations by authorised body*

**Textual Amendments**

**F262** Sch. 4 substituted (1.1.2000) by 1999 c. 22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

[F263]18 (1) The notice shall invite the authorised body to make representations in writing to the **[**[F264]Secretary of State**]**.

(2) Any such representations must be made before the end of—

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(a) the period of three months beginning with the date on which the notice was given; or

(b) such other period as the authorised body and the **[**[F264]Secretary of State**]** may agree.

(3) When that period has expired the **[**[F264]Secretary of State**]** shall consider, in the light of any representations made under sub-paragraph (2), whether he proposes to make alterations of the qualification regulations or rules of conduct.

(4) If the **[**[F264]Secretary of State**]** proposes to make alterations of the qualification regulations or rules of conduct he shall send a copy of—

(a) the alterations which he proposes to make; and

(b) any representations made under sub-paragraph (2),

to the Consultative Panel, the **[**[F265]OFT**]** and each of the designated judges.

**Textual Amendments**

**F263** Sch. 4 substituted (1.1.2000) by 1999 c.22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

**F264** Words in Schs. 3-6 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)

**F265** Sch. 4: "OFT" substituted (1.4.2003) in each place for "Director" by 2002 c. 40, ss. 278, 279, Sch. 25 para. 23(10)(a); S.I. 2003/766, **art. 2**, Sch. (with art. 3)

### [F266]*Advice of Consultative Panel*

**Textual Amendments**

**F266** Sch. 4 substituted (1.1.2000) by 1999 c. 22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

[F267]19 (1) The Consultative Panel shall consider whether the alterations should be made.

(2) The **[**[F268]Secretary of State**]** and the authorised body shall provide the Consultative Panel with such additional information as it may reasonably require.

(3) When the Consultative Panel has completed its consideration it shall give such advice to the **[**[F268]Secretary of State**]** as it thinks fit.

(4) The Consultative Panel shall publish any advice given by it under this paragraph.

**Textual Amendments**

**F267** Sch. 4 substituted (1.1.2000) by 1999 c.22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

**F268** Words in Schs. 3-6 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)

***Status:*** *Point in time view as at 12/01/2006. This version of this Act contains provisions that are not valid for this point in time.*
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## [F269] *Advice of [[F270] Office of Fair Trading]*

**Textual Amendments**

**F269** Sch. 4 substituted (1.1.2000) by 1999 c. 22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

**F270** Words in the cross-heading before Sch. 4 para. 20 substituted (1.4.2003) by 2002 c. 40, ss. 278, 279, Sch. 25 para. 23(10)(d); S.I. 2003/766, **art. 2**, Sch. (with art. 3)

[F271] 20 (1) The [[F272] OFT] shall consider whether making the alterations would have, or be likely to have, any significant effect on competition.

(2) The [[F273] Secretary of State] and the authorised body shall provide the [[F272] OFT] with such additional information as [[F274] it] may reasonably require.

(3) When the [[F272] OFT] has completed [[F275] its] consideration [[F275] it] shall give such advice to the [[F273] Secretary of State] as [[F275] it] thinks fit.

(4) The [[F272] OFT] shall publish any advice given by [[F276] it] under this paragraph.

(5) The [[F272] OFT] shall, so far as practicable, exclude from anything published under sub-paragraph (4) any matter which relates to the affairs of a particular person (other than the authorised body) the publication of which would, or might in [[F277] its] opinion, seriously and prejudicially affect the interests of that person.

(6) Section 46 shall apply in relation to the investigation of any matter with a view to its consideration under this paragraph as it applies in relation to the investigation of any matter under section 45.

**Textual Amendments**

**F271** Sch. 4 substituted (1.1.2000) by 1999 c.22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

**F272** Sch. 4: "OFT" substituted (1.4.2003) in each place for "Director" by 2002 c. 40, ss. 278, 279, Sch. 25 para. 23(10)(a); S.I. 2003/766, **art. 2**, Sch. (with art. 3)

**F273** Words in Schs. 3-6 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)

**F274** Words in Sch. 4 para. 20(2) substituted (1.4.2003) by 2002 c. 40, ss. 278, 279, Sch. 25 para. 23(10)(d)(i); S.I. 2003/766, **art. 2**, Sch. (with art. 3)

**F275** Words in Sch. 4 para. 20(3) substituted (1.4.2003) by 2002 c. 40, ss. 278, 279, Sch. 25 para. 23(10)(d)(ii); S.I. 2003/766, **art. 2**, Sch. (with art. 3)

**F276** Word in Sch. 4 para. 20(4) substituted (1.4.2003) by 2002 c. 40, ss. 278, 279, Sch. 25 para. 23(10)(d)(iii); S.I. 2003/766, **art. 2**, Sch. (with art. 3)

**F277** Word in Sch. 4 para. 20(5) substituted (1.4.2003) by 2002 c. 40, ss. 278, 279, Sch. 25 para. 23(10)(d)(iv); S.I. 2003/766, **art. 2**, Sch. (with art. 3)

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### [F278]*Further representations by authorised body*

**Textual Amendments**

**F278** Sch. 4 substituted (1.1.2000) by 1999 c. 22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

[F279]21 (1) When the **[**[F280]Secretary of State**]** has received the advice of the Consultative Panel and the **[**[F281]OFT**]**, he shall send a copy of the advice to the authorised body.

(2) The authorised body shall be allowed a period of 28 days, beginning with the day on which the copy is sent to him, or such other period as the authorised body and the **[**[F280]Secretary of State**]** may agree, to make representations about the advice to the **[**[F280]Secretary of State**]**.

**Textual Amendments**

**F279** Sch. 4 substituted (1.1.2000) by 1999 c.22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

**F280** Words in Schs. 3-6 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)

**F281** Sch. 4: "OFT" substituted (1.4.2003) in each place for "Director" by 2002 c. 40, ss. 278, 279, Sch. 25 para. 23(10)(a); S.I. 2003/766, **art. 2**, Sch. (with art. 3)

### [F282]*Advice of designated judges*

**Textual Amendments**

**F282** Sch. 4 substituted (1.1.2000) by 1999 c. 22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

[F283]22 (1) The **[**[F284]Secretary of State**]** shall send to each of the designated judges a copy of—

(a) the advice of the Consultative Panel and the **[**[F285]OFT**]**; and

(b) any representations made under paragraph 21(2).

(2) Each of the designated judges shall then consider whether the alterations should be made.

(3) The **[**[F284]Secretary of State**]** and the authorised body shall provide each of the designated judges with such additional information as he may reasonably require.

(4) When each of the designated judges has completed his consideration he shall give such advice to the **[**[F284]Secretary of State**]** as he thinks fit.

***Status:*** *Point in time view as at 12/01/2006. This version of this Act contains provisions that are not valid for this point in time.*
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**Textual Amendments**

**F283** Sch. 4 substituted (1.1.2000) by 1999 c.22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

**F284** Words in Schs. 3-6 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)

**F285** Sch. 4: "OFT" substituted (1.4.2003) in each place for "Director" by 2002 c. 40, ss. 278, 279, Sch. 25 para. 23(10)(a); S.I. 2003/766, **art. 2**, Sch. (with art. 3)

### *[F286]Decision by [[F287]Secretary of State]*

**Textual Amendments**

**F286** Sch. 4 substituted (1.1.2000) by 1999 c. 22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

**F287** Words in Schs. 3-6 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)

[F288]23 (1) After considering—

(a) the advice given by the Consultative Panel and any representations made about it;

(b) the advice given by the **[**[F289]OFT**]** and any representations made about it; and

(c) the advice given by each of the designated judges under paragraph 22,

the **[**[F290]Secretary of State**]** shall decide whether to make the alterations.

(2) When the **[**[F290]Secretary of State**]** has made his decision he shall notify the authorised body of it.

(3) If the **[**[F290]Secretary of State**]** has decided to make the alterations he shall also notify the authorised body of the reasons for his decision.

**Textual Amendments**

**F288** Sch. 4 substituted (1.1.2000) by 1999 c.22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

**F289** Sch. 4: "OFT" substituted (1.4.2003) in each place for "Director" by 2002 c. 40, ss. 278, 279, Sch. 25 para. 23(10)(a); S.I. 2003/766, **art. 2**, Sch. (with art. 3)

**F290** Words in Schs. 3-6 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)

### *[F291]Order effecting alterations*

**Textual Amendments**

**F291** Sch. 4 substituted (1.1.2000) by 1999 c. 22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

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[F292]24 If the **[**[F293]Secretary of State**]** has decided to make the alterations he may make an order giving effect to the alterations.

**Textual Amendments**

**F292** Sch. 4 substituted (1.1.2000) by 1999 c.22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

**F293** Words in Schs. 3-6 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)

## [F294]PART IV

### REVOCATION OF DESIGNATION

**Textual Amendments**

**F294** Sch. 4 substituted (1.1.2000) by 1999 c. 22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

### *[F295]Order in Council*

**Textual Amendments**

**F295** Sch. 4 substituted (1.1.2000) by 1999 c. 22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

[F296]25 (1) Where an Order in Council has been made designating a body as an authorised body for the purposes of section 27, or for the purposes of section 28, the **[**[F297]Secretary of State**]** may recommend to Her Majesty that an Order in Council be made revoking that designation.

(2) A recommendation may be made under sub-paragraph (1) only if—

(a) the authorised body has made a written request to the **[**[F297]Secretary of State**]** asking for it to be made;

(b) the authorised body has agreed in writing to its being made; or

(c) the **[**[F297]Secretary of State**]** is satisfied that the circumstances at the time when he is considering whether to make the recommendation are such that, had that body then been applying to become an authorised body, its application would have failed.

**Textual Amendments**

**F296** Sch. 4 substituted (1.1.2000) by 1999 c.22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

***Status:*** *Point in time view as at 12/01/2006. This version of this Act contains provisions that are not valid for this point in time.*
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**F297** Words in Schs. 3-6 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)

### [F298] *Requirement to seek advice*

**Textual Amendments**

**F298** Sch. 4 substituted (1.1.2000) by 1999 c. 22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

[F299]26 Where the **[**[F300]Secretary of State**]** considers that it may be appropriate for him to make a recommendation in reliance on paragraph 25(2)(c), he shall seek the advice of the Consultative Panel and the **[**[F301]OFT**]**.

**Textual Amendments**

**F299** Sch. 4 substituted (1.1.2000) by 1999 c.22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

**F300** Words in Schs. 3-6 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)

**F301** Sch. 4: "OFT" substituted (1.4.2003) in each place for "Director" by 2002 c. 40, ss. 278, 279, Sch. 25 para. 23(10)(a); S.I. 2003/766, **art. 2**, Sch. (with art. 3)

### [F302] *Advice of Consultative Panel*

**Textual Amendments**

**F302** Sch. 4 substituted (1.1.2000) by 1999 c. 22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

[F303]27 (1) The Consultative Panel shall carry out such investigations with respect to the authorised body as it considers appropriate.

(2) The **[**[F304]Secretary of State**]** and the authorised body shall provide the Consultative Panel with such additional information as it may reasonably require.

(3) When the Consultative Panel has completed its investigations it shall—

(a) advise the **[**[F304]Secretary of State**]** as to whether or not there appear to be grounds for making the recommendation; and

(b) if its advice is that there appear to be such grounds, advise the **[**[F304]Secretary of State**]** as to the transitional and incidental provision (if any) which it considers should be included in any Order made in pursuance of it.

(4) The Consultative Panel shall publish any advice given by it under this paragraph.

***Status:*** *Point in time view as at 12/01/2006. This version of this Act contains provisions that are not valid for this point in time.*
***Changes to legislation:*** *Courts and Legal Services Act 1990 is up to date with all changes known to be in force on or before 26 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

**Textual Amendments**

**F303** Sch. 4 substituted (1.1.2000) by 1999 c.22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

**F304** Words in Schs. 3-6 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)

### [F305]*Advice of* ***[***[F306]*Office of Fair Trading****]***

**Textual Amendments**

**F305** Sch. 4 substituted (1.1.2000) by 1999 c. 22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

**F306** Words in the cross-heading before Sch. 4 para. 28 substituted (1.4.2003) by 2002 c. 40, ss. 278, 279, Sch. 25 para. 23(10)(e); S.I. 2003/766, **art. 2**, Sch. (with art. 3)

[F307]28 (1) The **[**[F308]OFT**]** shall consider whether revoking the designation would have, or be likely to have, any significant effect on competition.

(2) The **[**[F309]Secretary of State**]** and the authorised body shall provide the **[**[F308]OFT**]** with such additional information as **[**[F310]it**]** may reasonably require.

(3) When the **[**[F308]OFT**]** has completed **[**[F311]its**]** consideration sh all give such advice to the **[**[F309]Secretary of State**]** as **[**[F311]it**]** thinks fit.

(4) The **[**[F308]OFT**]** shall publish any advice given by **[**[F312]it**]** under this paragraph.

(5) The **[**[F308]OFT**]**shall, so far as practicable, exclude from anything published under sub-paragraph (4) any matter which relates to the affairs of a particular person (other than the authorised body) the publication of which would, or might in **[**[F313]its**]** opinion, seriously and prejudicially affect the interests of that person.

(6) Section 46 shall apply in relation to the investigation of any matter with a view to its consideration under this paragraph as it applies in relation to the investigation of any matter under section 45.

**Textual Amendments**

**F307** Sch. 4 substituted (1.1.2000) by 1999 c.22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

**F308** Sch. 4: "OFT" substituted (1.4.2003) in each place for "Director" by 2002 c. 40, ss. 278, 279, Sch. 25 para. 23(10)(a); S.I. 2003/766, **art. 2**, Sch. (with art. 3)

**F309** Words in Schs. 3-6 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)

**F310** Word in Sch. 4 para. 28(2) substituted by 2002 c. 40, ss. 278, 279, Sch. 25 para. 23(10)(e)(i); S.I. 2003/766, **art. 2**, Sch. (with art. 3)

**F311** Word in Sch. 4 para. 28(3) substituted (1.4.2003) by 2002 c. 40, ss. 278, 279, Sch. 25 para. 23(10)(e)(ii); S.I. 2003/766, **art. 2**, Sch. (with art. 3)

***Status:*** *Point in time view as at 12/01/2006. This version of this Act contains provisions that are not valid for this point in time.*
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**F312** Word in Sch. 4 para. 28(4) substituted (1.4.2003) by 2002 c. 40, ss. 278, 279, Sch. 25 para. 23(10)(e)(iii); S.I. 2003/766, **art. 2**, Sch. (with art. 3)

**F313** Words in Sch. 4 para. 28(5) substituted (1.4.2003) by 2002 c. 40, ss. 278, 279, Sch. 25 para. 23(10)(e)(iv); S.I. 2003/766, **art. 2**, Sch. (with art. 3)

### [F314]*Notice to authorised body*

**Textual Amendments**

**F314** Sch. 4 substituted (1.1.2000) by 1999 c. 22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

[F315]29 (1) When the **[**[F316]Secretary of State**]** has received the advice of the Consultative Panel and the **[**[F317]OFT**]**, he may give to the body a notice containing—

(a) a copy of the advice; and

(b) a statement of the effect of an Order made in pursuance of the recommendation.

(2) The notice shall invite the authorised body to make representations in writing to the **[**[F316]Secretary of State**]**.

(3) Any such representations must be made before the end of—

(a) the period of three months beginning with the date on which the notice was given; or

(b) such other period as the authorised body and the **[**[F316]Secretary of State**]** may agree.

**Textual Amendments**

**F315** Sch. 4 substituted (1.1.2000) by 1999 c.22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

**F316** Words in Schs. 3-6 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)

**F317** Sch. 4: "OFT" substituted (1.4.2003) in each place for "Director" by 2002 c. 40, ss. 278, 279, Sch. 25 para. 23(10)(a); S.I. 2003/766, **art. 2**, Sch. (with art. 3)

### [F318]*Notice to members of authorised body*

**Textual Amendments**

**F318** Sch. 4 substituted (1.1.2000) by 1999 c. 22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

[F319]30 (1) Where the **[**[F320]Secretary of State**]**—

(a) has given a notice to an authorised body under paragraph 29(1); or

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(b) is proposing to make a recommendation in relation to an authorised body in reliance on paragraph 25(2)(a) or (b),

he shall take such steps as are reasonably practicable to bring the matter to the attention of the members of the authorised body and of any other persons who, in his opinion, are likely to be affected by an Order made in pursuance of the recommendation.

(2) Any such steps shall include inviting those members and other persons to make representations to the **[**[F320]Secretary of State**]**.

(3) Any such representations—

(a) shall, except in such circumstances as the **[**[F320]Secretary of State**]** may specify, be in writing; and

(b) must be made before the end of the period of three months beginning with such date as may be specified by the **[**[F320]Secretary of State**]**.

**Textual Amendments**

**F319** Sch. 4 substituted (1.1.2000) by 1999 c.22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

**F320** Words in Schs. 3-6 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)

### [F321]*Advice of designated judges*

**Textual Amendments**

**F321** Sch. 4 substituted (1.1.2000) by 1999 c. 22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

[F322]31 (1) The **[**[F323]Secretary of State**]** shall send to each of the designated judges—

(a) a copy of any written representations made under paragraph 30 and a note of any oral representations made under that paragraph; and

(b) in a case where he is required to seek the advice of the Consultative Panel and the **[**[F324]OFT**]**, a copy of the advice given to him by the Consultative Panel and the **[**[F324]OFT**]**and of any representations made under paragraph 29.

(2) Each of the designated judges shall then consider whether the **[**[F323]Secretary of State**]** should make the recommendation.

(3) The **[**[F323]Secretary of State**]** and the authorised body shall provide each of the designated judges with such additional information as he may reasonably require.

(4) When each of the designated judges has completed his consideration he shall give such advice to the **[**[F323]Secretary of State**]** as he thinks fit.

***Status:*** *Point in time view as at 12/01/2006. This version of this Act contains provisions that are not valid for this point in time.*
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**Textual Amendments**

**F322** Sch. 4 substituted (1.1.2000) by 1999 c.22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

**F323** Words in Schs. 3-6 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)

**F324** Sch. 4: "OFT" substituted (1.4.2003) in each place for "Director" by 2002 c. 40, ss. 278, 279, Sch. 25 para. 23(10)(a); S.I. 2003/766, **art. 2**, Sch. (with art. 3)

### *[F325]Consideration by [[F326]Secretary of State]*

**Textual Amendments**

**F325** Sch. 4 substituted (1.1.2000) by 1999 c. 22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

**F326** Words in Schs. 3-6 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)

[F327]32 Before deciding whether to make the recommendation the **[**[F328]Secretary of State**]** shall consider—

(a) any representations made under paragraph 30 and the advice given by each of the designated judges; and

(b) in a case where he is required to seek the advice of the Consultative Panel and the **[**[F329]OFT**]**, the advice given to him by the Consultative Panel and the **[**[F329]OFT**]**and of any representations made under paragraph 29.

**Textual Amendments**

**F327** Sch. 4 substituted (1.1.2000) by 1999 c.22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

**F328** Words in Schs. 3-6 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)

**F329** Sch. 4: "OFT" substituted (1.4.2003) in each place for "Director" by 2002 c. 40, ss. 278, 279, Sch. 25 para. 23(10)(a); S.I. 2003/766, **art. 2**, Sch. (with art. 3)

### *[F330]The Order*

**Textual Amendments**

**F330** Sch. 4 substituted (1.1.2000) by 1999 c. 22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

[F331]33 (1) An Order made in pursuance of a recommendation under paragraph 25 may include any appropriate transitional and incidental provision.

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(2) Where an Order is made in relation to a body in pursuance of such a recommendation, the grant of any rights of audience, or rights to conduct litigation, to any person by the body shall cease to have effect, subject to any transitional provision included in the Order.

(3) Where such an Order is made, the **[**[F332]Secretary of State**]** shall—
- (a) give the body written notice of the making of the Order and of his reasons for recommending that it be made;
- (b) take such steps as are reasonably practicable to bring the making of the Order to the attention of the members of that body; and
- (c) publish notice of the making of the Order in such manner as he considers appropriate for bringing it to the attention of persons (other than those members) who, in his opinion, are likely to be affected by the Order.

**Textual Amendments**

**F331** Sch. 4 substituted (1.1.2000) by 1999 c.22, s. 41, **Sch. 5 para. 2** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)** (subject to art. 4, Sch. 2 of that S.I.)

**F332** Words in Schs. 3-6 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)

## [F333]SCHEDULE 5

Section 34(8).

### THE AUTHORISED CONVEYANCING PRACTITIONERS BOARD

**Textual Amendments**

**F333** Sch. 5 repealed (prosp.) by Legal Services Act 2007 (c. 29), ss. 208, 210, 211, Sch. 21 para. 100(b), **Sch. 23** (with ss. 29, 192, 193)

*Appointment of members*

1 (1) Every member of the Board—
- (a) shall be appointed for such term, not exceeding three years, as the **[**[F334]Secretary of State**]** may specify; and
- (b) shall hold and vacate office in accordance with the terms of his appointment.

(2) Any person who ceases to be a member of the Board shall be eligible for re-appointment.

(3) A member of the Board may at any time resign his office by giving notice in writing to the **[**[F334]Secretary of State**]** .

(4) The **[**[F334]Secretary of State**]** may remove a member of the Board if satisfied—
- (a) that he has failed to carry out his duties;

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(b) that a bankruptcy order has been made against him or that his estate has been sequestrated or that he has made a composition or arrangement with, or granted a trust deed for, his creditors; or

(c) that he is otherwise unable or unfit to discharge the functions of a member of the Board.

**Textual Amendments**

**F334** Words in Schs. 3-6 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)

**Commencement Information**

**I55** Sch. 5 para. 1 in force 1. 4. 1991 see s. 124(3) and S.I. 1991/608, art. 2, **Sch.**

*Proceedings of the Board*

2 The Board may regulate its own procedure.

**Commencement Information**

**I56** Sch. 5 para. 2 in force 1. 4. 1991 see s. 124(3) and S.I. 1991/608, art. 2, **Sch.**

*Delegation of powers*

3 Anything authorised or required by or under any enactment to be done by the Board, other than the making of rules, may be done—

(a) by any member of the Board, or of the Board's staff, who has been authorised for the purpose, whether generally or specifically, by the Board; or

(b) by any committee or sub-committee of the Board which has been so authorised.

**Commencement Information**

**I57** Sch. 5 para. 3 in force 1. 4. 1991 see s. 124(3) and S.I. 1991/608, art. 2, **Sch.**

*Vacancies and defective appointments*

4 The validity of any proceedings of the Board shall not be affected by a vacancy amongst the members or by any defect in the appointment of a member.

**Commencement Information**

**I58** Sch. 5 para. 4 in force 1. 4. 1991 see s. 124(3) and S.I. 1991/608, art. 2, **Sch.**

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*Application of seal and proof of instruments*

5 The application of the seal of the Board shall be authenticated by the signature of—
(a) the Chairman or any other member of the Board; and
(b) a member of the Board's staff who has been authorised by the Board for the purpose, whether generally or specifically.

**Commencement Information**
**I59** Sch. 5 para. 5 in force 1. 4. 1991 see s. 124(3) and S.I. 1991/608, art. 2, **Sch.**

*Documents served etc. by the Board*

6 (1) Any document which the Board is authorised or required by or under any enactment to serve, make or issue may be signed on behalf of the Board by any member of the Board or of its staff who has been authorised for the purpose, whether generally or specifically, by the Board.

(2) Every document purporting to be an instrument made or issued by or on behalf of the Board and—
(a) to be duly executed under the seal of the Board; or
(b) to be signed or executed by a person authorised by the Board for the purpose,
shall be received in evidence and treated, without further proof, as being so made or issued unless the contrary is proved.

**Commencement Information**
**I60** Sch. 5 para.6 in force 1. 4. 1991 see s. 124(3) and S.I. 1991/608, art. 2, **Sch.**

*Remuneration*

7 (1) The Board shall pay to its members such remuneration, and such travelling and other allowances, as it may determine.

(2) If a member of the Board ceases to hold office and it appears to the Board that there are special circumstances which make it right that he should receive compensation, the Board may pay him such sum as it may determine.

**Commencement Information**
**I61** Sch. 5 para. 7 in force 1. 4. 1991 see s. 124(3) and S.I. 1991/608, art. 2, **Sch.**

**Status:** *Point in time view as at 12/01/2006. This version of this Act contains provisions that are not valid for this point in time.*
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*Staff*

8 (1) The Board may appoint such staff, and shall pay them such remuneration, as it may determine.

(2) The Board may, as regards any of its staff—

(a) pay to or in respect of them such pensions, allowances or gratuities, as it may determine; or

(b) provide and maintain for them such schemes (whether or not contributory) for the payment to or in respect of them of such pensions, allowances or gratuities, as it may determine.

(3) The references in sub-paragraph (2) to pensions, allowances or gratuities include references to pensions, allowances or gratuities by way of compensation to or in respect of any of the Board's staff who suffer loss of employment or loss or diminution of emoluments.

**Commencement Information**

**I62** Sch. 5 para. 8 in force 1. 4. 1991 see s. 124(3) and S.I. 1991/608, art. 2, **Sch.**

*Accounts*

9 (1) The Board shall keep proper accounts of all sums received and paid by it and proper records in relation to those accounts.

(2) The Board shall appoint auditors and cause its accounts to be audited annually by the auditors.

(3) As soon as is practicable after the accounts for any period have been audited, the Board shall cause them to be published and shall send a copy of them to the **[**[F335]Secretary of State**]** together with a copy of any report of the auditors on the accounts.

**[**[F336](4) No person shall be appointed as an auditor under this paragraph unless he is eligible for appointment as a company auditor under section 25 of the Companies Act 1989 or is a member of the Chartered Institute of Public Finance and Accountancy.**]**

**Textual Amendments**

**F335** Words in Schs. 3-6 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)

**F336** Sch. 5 para. 9(4) and (5) substituted (1.10.1991) by S.I. 1991/1997, reg. 2, **Sch. para. 76(3)**

**Commencement Information**

**I63** Sch. 5 para. 9 in force 1. 4. 1991 see s. 124(3) and S.I. 1991/608, art. 2, **Sch.**

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*Annual report of Board*

10 (1) The Board shall submit to the **[**[F337]Secretary of State**]** an annual report on the discharge of its functions.

(2) The **[**[F337]Secretary of State**]** shall lay the Board's annual report before Parliament.

**Textual Amendments**

**F337** Words in Schs. 3-6 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)

**Commencement Information**

**I64** Sch. 5 para. 10 in force 1. 4. 1991 see s. 124(3) and S.I. 1991/608, art. 2, **Sch.**

*Parliamentary disqualification etc.*

11 (1) In Part II of Schedule 1 to the [M94]House of Commons Disqualification Act 1975 (bodies of which all members are disqualified) the following entry shall be inserted at the appropriate place— " The Authorised Conveyancing Practitioners Board ".

(2) The same entry shall be inserted at the appropriate place in Part II of Schedule 1 to the [M95]Northern Ireland Assembly Disqualification Act 1975.

**Commencement Information**

**I65** Sch. 5 para. 11 in force 1. 4. 1991 see s. 124(3) and S.I. 1991/608, art. 2, **Sch.**

**Marginal Citations**

**M94** 1975 c. 24.
**M95** 1975 c. 25.

## [F338]SCHEDULE 6

Section 41.

THE CONVEYANCING APPEAL TRIBUNALS

**Textual Amendments**

**F338** Sch. 6 repealed (prosp.) by Legal Services Act 2007 (c. 29), ss. 208, 210, 211, Sch. 21 para. 100(c), **Sch. 23** (with ss. 29, 192, 193)

*Powers of Tribunals*

1 (1) A Tribunal hearing any appeal shall have power to—

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(a) investigate the facts on which the decision appealed against was based;
(b) order the production of documents which it considers are relevant to the appeal;
(c) summon witnesses;
(d) consider fresh evidence, including evidence which could have been produced to the Board before it made the decision in question;
(e) admit any evidence which it considers is relevant to the hearing even though it would not be admissible in proceedings before a court.

(2) On determining any appeal, a Tribunal may—
(a) confirm, reverse or vary any decision of the Board which is the subject of the appeal; or
(b) remit the case to the Board with directions as to the action to be taken by the Board.

*Procedure of Tribunals*

2 (1) The **[**[F339]Secretary of State**]** may by regulations make provision with respect to the making of appeals to, and the procedure to be followed by, Tribunals.

(2) The regulations may, in particular, make provision—
(a) as to the period within which appeals must be brought;
(b) for the holding of hearings in private in prescribed circumstances;
(c) as to the persons who may appear on behalf of the parties;
(d) for enabling hearings to be conducted even though a member of the Tribunal, other than the Chairman, is absent;
(e) as to the disclosure by the appellant, and others, of documents and the inspection of documents;
(f) requiring persons to attend the proceedings and give evidence;
(g) as to the payment of expenses incurred by persons compelled to attend proceedings by regulations made by virtue of paragraph (f);
(h) authorising the administration of oaths to witnesses;
(i) as to the withdrawal of appeals;
(j) as to costs and expenses incurred by any party to the proceedings; and
(k) authorising preliminary or incidental matters in relation to an appeal to be dealt with by the Chairman of the Tribunal hearing that appeal.

**Textual Amendments**

**F339** Words in Sch. 6 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)

*Staff*

3 (1) The **[**[F340]Secretary of State**]** may, with the consent of the Treasury, make such provision as he thinks fit for—

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(a) the allocation of staff for any Tribunal;
(b) the remuneration of members of Tribunals and the reimbursement of their expenses;
(c) defraying any reasonable expenses incurred by any Tribunal.

(2) Any sums payable under any provision made by the **[**[F340]Secretary of State**]** under sub-paragraph (1) shall be paid out of money provided by Parliament.

**Textual Amendments**

**F340** Words in Sch. 6 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)

## [F341]SCHEDULE 7

Section 43(4).

### THE CONVEYANCING OMBUDSMAN SCHEME

**Textual Amendments**

**F341** Sch. 7 repealed (prosp.) by Legal Services Act 2007 (c. 29), ss. 208, 210, 211, Sch. 21 para. 100(d), **Sch. 23** (with ss. 29, 192, 193)

1 In this Schedule "the scheme" means the "Conveyancing Ombudsman Scheme" established by rules made under section 43(1).

2 The scheme may provide—
(a) for the Conveyancing Ombudsman to appoint his staff; and
(b) for the establishment and functioning of an independent body (whether corporate or unincorporate) to administer the scheme.

3 (1) The scheme may provide for the Conveyancing Ombudsman—
(a) to pay, as regards any of his staff, such remuneration and travelling and other allowances as he may determine with the approval of the Board; and
(b) to pay such pensions, allowances or gratuities to or in respect of any of his staff as may be so determined.

(2) The reference in sub-paragraph (1) to pensions, allowances or gratuities includes a reference to pensions, allowances or gratuities by way of compensation to or in respect of any of the Conveyancing Ombudsman's staff who suffer loss of employment or loss or diminution of emoluments.

4 The jurisdiction of the Conveyancing Ombudsman shall be determined by the scheme.

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5 The scheme may provide for the Conveyancing Ombudsman not to have jurisdiction to investigate complaints unless—

(a) the procedure for investigating complaints which is maintained by the authorised practitioner against whom the complaint is made has been exhausted; or

(b) the Conveyancing Ombudsman considers that the circumstances of the case are such as to justify his investigating the complaint before that procedure has been exhausted.

6 The scheme shall require the Conveyancing Ombudsman to investigate any complaint which falls within his jurisdiction and which is properly made to him in accordance with the provisions of the scheme.

7 The scheme may empower the Conveyancing Ombudsman, when investigating any complaint, to investigate the subject matter of the complaint as well as the way in which it has been handled by the authorised practitioner concerned.

8 The scheme shall—

(a) confer on the Conveyancing Ombudsman power to require—

(i) information and documents relevant to any investigation under the scheme to be furnished to him;

(ii) the payment by an authorised practitioner of compensation where loss has been suffered by, or inconvenience or distress has been caused to, any person as a result of any matter in respect of which a complaint made against that practitioner has been investigated under the scheme;

(b) provide for an authorised practitioner against whom a determination has been made by the Conveyancing Ombudsman, on an investigation under the scheme, to be relieved of the obligation to comply with that determination on publishing, in such manner as may be required by the scheme, details of the determination and of the practitioner's reasons for failing to comply with it.

9 The scheme may provide that compensation which the Conveyancing Ombudsman may require to be paid by virtue of any provision made under paragraph 8(a)(ii) is not to exceed a specified amount.

10 Subject to paragraphs 11 and 12, a determination of the Conveyancing Ombudsman under the scheme which is, by virtue of the complainant's acceptance of it, binding on the authorised practitioner concerned shall be final and shall not be questioned in any court of law.

11 Paragraph 10 does not apply where the authorised practitioner concerned is, by provisions of the scheme made by virtue of paragraph 8(b), relieved of the obligation to comply with the Conveyancing Ombudsman's determination.

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12 Where a determination of the Conveyancing Ombudsman is binding on an authorised practitioner, the Conveyancing Ombudsman shall, at the request of that practitioner, state a case for the opinion of the High Court on any question of law.

13 Where a case is so stated the High Court may direct the Conveyancing Ombudsman to reconsider the complaint.

14 A decision of the High Court under paragraph 13 shall be treated as a judgment of the High Court within the meaning of section 16 of the [M96]Supreme Court Act 1981 (jurisdiction of Court of Appeal to hear and determine appeals).

**Marginal Citations**
**M96** 1981 c. 54.

15 No appeal shall lie from any decision of the High Court under paragraph 13 without the leave of the Court of Appeal.

16 Nothing in this Schedule is to be taken as prejudicing the generality of the power to make rules under section 43.

## SCHEDULE 8

Section 53.

### LICENSED CONVEYANCERS

### PART I

### ADDITIONAL POWERS OF COUNCIL FOR LICENSED CONVEYANCERS IN CONNECTION WITH SECTIONS 27, 28, AND 53

*General*

1 In this Schedule—

"the [M97]Act of 1985" means the Administration of Justice Act 1985;

"advocacy licence" means a licence issued under section 53 and constituting the grant by the Council to the licensed conveyancer concerned of a right of audience;

"the Council" means the Council for Licensed Conveyancers;

"the Discipline and Appeals Committee" means the committee established under section 25 of the Act of 1985;

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"litigation licence" means a licence issued under section 53 and constituting the grant by the Council to the licensed conveyancer concerned of a right to conduct litigation;

"probate licence" means a licence issued under section 53 and constituting the grant by the Council to the licensed conveyancer concerned of an exemption under section 55; and

"relevant licence" means a licence under Part II of the Act of 1985 or an advocacy, litigation or probate licence.

**Commencement Information**

**I66** Sch. 8 Pt. 1 para. 1 wholly in force at 7.12.2004; Sch. 8 Pt. 1 para. 1 in force at 1.4.1991 (except in so far as it relates to certain exemptions under section 55) see s. 124(3) and S.I. 1991/608, art. 2, Sch.; Sch. 8 Pt. 1 para. 1 otherwise in force at 7.12.2004 by S.I. 2004/2950, **art. 2**

**Marginal Citations**

**M97** 1985 c. 61.

*Qualification regulations and rules of conduct*

2 (1) For the purpose of exercising the powers conferred by section 53 the Council may make such qualification regulations and rules of conduct as it considers appropriate in connection with the granting of the rights or exemption in question.

(2) In making any such regulations or rules the Council may, in particular, do anything which it has power to do in making rules under section 13 of the Act of 1985 (training rules).

**Commencement Information**

**I67** Sch. 8 para. 2 wholly in force at 7.12.2004; Sch. 8 para. 2 in force at 1.4.1991 (except in so far as it relates to certain exemptions under section 55) see s. 124(3) and S.I. 1991/608, art. 2, Sch.; Sch. 8 para. 2 otherwise in force at 7.12.2004 by S.I. 2004/2950, **art. 2**

*Applications for licences*

3 (1) An application for an advocacy licence, litigation licence or probate licence shall be made to the Council in such manner, and shall be accompanied by such fee, as may be prescribed by rules made by the Council under this paragraph.

(2) Any such rules—

(a) may prescribe the forms to be used in connection with applications for any such licence; and

(b) may provide for applications of any description specified in the rules to be exempt from any of the requirements of the rules.

(3) Rules made under section 14 of the Act of 1985 and this paragraph may make provision with respect to applications for composite licences.

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**Commencement Information**

**I68** Sch. 8 Pt. 1 para. 3 wholly in force at 7.12.2004; Sch. 8 Pt. 1 para. 3 in force at 1.4.1991 (except in so far as it relates to certain exemptions under section 55) see s. 124(3) and S.I. 1991/608, art. 2, Sch.; Sch. 8 Pt. 1 para. 3 otherwise in force at 7.12.2004 by S.I. 2004/2950, **art. 2**

*Issue of licences*

4 (1) If, on an application for an advocacy, litigation or probate licence, the Council is satisfied that—

(a) the applicant has complied with such qualification regulations, rules of conduct or other requirements as are applicable in his case in relation to the licence applied for;

(b) that he has made adequate arrangements for the purpose of complying with any provisions which are applicable in his case in relation to the licence applied for; and

(c) that he is a fit and proper person to provide the advocacy, litigation or probate services in question,

the Council may issue the applicant either with a licence free of conditions or with a licence subject to such conditions as it sees fit to impose.

(2) If the Council is for any reason not so satisfied, or for any other reason refuses the application, it shall notify the applicant of its refusal and of the grounds on which the application has been refused.

(3) Subsections (3) to (6) of section 15 of the Act of 1985 (issue of licences under section 14 of that Act) shall apply, with the necessary modifications, with respect to any application under paragraph 3 and any licence in force under section 53 as they apply with respect to any application under section 14 of that Act and any licence under Part II of that Act.

**Commencement Information**

**I69** Sch. 8 Pt. 1 para. 4 wholly in force at 7.12.2004; Sch. 8 Pt. 1 para. 4 in force at 1.4.1991 (except in so far as it relates to certain exemptions under section 55) see s. 124(3) and S.I. 1991/608, art. 2, Sch.; Sch. 8 Pt. 1 para. 4 otherwise in force at 7.12.2004 by S.I. 2004/2950, **art. 2**

*Conditional licences*

5 (1) This paragraph has effect in any case where a person applies for an advocacy, litigation or probate licence—

(a) for the first time;

(b) when a licence of the kind applied for which has previously been held by him has been subject to conditions;

(c) when, on the first day of the period to which the licence applied for would (if granted) relate, a period of twelve months or more will have elapsed since he held a licence of that kind;

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(d) after the Discipline and Appeals Committee have made any order in his case under section 26 of the Act of 1985.

(2) This paragraph also has effect in any case where a person applies for such a licence and any of the circumstances mentioned in paragraphs (e) to (j) of section 16 of the Act of 1985 (conditional licences) apply in his case.

(3) Sub-paragraphs (1) and (2) are subject to subsection (4) of section 16 of the Act of 1985, as applied by sub-paragraph (7) of this paragraph.

(4) In any case where this paragraph has effect the Council may, on issuing an advocacy, litigation or probate licence to the applicant, issue it subject to such conditions as the Council thinks fit.

(5) The Council's decision in any such case to impose any particular conditions under this paragraph may be made by reference to such criteria of general application as may have been determined by the Council.

(6) Without prejudice to the generality of sub-paragraph (4), conditions may be imposed under that sub-paragraph—

(a) for restricting the kinds of service that may be provided by the applicant by virtue of his having the advocacy, litigation or probate licence in question; or

(b) for requiring the applicant to take any specified steps that will, in the opinion of the Council, be conducive to his carrying on an efficient practice as a licensed conveyancer who provides the additional services authorised by that licence,

and conditions may be imposed under that sub-paragraph (whether for the purposes mentioned in paragraph (b) or otherwise) as they may be under Part II of the Act of 1985.

(7) Subsections (4) and (5) of section 16 of the Act of 1985 shall have effect, with the necessary modifications, with respect to an advocacy, litigation or probate licence as they have effect with respect to a licence issued under Part II of that Act.

**Commencement Information**

**I70** Sch. 8 Pt. 1 para. 5 wholly in force at 7.12.2004; Sch. 8 Pt. 1 para. 5 in force at 1.4.1991 (except in so far as it relates to certain exemptions under section 55) see s. 124(3) and S.I. 1991/608, art. 2, Sch.; Sch. 8 Pt. 1 para. 5 otherwise in force at 7.12.2004 by S.I. 2004/2950, **art. 2**

*Register of licensed conveyancers*

6 (1) Where an advocacy, litigation or probate licence is in force with respect to a licensed conveyancer, the Council shall enter details of the licence in the appropriate place in the register of licensed conveyancers maintained by it under section 19 of the Act of 1985.

(2) The Council shall accordingly cause the appropriate entries to be made on the issue of any advocacy, litigation or probate licence and deletions on any such licence ceasing to be in force.

(3) Where any such licence is for the time being suspended, the Council shall cause that fact to be noted in the register against the name of the licensed conveyancer concerned.

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**Commencement Information**

**I71** Sch. 8 Pt. 1 para. 6 wholly in force at 7.12.2004; Sch. 8 Pt. 1 para. 6 in force at 1.4.1991 (except in so far as it relates to certain exemptions under section 55) see s. 124(3) and S.I. 1991/608, art. 2, Sch.; Sch. 8 Pt. 1 para. 6 otherwise in force at 7.12.2004 by S.I. 2004/2950, **art. 2**

*Code of conduct*

7 (1) The rules made by the Council under section 20 of the Act of 1985 (rules as to professional practice, conduct and discipline) shall also be made in pursuance of the Council's general duty under section 53(5).

(2) Those rules may also provide for regulating the association of licensed conveyancers with respect to whom advocacy, litigation or probate licences are in force, with other persons in connection with the provision of advocacy, litigation or (as the case may be) probate services to members of the public.

**Commencement Information**

**I72** Sch. 8 Pt. 1 para. 7 wholly in force at 7.12.2004; Sch. 8 Pt. 1 para. 7 in force at 1.4.1991 (except in so far as it relates to certain exemptions under section 55) see s. 124(3) and S.I. 1991/608, art. 2, Sch.; Sch. 8 Pt. 1 para. 7 otherwise in force at 7.12.2004 by S.I. 2004/2950, **art. 2**

*Effect of suspension or disqualification under Part II of the Act of 1985*

8 Where a licence issued under Part II of the Act of 1985 ceases to be in force (whether because it is suspended or the licensed conveyancer concerned is disqualified from holding such a licence or for any other reason), any advocacy, litigation or probate licence in force with respect to that licensed conveyancer at the time shall cease to have effect to the same extent as the licence under Part II of the Act of 1985.

**Commencement Information**

**I73** Sch. 8 Pt. 1 para. 8 wholly in force at 7.12.2004; Sch. 8 Pt. 1 para. 8 in force at 1.4.1991 (except in so far as it relates to certain exemptions under section 55) see s. 124(3) and S.I. 1991/608, art. 2, Sch.; Sch. 8 Pt. 1 para. 8 otherwise in force at 7.12.2004 by S.I. 2004/2950, **art. 2**

*Removal of disqualification from holding a licence*

9 (1) Where the Discipline and Appeals Committee have made any order directing that a licensed conveyancer shall be disqualified (either permanently or during a specified period) from holding an advocacy licence, a litigation licence or a probate licence, he shall not, while his disqualification continues in force, be issued with a licence of a kind to which the disqualification relates unless the Committee, on an application made to them in that behalf, direct otherwise.

(2) An application under this paragraph shall not be made to the Committee—

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(a) within ten months of the date of the Committee's order relating to the kind of licence in question; or

(b) within ten months of a previous such application by the licensed conveyancer concerned with respect to that kind of licence.

**Commencement Information**

**I74** Sch. 8 Pt. 1 para. 9 wholly in force at 7.12.2004; Sch. 8 Pt. 1 para. 9 in force at 1.4.1991 (except in so far as it relates to certain exemptions under section 55) see s. 124(3) and S.I. 1991/608, art. 2, Sch.; Sch. 8 Pt. 1 para. 9 otherwise in force at 7.12.2004 by S.I. 2004/2950, **art. 2**

*Revocation on grounds of error or fraud*

10 (1) Where the Discipline and Appeals Committee are satisfied that a relevant licence was issued to any person as a result of any error, or as a result of fraud on the part of that person, they may if they think fit by order revoke that licence and any other relevant licence issued to that person.

(2) Where a person has had a relevant licence which was held by him revoked, he shall not be issued with any relevant licence except on the advice of the Committee given to the Council as the result of an application made by that person to the Committee.

(3) On any such application the Committee may, if they think fit, direct that the applicant shall be disqualified from holding any relevant licence, or a relevant licence of a specified kind, until the expiry of such period as may be specified in the direction.

(4) Paragraph 9 shall apply in relation to a direction under sub-paragraph (3) as it applies in relation to any direction of a kind mentioned in sub-paragraph (1) of that paragraph.

**Commencement Information**

**I75** Sch. 8 Pt. 1 para. 10 wholly in force at 7.12.2004; Sch. 8 Pt. 1 para. 10 in force at 1.4.1991 (except in so far as it relates to certain exemptions under section 55) see s. 124(3) and S.I. 1991/608, art. 2, Sch.; Sch. 8 Pt. 1 para. 10 otherwise in force at 7.12.2004 by S.I. 2004/2950, **art. 2**

*Recognised bodies*

11 Section 32 of the Act of 1985 (provision of conveyancing services by recognised bodies) shall have effect as if the references to conveyancing services included references to advocacy, litigation or probate services.

**Commencement Information**

**I76** Sch. 8 Pt. 1 para. 11 wholly in force at 7.12.2004; Sch. 8 Pt. 1 para. 11 in force at 1.4.1991 (except in so far as it relates to certain exemptions under section 55) see s. 124(3) and S.I. 1991/608, art. 2, Sch.; Sch. 8 Pt. 1 para. 11 otherwise in force at 7.12.2004 by S.I. 2004/2950, **art. 2**

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## PART II

AMENDMENTS OF PROVISIONS RELATING TO POWERS OF COUNCIL ETC.

*Delegation of powers etc.*

12 (1) Subject to any provision to the contrary made by or under any enactment, the Council may arrange for any of its functions (other than those of making rules, schemes or standing orders under Part II of the Act of 1985) to be discharged—

(a) by a committee of the Council; or

(b) by a member of the Council's staff.

(2) The Council may make rules providing for functions conferred by Part II of the Act of 1985 on any committee established under that Part to be discharged by a committee established under this paragraph.

(3) In exercising its powers under sub-paragraphs (1) or (2), the Council may impose restrictions or conditions on the committee by which the functions concerned are to be discharged.

(4) The Council may make rules providing for any of its committees (including one established under Part II of the Act of 1985) to refer any matter of a kind specified in the rules, in such circumstances as may be so specified, to any other such committee, or to the Council.

(5) Where any matter is referred under sub-paragraph (4) to a committee of the Council or to the Council, that committee or (as the case may be) the Council shall have the same power to deal with it as the committee referring it.

(6) The number of members of a committee established under this paragraph, and the terms on which they are to hold and vacate office, shall be fixed by the Council.

(7) A committee established under this paragraph may include persons who are not members of the Council (whether licensed conveyancers or not) but a majority of the members of any such committee (including the chairman) shall be members of the Council.

(8) The validity of any proceedings of such a committee shall not be affected by any casual vacancy among its members.

(9) Any rules made under this paragraph—

(a) may make such incidental and supplemental provision as the Council considers appropriate; and

(b) may make different provision for different circumstances.

**Commencement Information**

**I77** Sch. 8 para. 12 in force 1.4.1991 (except in so far as it relates to certain exemptions under section 55) see s. 124(3) and S.I. 1991/608, art. 2, **Sch.**

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*Council's intervention powers*

13 (1) Subject to sub-paragraph (2), the powers conferred by Part II of Schedule 5 to the Act of 1985 (intervention in licensed conveyancer's practice) shall also be exercisable where—

(a) the Council is satisfied that a sole licensed conveyancer has abandoned his practice; or

(b) the Council is satisfied that a licensed conveyancer has been practising in breach of any condition imposed on him in connection with any relevant licence of his.

(2) The powers—

(a) conferred by Part II of Schedule 5 to the Act of 1985; and

(b) exercisable by virtue of sub-paragraph (1)(b),

shall only be exercised if the Council has given the licensed conveyancer notice in writing that it is satisfied as mentioned in sub-paragraph (1)(b) and also (at the same or any later time) notice in writing that the powers conferred by Part II of that Schedule are accordingly exercisable in his case.

**Commencement Information**

**I78** Sch. 8 para. 13 in force 1.4.1991 (except in so far as it relates to certain exemptions under section 55) see s. 124(3) and S.I. 1991/608, art. 2, **Sch.**

*Inadequate professional services*

14 (1) The Council may take any of the steps mentioned in paragraph 15 ("the steps") with respect to a licensed conveyancer where it appears to it that the professional services provided by him in connection with any matter in which he or his firm has been instructed by a client have, in any respect, not been of the quality which it is reasonable to expect of him as a licensed conveyancer.

(2) The Council shall not take any of the steps unless it is satisfied that in all the circumstances of the case it is appropriate to do so.

(3) In determining in any case whether it is appropriate to take any of the steps, the Council may—

(a) have regard to the existence of any remedy which it is reasonable to expect to be available to the client in civil proceedings; and

(b) where proceedings seeking any such remedy have not been begun by him, have regard to whether it is reasonable to expect him to begin them.

(4) The Council's powers under this paragraph are exercisable in relation to a person who was, at the material time, a licensed conveyancer even though he is no longer a licensed conveyancer and references to a licensed conveyancer in this paragraph and paragraphs 15 to 20, so far as they relate to the exercise of those powers, shall be construed accordingly.

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**Commencement Information**

**I79** Sch. 8 para. 14 in force 1.4.1991 (except in so far as it relates to certain exemptions under section 55) see s. 124(3) and S.I. 1991/608, art. 2, **Sch.**

*Inadequate professional services: steps that may be taken*

15 (1) The steps are—

(a) determining that the costs to which the licensed conveyancer is entitled in respect of his services ("the costs") are to be limited to such amount as may be specified in the determination and directing him to comply, or to secure compliance, with such one or more of the permitted requirements as appear to the Council to be necessary in order for effect to be given to its determination;

(b) directing him to secure the rectification, at his expense or at that of his firm, of any such error, omission or other deficiency arising in connection with the matter in question as it may specify;

(c) directing him to pay such compensation to the client as the Council sees fit to specify in the direction;

(d) directing him to take, at his expense or at that of his firm, such other action in the interests of the client as it may specify.

(2) The "permitted requirements" are—

(a) that the whole or part of any amount already paid by or on behalf of the client in respect of the costs be refunded;

(b) that the whole or part of the costs be remitted;

(c) that the right to recover the costs be waived, whether wholly or to any specified extent.

(3) The power of the Council to take any such steps is not confined to cases where the client may have a cause of action against the licensed conveyancer for negligence.

**Commencement Information**

**I80** Sch. 8 para. 15 in force 1.4.1991 (except in so far as it relates to certain exemptions under section 55) see s. 124(3) and S.I. 1991/608, art. 2, **Sch.**

*Inadequate professional services: compensation*

16 (1) The amount specified in a direction by virtue of paragraph 15(1)(c) shall not exceed **[**[F342]£5,000**]**.

(2) The **[**[F343]Secretary of State**]** may by order made by statutory instrument amend sub-paragraph (1) by substituting for the sum of £1,000 such other sum as he considers appropriate.

(3) Before making any such order the **[**[F343]Secretary of State**]** shall consult the Council.

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(4) Any statutory instrument made under this paragraph shall be subject to annulment in pursuance of a resolution of either House of Parliament.

**Textual Amendments**

**F342** Figure "£5,000" in Sch. 8 para. 16(1) substituted (31.3.2000) for figure "£1,000" by S.I. 2000/643, **art. 2**

**F343** Words in Sch. 8 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)

**Commencement Information**

**I81** Sch. 8 para. 16 in force 1.4.1991 (except in so far as it relates to certain exemptions under section 55) see s. 124(3) and S.I. 1991/608, art. 2, **Sch.**

*Inadequate professional services: failure to comply with direction*

17 (1) If a licensed conveyancer fails to comply with a direction given under this Part of this Schedule, any person may make a complaint in respect of that failure to the Discipline and Appeals Committee; but no other proceedings whatever shall be brought in respect of it.

(2) On the hearing of such a complaint the Discipline and Appeals Committee may, if it thinks fit (and whether or not it makes any order under section 26(2) of the Act of 1985), direct that the direction be treated, for the purpose of enforcement, as if it were contained in an order made by the High Court.

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

**C37** Sch. 8 para. 17 modified (temp.) (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 209, 211, **Sch. 22 para. 8(a)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(e)**

**Commencement Information**

**I82** Sch. 8 para. 17 in force 1.4.1991 (except in so far as it relates to certain exemptions under section 55) see s. 124(3) and S.I. 1991/608, art. 2, **Sch.**

*Inadequate professional services: fees*

18 (1) The Council may, by regulations made with the concurrence of the **[**[F344]Secretary of State**]** , make provision for the payment, by any client with respect to whom the Council is asked to consider whether to take any of the steps, of such fee as may be prescribed.

(2) The regulations may provide for the exemption of such classes of client as may be prescribed.

(3) Where a client pays the prescribed fee it shall be repaid to him if the Council takes any of the steps in the matter with respect to which the fee was paid.

(4) In this paragraph "prescribed" means prescribed by the regulations.

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**Textual Amendments**

**F344** Words in Sch. 8 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)

**Commencement Information**

**I83** Sch. 8 para. 18 in force 1.4.1991 (except in so far as it relates to certain exemptions under section 55) see s. 124(3) and S.I. 1991/608, art. 2, **Sch.**

*Inadequate professional services: costs*

19 Where the Council takes any of the steps with respect to a licensed conveyancer it may also direct him to pay to the Council—

(a) the amount of the fee repayable by the Council to the client under paragraph 18(3); and

(b) an amount which is calculated by the Council as the cost to it of dealing with the complaint, or which in its opinion represents a reasonable contribution towards that cost.

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

**C38** Sch. 8 para. 19 modified (temp.) (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 209, 211, **Sch. 22 para. 8(b)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(ii)**

**Commencement Information**

**I84** Sch. 8 para. 19 in force 1.4.1991 (except in so far as it relates to certain exemptions under section 55) see s. 124(3) and S.I. 1991/608, art. 2, **Sch.**

*Duty of Discipline and Appeals Committee*

20 Where the Discipline and Appeals Committee—

(a) is considering, or has considered, an application or complaint with respect to a licensed conveyancer; and

(b) is of the opinion that the Council should consider whether to take any of the steps with respect to that licensed conveyancer,

it shall inform the Council.

**Commencement Information**

**I85** Sch. 8 para. 20 in force 1.4.1991 (except in so far as it relates to certain exemptions under section 55) see s. 124(3) and S.I. 1991/608, art. 2, **Sch.**

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*Power to examine files*

21 (1) Where the Council is satisfied that it is necessary to do so for the purpose of investigating any complaint made to it—

(a) alleging professional misconduct by a licensed conveyancer; or

(b) relating to the quality of any professional services provided by a licensed conveyancer,

the Council may give notice to the licensed conveyancer or his firm requiring the production or delivery to any person appointed by the Council, at a time and place to be fixed by the Council, of all documents in the possession of the licensed conveyancer or his firm in connection with the matters to which the complaint relates (whether or not they relate also to other matters).

(2) The provisions of paragraphs 9(2) to (12), 11 and 12 of Schedule 5 to the Act of 1985 shall apply in relation to the powers conferred by sub-paragraph (1) as they apply in relation to the powers conferred by paragraph 9(1) of that Schedule.

**Commencement Information**

**I86** Sch. 8 para. 21 in force 1.4.1991 (except in so far as it relates to certain exemptions under section 55) see s. 124(3) and S.I. 1991/608, art. 2, **Sch.**

*Interest on clients' money*

22 Where a licensed conveyancer—

(a) is required by rules made under section 23 of the Act of 1985 to place any sum of money in a separate deposit account; but

(b) fails to do so as soon as is reasonably practicable,

the Council may give a direction requiring him to account to the client in question for any interest which has not been earned but which would have been earned if that sum had been placed in a separate deposit account as soon as was reasonably practicable.

**Commencement Information**

**I87** Sch. 8 para. 22 in force 1.4.1991 (except in so far as it relates to certain exemptions under section 55) see s. 124(3) and S.I. 1991/608, art. 2, **Sch.**

*Full and limited licences*

23 In section 15 of the Act of 1985 (issue of licences by Council), the following subsections shall be added at the end—

"(7) A licence issued under this Part may be endorsed by the Council as—

(a) a full licence, if the Council is satisfied that the person to whom it is issued has complied, or will comply, with the requirements made under this Part with respect to professional indemnity and compensation; or

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(b) as a limited licence, if the Council is not so satisfied.

(8) Rules made under section 21 may make provision for the making, or removal, of endorsements while a licence is in force and for the recording of any such endorsement, or of its removal, in the register maintained under section 19."

**Commencement Information**

**I88** Sch. 8 para. 23 in force 1.4.1991 (except in so far as it relates to certain exemptions under section 55) see s. 124(3) and S.I. 1991/608, art. 2, **Sch.**

*Cases in which conditions may be attached to licences*

24 In section 16(1) of the Act of 1985 (cases in which conditions may be attached to licences), the following shall be substituted for paragraph (i)—

"(i) after having been committed to prison in civil proceedings;

(ia) after having been convicted of an offence involving dishonesty or deception or a serious arrestable offence (as defined by section 116 of the Police and Criminal Evidence Act 1984); or".

**Commencement Information**

**I89** Sch. 8 para. 24 in force 1.4.1991 (except in so far as it relates to certain exemptions under section 55) see s. 124(3) and S.I. 1991/608, art. 2, **Sch.**

## SCHEDULE 9

Section 55.

### PROBATE

*Advice from the Advisory Committee*

1 (1) Where the **[**[F345]Secretary of State**]** receives an application from a professional or other body ("the applicant") for approval under this Schedule, he shall refer the application to the **[**[F346]Consultative Panel**]**.

(2) It shall be the duty of the **[**[F346]Consultative Panel**]** to consider the application and to give to the **[**[F345]Secretary of State**]** such advice as it considers appropriate.

**Textual Amendments**

**F345** Words in Sch. 9 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)

**F346** Words in Sch. 9 para. 1(1)(2) substituted (1.1.2000) by 1999 c. 22, **s. 35(4)(a)** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)**

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*Advice from the President of the Family Division*

2 (1) When the **[**[F347]Secretary of State**]** has received the **[**[F348]Consultative Panel's**]** advice he shall refer the application, together with that advice, to the President of the Family Division.

(2) It shall be the duty of the President to consider the application, in the light of that advice, and to give to the **[**[F347]Secretary of State**]** such advice as he considers appropriate.

(3) If the President asks the Committee to give him advice with respect to the application, it shall be the duty of the **[**[F349]Consultative Panel**]** to do so.

**Textual Amendments**

**F347** Words in Sch. 9 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)

**F348** Words in Sch. 9 para. 2(1) substituted (1.1.2000) by 1999 c.22, **s. 35(4)(b)** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)**

**F349** Words in Sch. 9 para. 2(3) substituted (1.1.2000) by 1999 c. 22, **s. 35(4)(c)** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)**

*Information to be supplied by applicant*

3 The applicant shall provide the **[**[F350]Secretary of State**]** , the **[**[F351]Consultative Panel**]** and the President with any information that they may reasonably require.

**Textual Amendments**

**F350** Words in Sch. 9 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)

**F351** Words in Sch. 9 para. 3 substituted (1.1.2000) by 1999 c. 22, **s. 35(4)(a)** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)**

*Approval by **[**[F352]Secretary of State**]***

**Textual Amendments**

**F352** Words in Sch. 9 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)

4 Having considered the advice given to him by the **[**[F353]Consultative Panel**]** and by the President, the **[**[F354]Secretary of State**]** may by order approve the application if, but only if, he is satisfied that the applicant has in force suitable arrangements—

(a) for training; and

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(b) for ensuring that any person to whom the applicant grants the exemption mentioned in section 55(1) will at all times, while exempt, comply with the requirements of section 55(2)(a) to (e).

**Textual Amendments**

**F353** Words in Sch. 9 para. 4 substituted (1.1.2000) by 1999 c. 22, **s. 35(4)(a)** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)**

**F354** Words in Sch. 9 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)

*Refusal to approve*

5 (1) If the **[**[F355]Secretary of State**]** proposes to refuse the application he shall give the applicant written notice of his proposal.

(2) The notice shall—

(a) give the **[**[F356]Secretary of State's**]** reasons for proposing to refuse the application; and

(b) inform the applicant of the effect of sub-paragraph (3).

(3) Where such a notice is served, it shall be the duty of the **[**[F355]Secretary of State**]** , before determining whether to grant or refuse the application, to consider any representations duly made by the applicant.

(4) For the purposes of sub-paragraph (3), representations are duly made if—

(a) they are made to the **[**[F355]Secretary of State**]** before the end of the period of 28 days beginning with the day on which the notice is served; and

(b) unless the **[**[F355]Secretary of State**]** directs in a particular case, they are in writing.

(5) If the **[**[F355]Secretary of State**]** refuses the application he shall give notice to the applicant in writing.

(6) Any notice given under sub-paragraph (5) must give the **[**[F356]Secretary of State's**]** reasons for refusing the application.

**Textual Amendments**

**F355** Words in Sch. 9 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)

**F356** Words in Sch. 9 para. 5 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(3)** (with arts. 6, 8)

*Revocation of approval*

6 (1) The revocation of any approval given under this Schedule shall be by order ("a revoking order") made by the **[**[F357]Secretary of State**]**.

***Status:*** *Point in time view as at 12/01/2006. This version of this Act contains provisions that are not valid for this point in time.*
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(2) A revoking order may only be made if—

(a) the approved body has made a written request to the **[**[F357]Secretary of State**]** asking for it to be made;

(b) the approved body has agreed in writing to its being made; or

(c) the **[**[F357]Secretary of State**]** is satisfied that the circumstances at the time when he is considering the question are such that, had that body then been applying to become an approved body, its application would have failed.

(3) A revoking order may make such transitional and incidental provision as the **[**[F357]Secretary of State**]** considers necessary or expedient.

(4) Where a revoking order is made—

(a) the exemption granted to any person by the body with respect to whom the order is made shall cease to have effect, subject to any transitional provision made by the order; and

(b) the **[**[F357]Secretary of State**]** shall—

(i) give the body with respect to whom the order is made written notice of the making of the order;

(ii) take such steps as are reasonably practicable to bring the making of the order to the attention of members of that body; and

(iii) publish notice of the making of the order in such manner as he considers appropriate for bringing it to the attention of persons (other than those members) who, in his opinion, are likely to be affected by the order.

**Textual Amendments**

**F357** Words in Sch. 9 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)

*Role of the Advisory Committee*

7 (1) Where the **[**[F358]Secretary of State**]** is considering whether to make a revoking order by virtue of paragraph 6(2)(c)—

(a) he shall seek the advice of the **[**[F359]Consultative Panel**]**; and

(b) the **[**[F359]Consultative Panel**]** shall carry out such investigations with respect to the approved body as it considers appropriate.

(2) Where—

(a) the **[**[F358]Secretary of State**]** has not sought the advice of the **[**[F359]Consultative Panel**]** under sub-paragraph (1); but

(b) the **[**[F359]Consultative Panel**]** has reason to believe that there may be grounds for recommending that a revoking order be made under paragraph 6(2)(c) with respect to an approved body,

it may carry out such investigations with respect to the approved body as it considers appropriate.

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(3) If, on concluding any investigation carried out under sub-paragraph (1) or (2), the **[**[F359]Consultative Panel**]** considers that there are grounds for recommending the making of a revoking order with respect to the approved body concerned, it shall advise the **[**[F358]Secretary of State**]** accordingly.

**Textual Amendments**

**F358** Words in Sch. 9 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)

**F359** Words in Sch. 9 para. 7(1)(a)(b)(2)(a)(b)(3) substituted (1.1.2000) by 1999 c. 22, **s. 35(4)(a)** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)**

*Duty to comply with requests for information*

8 (1) Where the **[**[F360]Consultative Panel**]** is carrying out an investigation under paragraph 7 it may require the approved body concerned to provide it with such information, including copies of such documents, as it may reasonably require for the purposes of the investigation.

(2) No person shall be required under sub-paragraph (1) to provide any information, or produce any copy of a document, which he could not be compelled to provide or produce in civil proceedings before a court.

(3) Where an approved body fails, without reasonable excuse, to comply with a request made to it by the **[**[F361]Consultative Panel**]** under sub-paragraph (1), paragraph 6(2)(c) shall be taken to have been satisfied in relation to that body.

**Textual Amendments**

**F360** Words in Sch. 9 para. 8(1) substituted (1.1.2000) by 1999 c.22, **s. 35(4)(a)** (with Sch. 14 para. 7(2); S.I. 1999/3344, **art. 2(a)**

**F361** Words in Sch. 9 para. 8(3) substituted (1.1.2000) by 1999 c. 22, **s. 35(4)(c)** (with Sch. 14 para. 7(2)); S.I. 1999/3344, **art. 2(a)**

*Notice to approved body*

9 (1) If the **[**[F362]Consultative Panel**]** advises the **[**[F363]Secretary of State**]** that there are grounds for recommending the making of a revoking order with respect to an approved body, the **[**[F363]Secretary of State**]** shall send written notice of that advice, and of the effect of such an order, to that body.

(2) Any such notice shall invite the approved body to make representations in writing to the **[**[F363]Secretary of State**]** or such person as he may appoint for the purpose.

(3) Any such representations must be made before the end of the period of three months beginning with the date on which the notice was given.

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**Textual Amendments**

**F362** Words in Sch. 9 para. 9(1) substituted (1.1.2000) by 1999 c. 22, **s. 35(4)(a)** (with Sch. 14 para. 7(2); S.I. 1999/3344 art. 2(a)

**F363** Words in Sch. 9 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)

*Notice to members of approved body*

10 (1) Where—

(a) the **[**[F364]Secretary of State**]** has given notice to an approved body under paragraph 9(1); or

(b) is proposing to make a revoking order with respect to an approved body, by virtue of paragraph 6(2)(a) or (b),

he shall take such steps as are reasonably practicable to bring the matter to the attention of the members of the approved body and of any other persons who, in his opinion, are likely to be affected by any revoking order made with respect to that body.

(2) Any such steps shall include inviting those members and other persons to make representations to the **[**[F364]Secretary of State**]** or (as the case may be) to the person appointed by him for the purpose.

(3) Any such representations—

(a) shall, except in such circumstances as the **[**[F364]Secretary of State**]** may specify, be in writing; and

(b) must be made before the end of the period of three months beginning with such date as may be fixed by the **[**[F364]Secretary of State**]** .

**Textual Amendments**

**F364** Words in Sch. 9 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)

*Consideration by **[**[F365]Secretary of State**]** and President*

**Textual Amendments**

**F365** Words in Sch. 9 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)

11 (1) It shall be the duty of the **[**[F366]Secretary of State**]** to consider—

(a) any advice given to him by the **[**[F367]Consultative Panel**]** under paragraph 7; and

(b) any representations duly made under paragraph 9 or 10.

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(2) Having done so, the **[**[F366]Secretary of State**]** shall—

(a) send to the President a copy of any such advice and of any such representations (including a note of any oral representations); and

(b) inform the President of his view as to whether or not a revoking order with respect to the approved body concerned should be made.

(3) It shall be the duty of the President—

(a) to consider the information sent to him by the **[**[F366]Secretary of State**]** ;

(b) to inform the **[**[F366]Secretary of State**]** of his own decision in the matter; and

(c) to give his reasons, in writing, for his decision.

(4) No revoking order shall be made with respect to the approved body unless the **[**[F366]Secretary of State**]** and the President agree that it should be made.

**Textual Amendments**

**F366** Words in Sch. 9 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(1)(d)** (with arts. 6, 8)

**F367** Words in Sch. 9 para. 11(1)(a) substituted (1.1.2000) by 1999 c. 22, **s. 35(4)(a)** (with Sch. 14 para. 7(2)); S.I. 1999/3344 art. 2(a)

## SCHEDULE 10

Section 71(2).

### JUDICIAL AND OTHER APPOINTMENTS

*Appellate Jurisdiction Act 1876 (c. 59)*

*Lord of Appeal in Ordinary*

1 In section 6 of the Appellate Jurisdiction Act 1876 (appointment of Lords of Appeal in Ordinary) for the words "a practising barrister in England or Ireland, or a practising advocate in Scotland" there shall be substituted—

"(a) a person who has a Supreme Court qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990;

(b) an advocate in Scotland, or a solicitor entitled to appear in the Court of Session and the High Court of Justiciary; or

(c) a practising member of the Bar of Northern Ireland."

*War Pensions (Administrative Provisions) Act 1919 (c. 53)*

*Pensions Appeal Tribunal*

2 (1) In paragraph 2 of the Schedule to the War Pensions (Administrative Provisions) Act 1919 (members of tribunal) in sub-paragraph (i) the words from "being a barrister" to "standing" shall be omitted.

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(2) After that paragraph there shall be inserted—

"2A For the purposes of paragraph 2(i) the legal representative shall be—

(a) a person who has a 7 year general qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990;

(b) an advocate or solicitor in Scotland of at least 7 years' standing; or

(c) a member of the Bar of Northern Ireland or solicitor of the Supreme Court of Northern Ireland of at least 7 years' standing."

*Land Registration Act 1925 (c. 21)*

*District Registrar*

3 F368 . . . . . .

**Textual Amendments**

**F368** Sch. 10 para. 3 repealed (13.10.2003) by 2002 c. 9, ss. 135, 136(2), Sch. 13 (with s. 129, Sch. 12 para. 1); S.I. 2003/1725, **art. 2**

*London Building Acts (Amendment) Act 1939 (c. xcvii)*

4 In section 109(1) of the London Building Acts (Amendment) Act 1939 (constitution of appeal tribunal) in paragraph (b) for the words "barrister or a solicitor" there shall be substituted " a person who has a general qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990" ".

*Pensions Appeal Tribunals Act 1943 (c. 39)*

F369 5 . . . . . .

**Textual Amendments**

**F369** Sch. 10 para. 5 repealed (9.4.2001) by 2000 c. 19, s. 85, **Sch. 9 Pt. IV** (with s. 83(6)); S.I. 2000/2994, **art. 2(6)**

*Agriculture Act 1947 (c. 48)*

*Agricultural Land Tribunal*

6 (1) In paragraph 13(1) of Schedule 9 to the Agriculture Act 1947 (chairman of agricultural land tribunal) for the words from "barrister" to the end there shall be substituted " person who has a 7 year general qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990." "

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(2) In paragraph 14 of that Schedule (deputies) for the words from "barristers" to the end there shall be substituted the words " persons eligible for appointment under paragraph 13(1)." "

*Lands Tribunal Act 1949 (c. 42)*

*Lands Tribunal*

7 In section 2(2) of the Lands Tribunal Act 1949 (President and members of Lands Tribunal)—

(a) after the words "person who" there shall be inserted " (a)" ";

(b) for the words "or a barrister-at-law of at least seven years' standing" there shall be substituted

"(b) has a 7 year general qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990; or

(c) is a member of the Bar of Northern Ireland of at least 7 years' standing,"; and

(c) for the words "barristers-at-law or solicitors of the like standing" there shall be substituted " persons falling within paragraph (b) or (c) or solicitors of the Supreme Court of Northern Ireland of at least 7 years' standing" ".

*Wireless Telegraphy Act 1949 (c. 54)*

8 **[**[F370]In section 9(3)(a) of the Wireless Telegraphy Act 1949 (president of appeal tribunal) for the words "barrister of not less than seven years' standing or a solicitor of not less than seven years' standing" there shall be substituted " person who has a 7 year general qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990," ".**]**

**Textual Amendments**

**F370** Sch. 10 para. 8 repealed (25.7.2003 for specified purposes, 29.12.2003 for further specified purposes) by Communications Act 2003 (c. 21), ss. 406, 408, 411, **Sch. 19(1)** (with Sch. 18, Sch. 19 Note 1); S.I. 2003/1900, arts. 1(2), **2(1)**, 3(1), Sch. 1 (with art. 3(2) (as amended (8.12.2003) by S.I. 2003/3142, art. 1(3))); S.I 2003/3142, {art. 3(2)} (with art. 11)

*National Health Service (Amendment) Act 1949 (c. 93)*

*Arbitration committee*

9 In section 7(6) of the National Health Service (Amendment) Act 1949 (member of arbitration committee) for the words "a practising barrister, advocate or solicitor" there shall be substituted " a person who has a 7 year general qualification (within the meaning of section 71 of the Courts and Legal Services Act 1990) or an advocate or solicitor in Scotland" ".

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## *Courts-Martial Appeals Act 1951 (c. 46)*

### *Judge Advocate of the Fleet*

10 In section 28(2) of the Courts-Martial (Appeals) Act 1951 (appointment of Judge Advocate of the Fleet) for the words "unless he is" to the end there shall be substituted "unless he is—

(a) a person who has a 10 year general qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990;

(b) an advocate in Scotland of at least 10 years' standing, or a solicitor who has been entitled to appear in the Court of Session and the High Court of Justiciary for at least 10 years; or

(c) a member of the Bar of Northern Ireland of at least 10 years' standing."

### *Judge Advocate General etc*

11 (1) In section 31(1) of that Act (appointment of Judge Advocate General) for the words "unless he is" to the end there shall be substituted "unless he is—

(a) a person who has a 10 year general qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990;

(b) an advocate in Scotland of at least 10 years' standing, or a solicitor who has been entitled to appear in the Court of Session and the High Court of Justiciary for at least 10 years;

(c) a member of the Bar of Northern Ireland of at least 10 years' standing;

(d) the Vice Judge Advocate General; or

(e) an Assistant Judge Advocate General."

(2) In subsection (2) of that section (Vice or Assistant Judge Advocate General) for the words "unless he is" to the end there shall be substituted "unless he is—

(a) a person who has a 7 year general qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990;

(b) an advocate in Scotland of at least 7 years' standing, or a solicitor who has been entitled to appear in the Court of Session and the High Court of Justiciary for at least 7 years;

(c) a member of the Bar of Northern Ireland of at least 7 years' standing; or

(d) a Deputy Judge Advocate General."

(3) In subsection (3) of that section (Deputy Judge Advocate General) for the words "unless he is" to the end there shall be substituted "unless he is—

(a) a person who has a 5 year general qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990;

(b) an advocate in Scotland of at least 5 years' standing, or a solicitor who has been entitled to appear in the Court of Session and the High Court of Justiciary for at least 5 years; or

(c) a member of the Bar of Northern Ireland of at least 5 years' standing."

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*Agricultural Marketing Act 1958 (c. 47)*

*Chairman of disciplinary committee*

12 In section 9(1) of the Agricultural Marketing Act 1958 (constitution of disciplinary committee) for the words "who is a barrister" to the end there shall be substituted "who—

(a) has a 7 year general qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990;

(b) is an advocate or solicitor in Scotland of at least 7 years' standing; or

(c) is a member of the Bar of Northern Ireland or solicitor of the Supreme Court of Northern Ireland of at least 7 years' standing,

and is approved by the Minister. "

*County Courts Act (Northern Ireland) 1959 (c. 25 (N.I.))*

*County Court Judge*

13 In section 103 of the County Courts Act (Northern Ireland) 1959 (qualifications for appointment as county court judge in Northern Ireland) after paragraph (a) of subsection (1) there shall be inserted—

"(aa) he is a solicitor who has practised for not less than ten years as a solicitor in Northern Ireland; or".

*Charities Act 1960 (c. 58)*

*Charity Commissioner*

F371 14 . . . . . .

**Textual Amendments**

**F371** Sch. 10 para. 14 repealed (1.8.1993) by 1993 c. 10, ss. 98(2), 99, **Sch.7**.

*Professions Supplementary to Medicine Act 1960 (c. 66)*

*Assessor to disciplinary committee*

15 In paragraph 4(1) of the Second Schedule to the Professions Supplementary to Medicine Act 1960 (assessor to disciplinary committee) for the words "a barrister" to the end there shall be substituted—

"(a) a person who has a 10 year general qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990;

(b) an advocate or solicitor in Scotland of at least 10 years' standing; or

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(c) a member of the Bar of Northern Ireland or solicitor of the Supreme Court of Northern Ireland of at least 10 years' standing."

*Betting Gaming and Lotteries Act 1963 (c. 2)*

*Levy Appeal Tribunal*

16 In section 29(2)(a) of the Betting, Gaming and Lotteries Act 1963 (chairman of levy appeal tribunal) for the words "a barrister, advocate or solicitor of not less than seven years' standing" there shall be substituted—

"(i) a person who has a 7 year general qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990; or

(ii) an advocate or solicitor in Scotland of at least 7 years' standing,".

*Ecclesiastical Jurisdiction Measure 1963 (No. 1)*

*Judge of Consistory Court*

17 In section 2(2) of the Ecclesiastical Jurisdiction Measure 1963 (judge of consistory court) for the words "barrister at law of at least seven years' standing" there shall be substituted " person who has a 7 year general qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990," ".

*Dean of the Arches and Auditor*

18 (1) In section 3(3) of that Measure (Dean of the Arches and Auditor) for the words "barrister at law of at least ten years' standing" there shall be substituted " person who has a 10 year High Court qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990," ".

(2) In section 42(3) of that Measure (deputy appointed by Dean of the Arches to sit on inquiry into complaint against bishop by committee of convocation) for the words "barrister at law of at least ten years' standing" there shall be substituted " person who has a 10 year High Court qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990;" ".

*Assessor for episcopal committee inquiry*

19 In section 33(4) of that Measure (barrister to assist episcopal committee in inquiry into complaint) for the words "barrister at law of not less than ten years' standing" there shall be substituted " person who has a 10 year general qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990," ".

*Examiner*

20 In paragraph 1(1) of the Second Schedule to that Measure (members of panel of examiners) for the words "who shall be either barristers at law or solicitors" there

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shall be substituted " having a 7 year general qualification (within the meaning of section 71 of the Courts and Legal Services Act 1990) and" ".

*Plant Varieties and Seeds Act 1964 (c. 14)*

*Plant Variety Rights Tribunal*

F372 21 . . . . . .

**Textual Amendments**
**F372** Sch. 10 para. 21 repealed (8.5.1998) by 1997 c. 66, s. 52, **Sch. 4**; S.I. 1998/1028, **art. 2**

*Police Act 1964 (c. 48)*

F373 22 . . . . . .

**Textual Amendments**
**F373** Sch. 10 para. 22 repealed (1.4.1999) by 1996 c. 16, s. 103, **Sch. 9 Pt. II**; S.I. 1999/533, **art. 2**

*Hairdressers (Registration) Act 1964 (c. 89)*

*Assessor to disciplinary committee*

23 In paragraph 3(1) of Schedule 2 to the Hairdressers (Registration) Act 1964 (assessor to disciplinary committee) for the words "a barrister" to the end there shall be substituted—

"(a) a person who has a 10 year general qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990; or

(b) an advocate or solicitor in Scotland of at least 10 years' standing."

*City of London Courts Act 1964 (c. iv)*

*The Common Serjeant*

24 In section 12(2) of the City of London (Courts) Act 1964 (appointment of Common Serjeant) for the words "he is a barrister of not less than ten years' standing" there shall be substituted " he has a 10 year Crown Court qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990." "

*Law Commissions Act 1965 (c. 22)*

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*Law Commissioner*

25 In section 1(2) of the Law Commissions Act 1965 (Law Commissioners) for the words "barrister or solicitor" there shall be substituted " person having a general qualification (within the meaning of section 71 of the Courts and Legal Services Act 1990)" ".

*Commons Registration Act 1965 (c. 64)*

*Commons Commissioner*

26 In section 17(1) of the Commons Registration Act 1965 (Commons Commissioners) for the words "barristers or solicitors of not less than seven years' standing" there shall be substituted " persons who have a 7 year general qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990," ".

*[F374 Employment Tribunal] (England and Wales) Regulations 1965*

**Textual Amendments**

**F374** Words in cross-heading to Sch. 9 para. 27 substituted (1.8.1998) by 1998 c. 8, **s. 1(2)(a)** (with s. 16(2)); S.I. 1998/1658, art. 2(1), **Sch. 1**

*[F375 Employment tribunal] (S.I. 1965/1101.)*

**Textual Amendments**

**F375** Words in cross-heading to Sch. 9 para. 27 substituted (1.8.1998) by 1998 c. 8, **s. 1(2)(a)** (with s. 16(2)); S.I. 1998/1658, art. 2(1), **Sch. 1**

27 (1) In regulation 3(1) of the [F376 Employment Tribunal] (England and Wales) Regulations 1965 (President of [F376 Employment Tribunal]) for the words "barrister or solicitor of not less than seven years' standing" there shall be substituted " person who has a 7 year general qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990." "

(2) In regulation 5(2) of those regulations (chairman of tribunal) for the words "being barristers or solicitors of not less than seven years' standing" there shall be substituted " who have a 7 year general qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990," ".

(3) The amendments by sub-paragraphs (1) and (2) of provisions contained in regulations shall not be taken to have prejudiced any power to make further regulations amending or revoking those provisions.

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**Textual Amendments**

**F376** Words in Sch. 9 para. 27 substituted (1.8.1998) by 1998 c. 8, **s. 1(2)(a)** (with s. 16(2)); S.I. 1998/1658, art. 2(1), **Sch. 1**

*Veterinary Surgeons Act 1966 (c. 36)*

*Assessor to disciplinary committee*

28 In paragraph 6(1) of Schedule 2 to the Veterinary Surgeons Act 1966 (assessor to disciplinary committee) for the words from "a barrister" to the end there shall be substituted—

"(a) a person who has a 10 year general qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990;

(b) an advocate or solicitor in Scotland of at least 10 years' standing; or

(c) a member of the Bar of Northern Ireland or solicitor of the Supreme Court of Northern Ireland of at least 10 years' standing."

*Hearing Aid Council Act 1968 (c. 50)*

*Assessor to Disciplinary Committee*

29 In section 11(1) of the Hearing Aid Council Act 1968 (assessor to Disciplinary Committee) for the words "a barrister" to the end there shall be substituted—

"(a) a person who has a 10 year general qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990;

(b) an advocate or solicitor in Scotland of at least 10 years' standing; or

(c) a member of the Bar of Northern Ireland or solicitor of the Supreme Court of Northern Ireland of at least 10 years' standing."

*Taxes Management Act 1970 (c. 9)*

*Special Commissioner*

30 In section 4(2) of the Taxes Management Act 1970 (Special Commissioner for income tax) for the words "unless he is" to the end there shall be substituted "unless —

(a) he has a 10 year general qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990;

(b) he is an advocate or solicitor in Scotland of at least 10 years' standing; or

(c) he is a member of the Bar of Northern Ireland or solicitor of the Supreme Court of Northern Ireland of at least 10 years' standing."

*Courts Act 1971 (c. 23)*

***Status:*** *Point in time view as at 12/01/2006. This version of this Act contains provisions that are not valid for this point in time.*
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*Circuit Judge*

31 (1) In section 16(3) of the Courts Act 1971 (appointment of Circuit judges) for the words from "unless he is a barrister" to the end there shall be substituted "unless—

(a) he has a 10 year Crown Court or 10 year county court qualification within the meaning of section 71 of the Courts and Legal Services Act 1990;

(b) he is a Recorder; or

(c) he has held as a full-time appointment for at least 3 years one of the offices listed in Part IA of Schedule 2."

(2) After Part I of Schedule 2 to that Act (certain office-holders to be circuit judges) there shall be inserted the following—

"**PART IA**

CERTAIN OFFICE-HOLDERS ELIGIBLE FOR APPOINTMENT AS CIRCUIT JUDGES

Social Security Commissioner appointed under section 97 of the Social Security Act 1975.

President of Social Security Appeal Tribunals and Medical Appeal Tribunals or chairman of such a tribunal appointed under Schedule 10 to that Act.

President of **[**[F377]Employment Tribunals**]** or chairman of such a tribunal appointed under the **[**[F377]Employment Tribunals**]** (England and Wales) Regulations 1965.

President or member of the Immigration Appeal Tribunal appointed under Schedule 5 to the Immigration Act 1971.

Member (excluding the President) of the Lands Tribunal appointed under section 2 of the Lands Tribunal Act 1949.

President of Pensions Appeal Tribunals appointed under the Schedule to the Pensions Appeal Tribunals Act 1943.

President of Value Added Tax Tribunals or chairman of such a tribunal appointed under Schedule 8 to the Value Added Tax Act 1983.

Special Commissioner appointed under section 4 of the Taxes Management Act 1970.

Coroner appointed under section 2 of the Coroners Act 1988.

Master of the Queen's Bench Division.

Queen's Coroner and Attorney and Master of the Crown Office and Registrar of Criminal Appeals.

Admiralty Registrar.

Master of the Chancery Division.

Registrar in Bankruptcy of the High Court.

Taxing Master of the Supreme Court.

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District judge of the principal registry of the Family Division.

Registrar of Civil Appeals.

Master of the Court of Protection.

District judge.

Stipendiary magistrate.”

**Textual Amendments**

**F377** Words in Sch. 9 para. 31 substituted (1.8.1998) by 1998 c. 8, **s. 1(2)** (with s. 16(2)); S.I. 1998/1658, art. 2(1), **Sch. 1**

*Recorder and Assistant Recorder*

32 (1) In section 21(2) of that Act (appointment of Recorders) for the words “he is a barrister or solicitor of at least 10 years’ standing" there shall be substituted “ he has a 10 year Crown Court or 10 year county court qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990." ”

(2) In section 24(1)(b) of that Act (appointment of assistant Recorders) for the words “any barrister or solicitor of at least 10 years’ standing" there shall be substituted “ any person who has a 10 year Crown Court or 10 year county court qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990." ”

*Misuse of Drugs Act 1971 (c. 38)*

33 In paragraph 1(1)(a) of Schedule 3 to the Misuse of Drugs Act 1971 (chairman of tribunal) for the words “a barrister, advocate or solicitor of not less than seven years’ standing" there shall be substituted—

“(i) a person who has a 7 year general qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990;

(ii) an advocate or solicitor in Scotland of at least 7 years’ standing; or

(iii) a member of the Bar of Northern Ireland or solicitor of the Supreme Court of Northern Ireland of at least 7 years’ standing,”.

*Immigration Act 1971 (c. 77)*

*Immigration Appeal Tribunal*

F378 34 . . . . . .

***Status:*** *Point in time view as at 12/01/2006. This version of this Act contains provisions that are not valid for this point in time.*
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**Textual Amendments**

**F378** Sch. 10 para. 34 repealed (14.2.2000) by 1999 c. 33, s. 169(1)(3), Sch. 14 para. 91(2), **Sch. 16**; S.I. 2000/168, art. 2, **Sch.** (with art. 3)

*Friendly Societies Act 1974 (c. 46)*

*Assistant registrar of friendly societies*

35 In section 2(2) of the Friendly Societies Act 1974 (at least one assistant registrar to be barrister or solicitor) for the words "barrister" to the end there shall be substituted " person who has a 7 year general qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990." "

*Social Security Act 1975 (c. 14)*

*Social Security Commissioner*

F379 36 . . . . . .

**Textual Amendments**

**F379** Sch. 10 para. 36 repealed (1.7.1992) by Social Security (Consequential Provisions) Act 1992 (c. 6, SIF 113:1), ss. 3, 7(2), **Sch.1** (with Sch. 3) (subject as mentioned (6.3.1992) in Local Government Finance Act 1992 (c. 14), **s.118**)

*Social security appeal tribunal and medical appeal tribunal*

F380 37 . . . . . .

**Textual Amendments**

**F380** Sch. 10 para. 37 repealed (1.7.1992) by Social Security (Consequential Provisions) Act 1992 (c. 6, SIF 113:1), ss. 3, 7(2), **Sch. 1** (with Sch. 3) (subject as mentioned (6.3.1992) in Local Government Finance Act 1992 (c. 14), **s.118**)

*Farriers Registration Act 1975 (c. 35)*

*Assessor to Disciplinary Committee*

38 In paragraph 5(1) of Schedule 3 to the Farriers (Registration) Act 1975 (assessor to Disciplinary Committee) for the words "a barrister" to the end there shall be substituted—

"(a) a person who has a 10 year general qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990; or

(b) an advocate or solicitor in Scotland of at least 10 years' standing."

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*Industry Act 1975 (c. 68)*

*Arbitration Tribunal*

39 In paragraph 4(a) of Schedule 3 to the Industry Act 1975 (president of an arbitration tribunal) for the words "a barrister or solicitor of at least seven years' standing" there shall be substituted—

"(i) a person who has a 7 year general qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990; or

(ii) a member of the Bar of Northern Ireland or solicitor of the Supreme Court of Northern Ireland of at least 7 years' standing,".

*Aircraft and Shipbuilding Industries Act 1977 (c. 3)*

*Aircraft and Shipbuilding Industries Arbitration Tribunal*

40 In section 42(3)(a) of the Aircraft and Shipbuilding Industries Act 1977 (president of the arbitration tribunal) for the words "a barrister or solicitor of not less than seven years' standing" there shall be substituted—

"(i) a person who has a 7 year general qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990; or

(ii) a member of the Bar of Northern Ireland or solicitor of the Supreme Court of Northern Ireland of at least 7 years' standing,".

*Insurance Brokers (Registration) Act 1977 (c. 46)*

*Assessor to Disciplinary Committee*

41 In section 20(1) of the Insurance Brokers (Registration) Act 1977 (assessor to Disciplinary Committee) for the words "a barrister" to the end there shall be substituted—

"(a) a person who has a 10 year general qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990;

(b) an advocate or solicitor in Scotland of at least 10 years' standing; or

(c) a member of the Bar of Northern Ireland or solicitor of the Supreme Court of Northern Ireland of at least 10 years' standing."

*National Health Service Act 1977 (c. 49)*

42 In paragraph 2 of Schedule 9 to the National Health Service Act 1977 (chairman of the tribunal) for the words "a practising barrister or solicitor of not less than ten years' standing" there shall be substituted " a person who has a 10 year general qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990," ".

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## *Nurses, Midwives and Health Visitors Act 1979 (c. 36)*

### *Assessors to the Central Council*

[F381]43 . . . . . .

**Textual Amendments**

**F381** Sch. 10 para. 43 repealed (19.6.1997) by 1997 c. 24, ss. 23(3), 24(2), **Sch. 6**

## *Justices of the Peace Act 1979 (c. 55)*

### *Stipendiary Magistrate*

[F382]44 . . . . . .

**Textual Amendments**

**F382** Sch. 10 para. 44 repealed (19.6.1997) by 1997 c. 25, ss. 73(1), 74(1), **Sch. 6 Pt. I** (with Sch. 4 para. 27)

### *Justices' Clerk*

[F383]45 . . . . . .

**Textual Amendments**

**F383** Sch. 10 para. 45 repealed (19.6.1997) by 1997 c. 25, **ss. 73(1)**. 74(1). Sch. 6 Pt. I (with Sch. 4 para. 27)

## *Social Security Act 1980 (c. 30)*

### *Deputy Social Security Commissioner*

[F384]46 . . . . . .

**Textual Amendments**

**F384** Sch. 10 para. 46 repealed (1.7.1992) by Social Security (Consequential Provisions) Act 1992 (c. 6, SIF 113:1), ss. 3, 7(2), **Sch.1** (with Sch. 3) (subject as mentioned (6.3.1992) in Local Government Finance Act 1992 (c. 14), **s.118**)

## *Supreme Court Act 1981 (c. 54)*

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*Judge's legal secretary*

47 In section 98(4) of the Supreme Court Act 1981 (appointment by certain senior judges of a legally qualified secretary) for the words "barrister or solicitor" there shall be substituted " person who has a general qualification (within the meaning of section 71 of the Courts and Legal Services Act 1990)" ".

*Conveyancing counsel*

48 In section 131(1) of that Act (conveyancing counsel of the Supreme Court) for the words "conveyancing counsel in actual practice" to the end there shall be substituted " persons who have a 10 year High Court qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990." "

*Master, Registrar etc*

49 For Schedule 2 to that Act (which sets out the persons eligible for appointment to certain offices in the Supreme Court) there shall be substituted—

"SCHEDULE 2

LIST OF OFFICES IN SUPREME COURT FOR PURPOSES OF PART IV

References in this Schedule to a person having a general qualification shall be construed in accordance with section 71 of the Courts and Legal Services Act 1990.

**Part I**

| **1.*Office*** | **2.*Persons qualified*** |
|---|---|
| 1. Permanent Secretary to the Lord Chancellor and Clerk of the Crown in Chancery. | 1.—(1) A person who has a 10 year general qualification.(2) A civil servant who has served at least 5 years in the Lord Chancellor's Department. |
| 2. Official Solicitor. | 2. A person who has a 10 year general qualification. |

**Part II**

| **1.*Office*** | **2.*Persons qualified*** |
|---|---|
| 3. Master, Queen's Bench Division. | 3. A person who has a 7 year general qualification. |
| 4. Queen's Coroner and Attorney and Master of the Crown Office and Registrar of Criminal Appeals. | 4. A person who has a 10 year general qualification. |
| 5. Admiralty Registrar. | 5. A person who has a 7 year general qualification. |
| 6. Master, Chancery Division. | 6. A person who has a 7 year general qualification. |

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| | |
|---|---|
| 7. Registrar in Bankruptcy of the High Court. | 7. A person who has a 7 year general qualification. |
| 8. Taxing Master of the Supreme Court. | 8. A person who has a 7 year general qualification. |
| 9. District judge of the principal registry of the Family Division. | 9.—(1) A person who has a 7 year general qualification.(2) A district probate registrar who either— (a) is of at least 5 years' standing; or (b) has, during so much of the 10 years immediately preceding his appointment as he has not been a district probate registrar, served as a civil servant in the principal registry or a district probate registry.(3) A civil servant who has served at least 10 years in the principal registry or a district probate registry. |
| 10. Registrar of Civil Appeals. | 10. A person who has a 10 year general qualification. |
| 11. Master of the Court of Protection. | 11. A person who has a 7 year general qualification. |

| **Part III** | |
|---|---|
| **1.*Office*** | **2.*Persons qualified*** |
| 12. District probate registrar. | 12.—(1) A person who has a 5 year general qualification.(2) A civil servant who has served at least 5 years in the principal registry of the Family Division or a district probate registry.” |

*Representation of the People Act 1983 (c. 2)*

*Election Court Commissioner*

50 (1) In section 130 of the Representation of the People Act 1983 (barristers qualified to constitute election court) in subsection (1) for the word “barrister" there shall be substituted “ person" ”.

(2) In subsection (2) of that section—

(a) for the word “barrister" there shall be substituted “ person" ”;

(b) for paragraph (a) there shall be substituted—

“(a) unless he has a 10 year High Court qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990; or”; and

(c) for paragraph (b)(ii) there shall be substituted—

“(ii) in which he practises.”

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(3) In subsection (3)(a) for the word "barristers" there shall be substituted " qualified persons" ".

*Mental Health Act 1983 (c. 20)*

*Lord Chancellor's Legal Visitor*

51 In section 102(3)(b) of the Mental Health Act 1983 (panel of Legal Visitors of patients) for the words "he is a barrister" to the end there shall be substituted " he has a 10 year general qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990." "

*Value Added Tax Act 1983 (c. 55)*

*VAT Tribunal*

F385 52 . . . . . .

**Textual Amendments**

**F385** Sch. 10 para. 52 repealed (1.9.1994) by 1994 c. 23, ss. 100(2), 101(1), **Sch. 15**

*Medical Act 1983 (c. 54)*

*Legal Assessor to Committees*

53 In paragraph 7(1) of Schedule 4 to the Medical Act 1983 (General Council to appoint legal assessors to advise Professional Conduct Committee, Health Committee and Preliminary Proceedings Committee) for the words "a barrister" to the end there shall be substituted—

"(a) a person who has a 10 year general qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990;

(b) an advocate or solicitor in Scotland of at least 10 years' standing; or

(c) a member of the Bar of Northern Ireland or solicitor of the Supreme Court of Northern Ireland of at least 10 years' standing."

*Pastoral Measure 1983 (No. 1)*

*Appeal Tribunal*

54 In Schedule 4 to the Pastoral Measure 1983 (compensation of clergy) in paragraph 15(1)(c) (constitution of Appeal Tribunal) for the words "are barristers at law or solicitors in England and Wales" there shall be substituted " have a 7 year general qualification (within the meaning of section 71 of the Courts and Legal Services Act 1990)" ".

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*Merchant Shipping Act 1984 (c. 5)*

*Arbitrator*

F386 55 . . . . . .

**Textual Amendments**

**F386** Sch. 10 para. 55 repealed (1.1.1996) by 1995 c. 21, ss. 314(1), 316(2), **Sch. 12** (with s. 312(1), Sch. 14 para. 1)

*Dentists Act 1984 (c. 24)*

*Assessor to committees*

56 In paragraph 5(1) of Schedule 3 to the Dentists Act 1984 (General Dental Council to appoint legal assessors to Professional Conduct Committee and Health Committee) for the words "a barrister" to the end there shall be substituted—

"(a) a person who has a 10 year general qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990;

(b) an advocate or solicitor in Scotland of at least 10 years' standing; or

(c) a member of the Bar of Northern Ireland or solicitor of the Supreme Court of Northern Ireland of at least 10 years' standing."

*County Courts Act 1984 (c. 28)*

*District judges*

57 In section 9 of the County Courts Act 1984 (appointment of district judges, assistants and deputies) for the words "he is a solicitor of at least 7 years' standing" there shall be substituted " he has a 7 year general qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990." "

*Data Protection Act 1984 (c. 35)*

F387 58 . . . . . .

**Textual Amendments**

**F387** Sch. 10 para. 58 repealed (1.3.2000) by 1998 c. 29, s. 74(2), **Sch. 16 Pt. I**; S.I. 2000/183, **art. 2**

*Reserve Forces (Safeguard of Employment) Act 1985 (c. 17)*

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*Umpire hearing appeals from Reinstatement Committee*

59 In paragraph 5 of Schedule 2 to the Reserve Forces (Safeguard of Employment) Act 1985 (persons appointed to hear appeals from Reinstatement Committee) for the words "unless he is a barrister" to the end there shall be substituted "unless—

(a) he has a 10 year general qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990;

(b) he is an advocate or solicitor in Scotland of at least 10 years' standing; or

(c) he is a member of the Bar of Northern Ireland or solicitor of the Supreme Court of Northern Ireland of at least 10 years' standing."

*Prosecution of Offences Act 1985 (c. 23)*

*Director of Public Prosecutions*

60 In section 2(2) of the Prosecution of Offences Act 1985 (the Director of Public Prosecutions) for the words "barrister" to the end there shall be substituted " person who has a 10 year general qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990." "

*Crown Prosecutors*

61 (1) In section 1(3) of that Act (Crown Prosecutors) for the words "who is a barrister or solicitor" there shall be substituted " who has a general qualification (within the meaning of section 71 of the Courts and Legal Services Act 1990)" ".

(2) In section 5(1) of that Act (conduct of prosecutions by barristers or solicitors) for the words from "who is" to "authority" there shall be substituted " who has a general qualification (within the meaning of section 71 of the Courts and Legal Services Act 1990)" ".

*Interception of Communications Act 1985 (c. 56)*

F388 62 . . . . . .

**Textual Amendments**

**F388** Sch. 10 para. 62 repealed (2.10.2000) by 2000 c. 23, s. 82, **Sch. 5** (with ss. 82(3)-(6)); S.I. 2000/2543, **art. 3** (with arts. 5, 6)

*Administration of Justice Act 1985 (c. 61)*

*Questions of construction*

63 In section 48(1) of the Administration of Justice Act 1985 (action taken in reliance on counsel's opinion on matter of construction) for the words "barrister of at least ten years' standing" there shall be substituted " person who has a 10 year High Court qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990," ".

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*Assessor to Discipline and Appeals Committee of the Council of Licensed Conveyancers*

64 In paragraph 3(1) of Schedule 4 to that Act (barrister to advise Discipline and Appeals Committee) for the words "barrister" to the end there shall be substituted " person who has a 10 year general qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990." "

*Transport Act 1985 (c. 67)*

*Transport Tribunal*

65 For paragraph 2(2) of Schedule 4 to the Transport Act 1985 (president and chairman of Transport Tribunal) there shall be substituted—

"(2) The president of the tribunal shall be—

(a) a person who has a 10 year general qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990; or

(b) an advocate or solicitor in Scotland of at least 10 years' standing.

(2A) Each chairman shall be—

(a) a person who has a 7 year general qualification, within the meaning of that section; or

(b) an advocate or solicitor in Scotland of at least 7 years' standing."

*Animals (Scientific Procedures) Act 1986 (c. 14)*

66 In section 12(5) of the Animals (Scientific Procedures) Act 1986 (person appointed to receive representations) for the words "a barrister, solicitor or advocate of at least 7 years' standing" there shall be substituted—

"(a) a person who has a 7 year general qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990;

(b) an advocate or solicitor in Scotland of at least 7 years' standing; or

(c) a member of the Bar of Northern Ireland or solicitor of the Supreme Court of Northern Ireland of at least 7 years' standing,".

*Insolvency Act 1986 (c. 45)*

*Insolvency Practitioners Tribunal*

67 In paragraph 1(1)(a) of Schedule 7 to the Insolvency Act 1986 (members of the tribunal) for the words "are barristers, advocates or solicitors, in each case of at least 7 years' standing" there shall be substituted—

"(i) have a 7 year general qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990;

(ii) are advocates or solicitors in Scotland of at least 7 years' standing,".

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*Building Societies Act 1986 (c. 53)*

68 In section 47(3) of the Building Societies Act 1986 (chairman of appeal tribunal) for the words "a barrister, solicitor or advocate of at least seven years' standing" there shall be substituted—

"(a) a person who has a 7 year general qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990;

(b) an advocate or solicitor in Scotland of at least 7 years' standing; or

(c) a member of the Bar of Northern Ireland or solicitor of the Supreme Court of Northern Ireland of at least 7 years' standing;".

*Banking Act 1987 (c. 22)*

69 In section 28(3) of the Banking Act 1987 (chairman of appeal tribunal) for the words "a barrister, solicitor or advocate of at least seven years' standing" there shall be substituted—

"(a) a person who has a 7 year general qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990;

(b) an advocate or solicitor in Scotland of at least 7 years' standing; or

(c) a member of the Bar of Northern Ireland or solicitor of the Supreme Court of Northern Ireland of at least 7 years' standing".

*Coroners Act 1988 (c. 13)*

*Coroner*

70 In section 2(1) of the Coroners Act 1988 (appointment as coroner) for the words "unless he is a barrister, solicitor or" there shall be substituted "unless—

(a) he has a 5 year general qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990; or

(b) he is a".

*Criminal Justice Act 1988 (c. 33)*

*Criminal Injuries Compensation Board*

71 (1) In paragraph 2(2) of Schedule 6 to the Criminal Justice Act 1988 (members of the Criminal Injuries Compensation Board) for the words from "if he is" to the end there shall be substituted "if—

(a) he has a 7 year general qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990;

(b) he is an advocate or solicitor in Scotland; or

(c) he holds or has held judicial office in England and Wales;

(d) he holds or has held judicial office in Scotland."

(2) For paragraphs 2(8)(a) and (b) of that Schedule (requirement to obtain consent before removal from office) there shall be substituted—

"(a) in the case of a member who qualifies for appointment under sub-paragraph (2)(a) or (c), with the consent of the Lord Chancellor; and

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(b) in the case of a member who qualifies for appointment under sub-paragraph (2)(b) or (d), with the consent of the Lord President of the Court of Session."

*Assessor of compensation for miscarriages of justice*

72 (1) In Schedule 12 to that Act (appointment as assessor of compensation for miscarriages of justice) for paragraph 1(a) to (c) there shall be substituted—

"(a) a person who has a 7 year general qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990;

(b) an advocate or solicitor in Scotland;

(c) a member of the Bar of Northern Ireland or solicitor of the Supreme Court of Northern Ireland of at least 7 years' standing;".

(2) For paragraph 6(a) and (b) of that Schedule (requirement to obtain consent before removal from office) there shall be substituted—

"(a) in the case of a person who qualifies for appointment under paragraph 1(a) or (c), or paragraph 1(d) by virtue of holding or having held judicial office in England and Wales or Northern Ireland, with the consent of the Lord Chancellor; and

(b) in the case of a person who qualifies for appointment under paragraph 1(b), or paragraph 1(d) by virtue of holding or having held judicial office in Scotland, with the consent of the Lord President of the Court of Session."

*Copyright, Designs and Patents Act 1988 (c. 48)*

*Copyright Tribunal*

73 In section 145(3) of the Copyright, Designs and Patents Act 1988 (chairman of Copyright Tribunal) for the words from "unless he is a barrister" to the end there shall be substituted "unless—

(a) he has a 7 year general qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990;

(b) he is an advocate or solicitor in Scotland of at least 7 years' standing;

(c) he is a member of the Bar of Northern Ireland or solicitor of the Supreme Court of Northern Ireland of at least 7 years' standing; or

(d) he has held judicial office."

*Security Service Act 1989 (c. 5)*

F389 74 . . . . . .

**Textual Amendments**

**F389** Sch. 10 para. 74 repealed (2.10.2000) by 2000 c. 23, s. 82, **Sch. 5** (with s. 82(3)); S.I. 2000/2543, **art. 3** (with arts. 5, 6)

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## *Opticians Act 1989 (c. 44)*

### *Assessor to Disciplinary Committee*

75 In section 22(1) of the Opticians Act 1989 (assessor to Disciplinary Committee of the General Optical Council) for the words "a barrister" to the end there shall be substituted—

"(a) a person who has a 10 year general qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990;

(b) an advocate or solicitor in Scotland of at least 10 years' standing; or

(c) a member of the Bar of Northern Ireland or solicitor of the Supreme Court of Northern Ireland of at least 10 years' standing."

## SCHEDULE 11

Section 75.

### JUDGES ETC BARRED FROM LEGAL PRACTICE

The following are the offices for the purposes of section 75—

Lord of Appeal in Ordinary

Lord Justice of Appeal

Puisne judge of the High Court

Circuit judge

District judge, including district judge of the principal registry of the Family Division

Master of the Queen's Bench Division

Queen's Coroner and Attorney and Master of the Crown Office and Registrar of Criminal Appeals

Admiralty Registrar

Master of the Chancery Division

Registrar in Bankruptcy of the High Court

Taxing Master of the Supreme Court

Registrar of Civil Appeals

Master of the Court of Protection

District probate registrar

Judge Advocate General

Vice Judge Advocate General

Assistant [F390]. . . Judge Advocate General

**[**[F391]District Judge (Magistrates' Courts)**]**

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Social Security Commissioner [F392]. . .

**[**[F393]President of social security appeal tribunals, medical appeal tribunals and disability appeal tribunals or regional or other full-time chairman of such tribunals**]**

**[**[F394]President of the Employment Tribunals (England and Wales) or member of a panel of chairmen established by regulations under section 1(1) of the [M98]Employment Tribunals Act 1996 for employment tribunals for England and Wales**]**

**[**[F395]President or other member of the Asylum and Immigration Tribunal**]**

Member of the Lands Tribunal appointed under section 2 of the [M99]Lands Tribunal Act 1949

President of Value Added Tax Tribunals or chairman of such a tribunal appointed under Schedule 8 to the [M100]Value Added Tax Act 1983

Special Commissioner appointed under section 4 of the [M101]Taxes Management Act 1970

Charity Commissioner appointed **[**[F396]as provided in Schedule 1 to the Charities Act 1993**]**

Coroner appointed under section 2 of the [M102]Coroners Act 1988.

**[**[F397]Member of a Pensions Appeal Tribunal**]**

**Textual Amendments**

**F390** Words in Sch. 11 repealed (1.10.2001) by 2001 c. 19, ss. 34, 38, Sch. 6 Pt. 2 para. 9, **Sch. 7 Pt. 3**; S.I. 2001/3234, **art. 2**

**F391** Entry in Sch. 11 substituted (31.8.2000) by 1999 c. 22, s. 78, **Sch. 11 para. 37** (with Sch. 14 para. 7(2)); S.I. 2000/1920, **art. 3(a)** (with art. 4)

**F392** Words in entry beginning "Social Security Commissioner" in Sch. 11 repealed (1.7.1992) by Social Security (Consequential Provisions) Act 1992 (c. 6, SIF 113:1), ss. 3, 7(2), **Sch. 1** (with Sch. 3) (subject as mentioned (6.3.1992) in Local Government Finance Act 1992 (c. 14), **s. 118**)

**F393** Sch. 11: entry relating to "President of Social Security Appeal Tribunals" substituted (3.2.1991) by Disability Living Allowance and Disability Working Allowance Act 1991 (c. 21, SIF 113:1), s. 4(2), **Sch. 2 para. 22**; S.I. 1991/2617, **art. 2(d)**

**F394** Sch. 11: entry substituted (1.8.1998) by 1998 c. 8, s. 15, **Sch. 1 para. 6**; S.I. 1998/1658, art. 2(1), **Sch. 1**

**F395** Sch. 11: entry substituted (4.4.2005) for entries relating to Immigration Appeal Tribunal and immigration adjudicators by Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19), ss. 26(7), 48(3), **Sch. 2 para. 6**; S.I. 2005/565, **art. 2(d)** (with arts. 3-9)

**F396** Words in Sch. 11 substituted (1.8.1993) by 1993 c. 10, s. 98(1), **Sch. 6 para. 26**.

**F397** Entry in Sch. 11 inserted (9.4.2001) by 2000 c. 19, **s. 60(5)** (with s. 83(6)); S.I. 2000/2994, **art. 2(6)**

**Marginal Citations**

**M98** 1996 c. 17.

**M99** 1949 c. 42.

**M100** 1983 c. 55.

**M101** 1970 c. 9.

**M102** 1988 c. 13.

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## SCHEDULE 12

Section 79(2).

### WIDOWERS' PENSIONS: TRANSITIONAL PROVISIONS

**Commencement Information**

**I90** Sch. 12 wholly in force; Sch. 12 not in force at Royal Assent see s. 124; in force at 1.1.1992 see s. 124(3) and S.I. 1991/2730, **art. 2**,Sch.

The following are the provisions which are inserted in the 1981 Act as Part IV of Schedule 2—

### "PART IV

### WIDOWERS' PENSIONS

*General*

24 In this Part of this Schedule—

"the commencement date" means the date on which Schedule 12 to the Courts and Legal Services Act 1990 came into force;

"the publication date" means the date of publication, by order of the House of Lords, of the Bill for the Courts and Legal Services Act 1990, that is to say 7th December 1989; and

"member" means a female person who holds judicial office and to or in respect of whom benefits are payable under this Act, or the Sheriffs' Pensions (Scotland) Act 1961, on her retirement.

*Service wholly before the commencement date*

25 Subject to paragraph 26, no widower's pension shall be payable in respect of a member who retires on or before the commencement date.

*Members retiring between publication and commencement date*

26 (1) A member who retires—

(a) on or after the publication date; but

(b) before the commencement date,

may, before the end of the period of six months beginning with the commencement date, opt for her husband to be entitled to a widower's pension on her death.

(2) Regulations may make provision as to—

(a) the manner and form in which an option under this paragraph is to be exercised;

(b) the payment, by any member exercising such an option, of a contribution towards the cost of liability for the widower's pension; and

(c) the annual value of a widower's pension granted as a result of the exercise of the option given by this paragraph.

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*Service partly before and partly after the commencement date*

27 (1) No widower's pension shall be payable in respect of a member who—

(a) holds judicial office on or before the commencement date; and

(b) continues to do so after that date,

unless, before the end of the period of six months beginning with that date, she opts for her husband to be entitled to a widower's pension on her death.

(2) A member exercising such an option shall specify whether the annual value of the widower's pension is to be calculated—

(a) under sub-paragraph (3); or

(b) on the assumption that all her relevant service fell after the commencement date.

(3) Where the annual value of a widower's pension falls to be calculated under this sub-paragraph its value shall be determined by applying the formula—

$$WP1 = \frac{WP2 \text{ x } RS1}{RS2}$$

where—

WP1 is the annual value of the widower's pension,

WP2 is the annual value of the widower's pension that would be payable on the assumption mentioned in sub-paragraph (2)(b),

RS1 is the length of the member's relevant service after the commencement date, and

RS2 is the whole of her relevant service.

(4) No period of service during which an election under section 14A is in force in respect of the member concerned shall be taken into account for the purposes of any calculation under sub-paragraph (3).

(5) For the purposes of this paragraph there shall be left out of account so much (if any) of the relevant service before the commencement date as does not add to the amount of the personal pension and accordingly this paragraph shall not apply if none of the relevant service before that date adds to the amount of the personal pension.

*Pension not wholly attributable to service after 17 April 1973*

28 (1) This paragraph applies to a member who, apart from this paragraph, would be a person to whom paragraph 15 or 16 of Part II of this Schedule applies.

(2) Where such a member has exercised an option under paragraph 26 or 27, this paragraph shall apply in respect of her, and paragraph 15 or, as the case may be, paragraph 16 shall cease to apply.

(3) For the purposes of calculating the annual value of—

(a) the widower's pension payable in respect of such a member; and

(b) any children's pension so payable,

the member shall be treated as if none of her relevant service fell before 18 April 1973."

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PROSPECTIVE

## SCHEDULE 13

Section 81.

### TRANSFER OF ACCRUED BENEFITS

The following are the provisions which are inserted in the [M103]Judicial Pensions Act 1981, as Schedule 1A—

## "SCHEDULE 1A

### TRANSFER OF ACCRUED BENEFITS

### PART I

### GENERAL

*Interpretation*

**[**[F398](1)**]** In this Schedule—

**[**[F399]"authorised insurer" means—

(i) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of long-term insurance, or

(ii) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out contracts of long-term insurance;**]**

"disregarded service", in relation to any member of a scheme, means any period of service in judicial office during which an election under section 14A(9) above is in force in respect of the qualifying member;

"normal pension age" means the earliest age at which, if his service had continued until retirement at that age, a member of a scheme might have been entitled to receive a pension under the scheme;

"prescribed" means prescribed by regulations;

"protected rights" has the same meaning as in the Social Security Pensions Act 1975 and, in relation to Northern Ireland, the Social Security Pensions (Northern Ireland) Order 1975;

"qualifying member" means a person to whom Part II of this Schedule applies;

"qualifying service" means the service, or relevant service, by reference to which a qualifying member's entitlement to benefit under the scheme is calculated; and

"scheme" means the relevant occupational pension scheme constituted by this Act or the Sheriffs' Pensions (Scotland) Act 1961.

**[**[F400](2) The definition of "authorised insurer" in sub-paragraph (1) must be read with—

(a) section 22 of the Financial Services and Markets Act 2000;

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(b) any relevant order under that section;
(c) Schedule 2 to that Act.**]**

*Regulations*

2 Regulations for the purposes of this Schedule—
(a) may be made, with the concurrence of the Treasury, by the Lord Chancellor or, in relation to Scotland, the Secretary of State;
(b) shall be made by statutory instrument;
(c) shall be subject to annulment in pursuance of a resolution of either House of Parliament;
(d) may make different provision for different cases; and
(e) may make provision for consequential, transitional and incidental matters.

*Other provisions about transfer values*

3 Part II of Schedule 1A to the Social Security Pensions Act 1975 (transfer values) and Part II of Schedule 1A to the Social Security Pensions (Northern Ireland) Order 1975 (corresponding Northern Ireland provisions) shall not apply in relation to those schemes to which this Schedule applies.

## PART II

### TRANSFERS OUT

*Qualifying members*

4 (1) Where the conditions mentioned in sub-paragraph (2) are satisfied, this Part of this Schedule applies to any person—
(a) to or in respect of whom benefits are payable under a scheme; and
(b) whose qualifying service ends after this Schedule comes into force.

(2) The conditions are that—
(a) his qualifying service ends at least one year before he reaches normal pension age; and
(b) on the date on which it ends—
(i) he has accrued rights to benefit under the scheme; or
(ii) he would have such rights if his service in judicial office had also ended on that date.

*Qualifying member's right to a transfer payment*

5 (1) When his qualifying service ends, a qualifying member acquires a right to the cash equivalent at the relevant date of any benefits—
(a) which have accrued to, or in respect of him, under the scheme; or
(b) where service of his in judicial office is disregarded service, which would have so accrued if his service in judicial office had ended on the same date as that on which his qualifying service ended.

(2) In this paragraph "the relevant date" means—

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(a) the date when the qualifying member's qualifying service ends; or

(b) the date of any application which he has made under paragraph 6 and which has not been withdrawn,

whichever is the later.

*Method of taking cash benefit*

6 (1) A qualifying member who acquires a right to a cash equivalent under paragraph 5 may only take it by exercising the option conferred by this paragraph.

(2) The option is that of requiring the Treasury to use the cash equivalent in whichever of the following ways the qualifying member chooses—

(a) for acquiring transfer credits allowed under the rules of another occupational pension scheme—

(i) whose trustees or managers are able and willing to accept him; and

(ii) which satisfies prescribed requirements;

(b) for acquiring rights allowed under the rules of a personal pension scheme—

(i) whose trustees or managers are able and willing to accept him; and

(ii) which satisfies prescribed requirements;

(c) for purchasing from one or more authorised **[**[F401]insurers**]**—

(i) chosen by the qualifying member; and

(ii) willing to accept payment on his account from the Treasury,

one or more annuities which satisfy prescribed requirements;

(d) for subscribing to other pension arrangements which satisfy prescribed requirements.

(3) Without prejudice to the generality of the power to prescribe requirements under sub-paragraph (2), such requirements may provide that pension arrangements or a scheme or annuity must satisfy such requirements of the Inland Revenue as may be prescribed.

(4) A qualifying member may exercise his option in different ways in relation to different portions of his cash equivalent.

(5) A qualifying member who exercises his option must do so in relation to the whole of his cash equivalent or, where sub-paragraph (6) applies, in relation to the whole of the reduced cash equivalent.

(6) Where—

(a) the trustees or managers of—

(i) an occupational pension scheme which is not a contracted-out scheme, or

(ii) a personal pension scheme which is not an appropriate scheme under section 2 of the Social Security Act 1986, Article 4 of the Social Security (Northern Ireland) Order 1986 or under any prescribed provision, or

(iii) a self-employed pension arrangement within the meaning of regulation 2D of the Occupational Pension Schemes (Transfer Values) Regulations 1985, regulation 2D of the Occupational Pension Schemes (Transfer Values) Regulations (Northern Ireland) 1985, regulation 2A of the Personal Pension Schemes (Transfer Values) Regulations 1987, regulation 2A of the Personal Pension Schemes

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(Transfer Values) Regulations (Northern Ireland) 1987 or any other prescribed provision,

are able or willing to accept a transfer payment only in respect of a qualifying member's rights other than his accrued rights to a guaranteed minimum pension or his protected rights; and

(b) the member has not required the Treasury to use the portion of his cash equivalent which represents a guaranteed minimum pension or protected rights in any of the ways specified in sub-paragraph (2),

paragraph 5, this paragraph and paragraph 7 are to be read as conferring on the member an option only in respect of the reduced cash equivalent.

(7) In this paragraph "reduced cash equivalent" means a sum equal to the balance of the cash equivalent to which the qualifying member would be entitled if sub-paragraph (6) did not apply, after deduction of an amount sufficient for the Treasury to meet its liability in respect of the member's guaranteed minimum pension or protected rights or those of his widow, or her widower.

*Calculation of cash equivalents*

7 (1) Cash equivalents are to be calculated and verified in the prescribed manner.

(2) Regulations made under sub-paragraph (1) may, in particular, provide—

(a) that in calculating cash equivalents account shall be taken—

(i) of any surrender or forfeiture of the whole or part of a qualifying member's pension which occurs before the Treasury does what is needed to comply with the choice made by him in exercising his option;

(ii) in a case where paragraph 6(6) applies, of the need to deduct an appropriate amount to provide a guaranteed minimum pension or give effect to protected rights; and

(b) that in prescribed circumstances a qualifying member's cash equivalent shall be increased or reduced.

(3) Without prejudice to the generality of sub-paragraph (2), the circumstances that may be specified by virtue of paragraph (b) of that sub-paragraph include the length of time which elapses between the termination of a qualifying member's qualifying service and his exercise of the option conferred by paragraph 6.

*Time within which option must be exercised*

8 (1) A qualifying member may only exercise his option on or before the last option date.

(2) The last option date is—

(a) the date which falls one year before the date on which the qualifying member reaches normal pension age; or

(b) the end of the period of six months beginning with the date on which his qualifying service ends,

whichever is the later.

(3) A qualifying member loses the right to any cash equivalent under this Schedule if—

(a) his pension becomes payable before he reaches normal pension age; or

(b) he fails to exercise his option on or before the last option date.

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*Option to be exercised in writing*

9 (1) A qualifying member may only exercise his option by making an application in writing to the Treasury.

(2) In any case where—

(a) a qualifying member has exercised his option; and

(b) the Treasury has done what is needed to comply with the choice made by him in exercising his option,

the Treasury shall be discharged from any obligation to provide benefits to which the cash equivalent related except, in any such cases as are mentioned in paragraph 6(6), to the extent that an obligation to provide guaranteed minimum pensions or give effect to protected rights continues to subsist.

(3) If the Treasury receives an application under this paragraph, it shall be its duty, subject to the following provisions of this paragraph, to do what is needed to comply with the choice made by the qualifying member in exercising his option—

(a) within twelve months of the date on which it receives his application; or

(b) by the date on which he attains normal pension age,

whichever is the earlier.

*Cancellation of exercise of option*

10 (1) A qualifying member may cancel the exercise of his option by giving the Treasury notice in writing that he no longer wishes it to be exercised.

(2) No such notice shall have effect if it is given to the Treasury at a time when, in order to comply with the choice made by the qualifying member in exercising his option, the Treasury has entered into an agreement with a third party to use the whole or part of his cash equivalent in a way specified in paragraph 6(2)(a), (b), (c) or (d).

(3) A qualifying member who withdraws an application may make another.

## PART III

### TRANSFERS IN

*Application to accept payment into scheme*

11 (1) Where a member of a scheme has asked the appropriate Minister to accept a payment representing the cash equivalent of his accrued rights in any other qualifying scheme, that Minister may—

(a) to the extent to which it does not exceed the prescribed limit, accept the payment or any part of it; or

(b) refuse to accept the payment or any part of it.

(2) A request under sub-paragraph (1) must be made—

(a) in writing;

(b) before the person making it has reached normal pension age; and

(c) not less than one year before he becomes entitled to a pension on retirement from his qualifying service.

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(3) In this paragraph—

"the prescribed limit" means the limit prescribed by regulations made by virtue of paragraph 13(a);

"qualifying scheme" means—

(a) an occupational pension scheme, a personal pension scheme, or an annuity purchased from an authorised **[**[F402]insurer**]**, which satisfies prescribed requirements; or

(b) other prescribed pension arrangements; and

"the appropriate Minister" means the Lord Chancellor, or, in relation to a member serving in an office existing only in Scotland, the Secretary of State.

*Cancellation of request*

12 (1) A member may, by notice in writing given to the appropriate Minister, cancel a request made by him under paragraph 11, at any time before it has been accepted.

(2) A transferring member who withdraws an application may make another.

*Regulations*

13 Regulations may—

(a) prescribe limits on the amounts which the appropriate Minister may accept under paragraph 11(1) above;

(b) make provision as to the manner in which payments are to be accepted into a scheme under this Part of this Schedule;

(c) make provision as to the benefits which are to be provided to a member to reflect any such payment accepted with respect to him;

(d) prescribe formulae, based on tables of factors provided by the Government Actuary, to be used when performing any calculation relating to the acceptance of transfer payments or the provision of benefits."

**Textual Amendments**

**F398** Sch. 13: Para. 1 of inserted Sch. 1A renumbered para. 1(1) (1.12.2001) by S.I. 2001/3649, **arts. 1**, 326(2)

**F399** Sch. 13: Definition of "authorised insurer" substituted for definition of "authorised insurance company" in para. 1(1) of inserted Sch. 1A (1.12.2001) by S.I. 2001/3649, **arts. 1**, 326(3)

**F400** Sch. 13: Para. 1(2) inserted (1.12.2001) into inserted Sch. 1A by S.I. 2001/3649, **arts. 1**, 326(4)

**F401** Sch. 13: Word in para. 6(2)(c) of inserted Sch. 1A substituted (1.12.2001) by S.I. 2001/3649, **arts. 1**, 326(5)

**F402** Sch. 13: Word in definition of "qualifying scheme" in para. 11(3)(a) of inserted Sch. 1A substituted (1.12.2001) by S.I. 2001/3649, **arts. 1**, 326(6)

**Marginal Citations**

**M103** 1981 c. 20.

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# SCHEDULE 14

## FOREIGN LAWYERS: PARTNERSHIPS AND RECOGNISED BODIES

## PART I

## REGISTRATION

### *General*

1 In this Schedule—

"the Act of 1974" means the Solicitors Act 1974;

"controlled trust" means, in relation to a registered foreign lawyer who is a member of a multi-national partnership, a trust of which he is a sole trustee or co-trustee only with one or more of the employees or other partners of that partnership and of which he is a trustee by virtue of his being a member of that partnership;

"the Council" means the Council of the Law Society;

"the register" means the register maintained by the Society under section 89;

"registration" means registration in that register;

"the Society" means the Law Society; and

"the Tribunal" means the Solicitors Disciplinary Tribunal.

**Commencement Information**

**I91** Sch. 14 para. 1 wholly in force at 14.10.1991 see s. 124(3) and S.I. 1991/1883, art. 3, **Sch.**

### *Application for registration*

2 (1) An application for registration or for renewal of registration—

(a) shall be made to the Society in such form as the Council may prescribe; and

(b) shall be accompanied by such fee as the Council may, with the concurrence of the Master of the Rolls, prescribe.

(2) Where such an application is duly made by a foreign lawyer, the Law Society may register the applicant if it is satisfied that the legal profession of which the applicant is a member is one which is so regulated as to make it appropriate—

(a) for solicitors to enter into multi-national partnerships with members of that profession; and

(b) for members of that profession to be officers of recognised bodies.

(3) Any registration may be made subject to such conditions as the Society sees fit to impose.

(4) The Council may make regulations, with the concurrence of the Master of the Rolls, with respect to—

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(a) the keeping of the register (including the manner in which entries are to be made, altered or removed); and
(b) applications for registration or renewal of registration.

(5) The register may be kept by means of a computer.

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

**C39** Sch. 14 para. 2(1)(a) extended (22.5.2000) by S.I. 2000/1119 regs. 1(1), 37(3), Sch. 4 para. 5(2)
**C40** Sch. 14 para. 2(1)(b) extended (22.5.2000) by S.I. 2000/1119 regs. 1(1), 37(3), Sch. 4 para. 5(1)
**C41** Sch. 14 para. 2(3) extended (22.5.2000) by S.I. 2000/1119 regs. 1(1), 37(3), Sch. 4 para. 5(2)
**C42** Sch. 14 para. 2(4) extended (22.5.2000) by S.I. 2000/1119, regs. 1(1), 37(3), **Sch. 4 para. 1(4)**
**C43** Sch. 14 para. 2(5) extended (22.5.2000) by S.I. 2000/1119 regs. 1(1), 37(3), Sch. 4 para. 5(2)

**Commencement Information**

**I92** Sch. 14 para. 2 wholly in force at 14.10.1991 see s. 124(3) and S.I. 1991/1883, art. 3, **Sch.**

VALID FROM 01/07/2009

[F403 2A (1) The Society may direct that a foreign lawyer's registration is to have effect subject to such conditions as the Society thinks fit to impose.

(2) A direction under sub-paragraph (1) may be given in respect of a foreign lawyer
(a) at the time he is first registered, or
(b) at any time when the registration has effect.]

**Textual Amendments**

**F403** Sch. 14 para. 2A inserted (1.7.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 129** (with ss. 29, 192, 193); S.I. 2009/1365, **art. 2(b)(i)**

*Duration of registration*

3 (1) Every registration shall have effect from the beginning of the day on which it is entered in the register.

(2) The Council may make regulations—
(a) prescribing the date ("the renewal date") by which each registered foreign lawyer must apply for his registration to be renewed; and
(b) requiring every entry in the register to specify the renewal date applicable to that registration.

(3) Any such regulations may—
(a) provide different renewal dates for different categories of registered foreign lawyer or different circumstances;
(b) provide for the Society to specify, in the case of individual registered foreign lawyers, different renewal dates to those prescribed by the regulations;

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(c) make such transitional, incidental and supplemental provision in connection with any provision for different renewal dates as the Council considers expedient.

(4) Where a foreign lawyer is registered, the Society may cancel his registration if—

(a) the renewal date for his registration has passed but he has not applied for it to be renewed; or

(b) he has applied to the Society for it to be cancelled.

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

**C44** Sch. 14 para. 3(2) extended (22.5.2000) by S.I. 2000/1119, regs. 1(1), 37(3), **Sch. 4 para. 1(4)** (as amended (1.7.2009) by S.I. 2009/1587, **art. 3(5)**; S.I. 2009/1365, **art. 2(a)(i)**)

**C45** Sch. 14 para. 3(4) extended (22.5.2000) by S.I. 2000/1119, regs. 1(1), 37(3), **Sch. 4 para. 5(2)** (as amended (1.7.2009) by S.I. 2009/1587, **art. 3(6)**; S.I. 2009/1365, **art. 2(a)(i)**)

**Commencement Information**

**I93** Sch. 14 para. 3 wholly in force at 14.10.1991 see s. 124(3) and S.I. 1991/1883, art. 3, **Sch.**

*Evidence as to registration*

4 Any certificate purporting to be signed by an officer of the Society and stating that a particular foreign lawyer—

(a) is, or is not, registered; or

(b) was registered during a period specified in the certificate,

shall, unless the contrary is proved, be evidence of that fact and be taken to have been so signed.

**Commencement Information**

**I94** Sch. 14 para. 4 wholly in force at 14.10.1991 see s. 124(3) and S.I. 1991/1883, art. 3, **Sch.**

## PART II

### REGISTERED FOREIGN LAWYERS:SUPPLEMENTARY PROVISIONS

*Intervention in practices*

5 (1) In this paragraph "the intervention powers" means the powers conferred by Part II of Schedule 1 to the Act of 1974 (intervention in solicitors' practices) as modified by this Schedule or under section 89.

(2) Subject to sub-paragraphs (3) and (4), the intervention powers shall be exercisable in relation to a person who is or has been a registered foreign lawyer and the practice of the multi-national partnership of which he is or was a member as they are exercisable in relation to a solicitor and his practice.

(3) The intervention powers are only exercisable where—

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(a) the Council have reason to suspect dishonesty on the part of the registered foreign lawyer, or on the part of an employee of the multi-national partnership, in connection with—
  (i) the practice of that partnership; or
  (ii) any trust of which the registered foreign lawyer is or was a trustee by virtue of his being a member of that partnership;

(b) in the case of a registered foreign lawyer who has died, the Council have reason to suspect dishonesty on the part of his personal representative, in connection with—
  (i) the practice of the multi-national partnership; or
  (ii) any trust of which the registered foreign lawyer was a trustee by virtue of his being a member of that partnership;

(c) the Council are satisfied that the registered foreign lawyer has failed to comply with rules made under section 32 or 37(2)(c) of the Act of 1974;

(d) a bankruptcy order (as defined in paragraph 10(3)) has been made against him or he has made a composition or arrangement with his creditors;

(e) he has been committed to prison in any civil or criminal proceedings;

(f) the powers conferred by section 98 (emergency powers) or 99 (appointment of receiver) of the Mental Health Act 1983 have been exercised in respect of him;

(g) his name has been struck off the register or his registration has been suspended or cancelled;

(h) he has purported to act as a member of a multi-national partnership at a time when he was not registered;

(i) the Council are satisfied that he has failed to comply with any condition, subject to which he is registered, to the effect that—
  (i) he may only be a member of a partnership which is approved by the Society; or
  (ii) he may only be an officer of a recognised body which is so approved; or
  (iii) he may only be such a member or such an officer.

(4) The intervention powers shall only be exercisable under sub-paragraph (3)(c) if the Society has given the foreign lawyer notice—
  (a) that the Council are satisfied that he has failed to comply with rules specified in the notice; and
  (b) that the intervention powers are accordingly exercisable.

(5) The intervention powers (other than those conferred by paragraphs 5 and 10 of Part II of Schedule 1 to the Act of 1974) shall also be exercisable where—
  (a) a complaint is made to the Society that there has been undue delay on the part of a registered foreign lawyer in connection with—
    (i) any matter in which he, or the multi-national partnership of which he is or was a member, was instructed on behalf of a client; or
    (ii) any controlled trust;
  (b) the Society by notice invites the registered foreign lawyer to give an explanation within a period (of not less than 8 days) specified in the notice;
  (c) the registered foreign lawyer fails within that period to give an explanation which the Council regard as satisfactory; and

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(d) the Society gives notice of the failure to the registered foreign lawyer and notice that the intervention powers are accordingly exercisable.

(6) Where the intervention powers are exercisable in relation to a registered foreign lawyer, they shall continue to be exercisable—
(a) at any time when his registration is suspended;
(b) after his name has been struck off the register or his registration has been cancelled; or
(c) after his death.

(7) Part II of Schedule 1 to the Act of 1974 shall have effect in relation to the intervention powers exercisable by virtue of this Schedule, subject to—
(a) any express modifications made under section 89; and
(b) any modifications necessary in the light of this paragraph.

(8) For the purposes of this paragraph, Part II of Schedule 1 to the Act of 1974 shall be read with paragraph 4(2) of Part I of that Schedule.

(9) The notices required to be given by this paragraph must be in writing but need not be given at the same time.

**Commencement Information**
**I95** Sch. 14 para. 5 wholly in force at 14.10.1991 see s. 124(3) and S.I. 1991/1883, art. 3, **Sch.**

*The Compensation Fund*

6 (1) Where the Council are satisfied—
(a) that a person has suffered or is likely to suffer loss in consequence of dishonesty on the part of a registered foreign lawyer, or of an employee of a registered foreign lawyer, in connection with the practice of the multi-national partnership of which the foreign lawyer is or was a member or in connection with any trust of which that foreign lawyer is or was a trustee by virtue of his being a member of that partnership; or
(b) that a person has suffered or is likely to suffer hardship in consequence of failure on the part of a registered foreign lawyer to account for money which has come to his hands in connection with the practice of the multi-national partnership of which he is or was a member, or in connection with any trust of which he is or was a trustee by virtue of his being a member of that partnership; or
(c) that a registered foreign lawyer has suffered or is likely to suffer loss or hardship by reason of his liability to any client of his, or of the multi-national partnership of which he is or was a member, in consequence of some act or default of any of his partners or employees in circumstances where but for the liability of that registered foreign lawyer a grant might have been made out of the Compensation Fund to some other person,

the Society may make a grant out of the Compensation Fund for the purpose of relieving that loss or hardship.

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(2) Section 36 of the Act of 1974 (Compensation Fund) shall apply with the necessary modifications in relation to grants under this paragraph as it applies in relation to grants under that section.

**Commencement Information**

**I96** Sch. 14 para. 6 wholly in force at 14.10.1991 see s. 124(3) and S.I. 1991/1883, art.3, **Sch.**

*Contributions to the Fund*

7 (1) On an application for registration, a foreign lawyer shall pay to the Society a contribution to the Compensation Fund (“the initial contribution") of such amount as the Council may from time to time determine.

(2) On each application for renewal of his registration, a registered foreign lawyer shall pay to the Society—

(a) a contribution of such amount as the Council may from time to time determine (“the annual contribution"); and

(b) where it appears from his application that—

(i) he has, at any time during the period specified in the application, held or received clients’ money in connection with a multi-national partnership of which he is, or was, a member; or

(ii) he is, or was at any time during that period, an officer of a recognised body which has, at any time during that period, held or received clients’ money,

a further contribution (“the special levy") of such amount as the Council may from time to time determine.

(3) The Council may make rules providing, in circumstances specified by the rules, for a foreign lawyer—

(a) to pay a reduced initial or annual contribution or special levy; or

(b) not to be required to pay such a contribution or levy.

(4) Any rules under sub-paragraph (3) shall be made with the concurrence of the Master of the Rolls.

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

**C46** Sch. 14 para. 7(1)(2) extended (22.5.2000) by S.I. 2000/1119, regs. 1(1), 37, **Sch. 4 para. 6(1)** (as amended (1.7.2009) by S.I. 2009/1587, **art. 3(6)**; S.I. 2009/1365, **art. 2(a)(i)**)

**C47** Sch. 14 para. 7(3) extended (22.5.2000) by S.I. 2000/1119, regs. 1(1), 37(3), **Sch. 4 para. 3**(as amended (1.7.2009) by S.I. 2009/1587, **art. 3(6)**; S.I. 2009/1365, **art. 2(a)(i)**)

**Commencement Information**

**I97** Sch. 14 para. 7 wholly in force at 14.10.1991 see s. 124(3) and S.I. 1991/1883, art. 3, **Sch.**

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*Accountants' reports*

8 (1) Unless the Council are satisfied that it is unnecessary for him to do so, every registered foreign lawyer shall, once in each period of twelve months ending with 31st October, deliver to the Society (whether by post or otherwise) a report signed by an accountant and containing such information as may be prescribed by rules made by the Council under section 34 of the Act of 1974 (accountants' reports).

(2) The provisions of that section shall apply in relation to accountants' reports required by this paragraph, and registered foreign lawyers, as they apply in relation to accountants' reports required by subsection (1) of that section and solicitors.

**Modifications etc. (not altering text)**
**C48** Sch. 14 para. 8 extended (22.5.2000) by S.I. 2000/1119, regs. 1(1), 37, **Sch. 4 para. 5(2)**

**Commencement Information**
**I98** Sch. 14 para. 8 wholly in force at 14.10.1991 see s. 124(3) and S.I. 1991/1883, art.3, **Sch.**

*Certification for purposes of investment business*

F404 9 . . . . . .

**Textual Amendments**
**F404** Sch. 14 para. 9 repealed (1.12.2001) by S.I. 2001/3649, **arts. 1**, 327

*Effect of bankruptcy*

10 (1) The registration of any foreign lawyer against whom a bankruptcy order is made shall be suspended on the making of that order.

(2) The suspension of any registration by reason of a bankruptcy order shall terminate if the order is annulled and an office copy of the order annulling it is served on the Society.

(3) In sub-paragraph (1), "bankruptcy order" includes any order which is not a bankruptcy order but which has the same, or a similar, effect under the law in force in any territory outside England and Wales.

**Commencement Information**
**I99** Sch. 14 para. 10 wholly in force at 14.10.1991 see s. 124(3) and S.I. 1991/1883, art. 3, **Sch.**

*Effect of disciplinary action*

11 (1) Where a registered foreign lawyer is struck off, or suspended from practice, his registration shall be suspended.

(2) In sub-paragraph (1) "struck off" and "suspended from practice" mean—

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(a) any action taken within the jurisdiction by reference to which the registered foreign lawyer is qualified to be registered; or

(b) where the registered foreign lawyer is qualified to be registered by reference to more than one jurisdiction, any action taken within any one of those jurisdictions,

which is the equivalent, respectively, of a solicitor being struck off the roll or suspended from practice under the Act of 1974.

**Commencement Information**

**I100** Sch. 14 para. 11 wholly in force at 14.10.1991 see s. 124(3) and S.I. 1991/1883, art.3, **Sch.**

*Re-instatement of disciplined foreign lawyer*

12 (1) Where a person's registration has been suspended by virtue of paragraph 11, it shall be revived—

(a) if his right to practise in the jurisdiction in question is restored; and

(b) a copy of the instrument restoring his right, certified to be a true copy by an officer of the appropriate court in the jurisdiction in question, or the professional body concerned, is served on the Society.

(2) Where a person whose registration is suspended by virtue of paragraph 11 applies to the Society for the suspension to be terminated, the Society may terminate it subject to such conditions, if any, as it thinks fit to impose.

**Commencement Information**

**I101** Sch. 14 para. 12 wholly in force at 14.10.1991 see s. 124(3) and S.I. 1991/1883, art.3, **Sch.**

*Effective date of revived registration*

13 Where a foreign lawyer's registration is revived (whether as the result of the termination of its suspension, restoration by order of the Tribunal or for any other reason), that revival shall take effect on such date, and subject to such conditions, as the Society may direct.

**Commencement Information**

**I102** Sch. 14 para. 13 wholly in force at 14.10.1991 see s. 124(3) and S.I. 1991/1883, art. 3, **Sch.**

*Appeal against conditions or refusals*

14 (1) Any foreign lawyer may appeal to the Master of the Rolls against—

(a) the refusal of the Society to register him or to renew his registration;

(b) the refusal of the Society to terminate the suspension of his registration on an application made by him under paragraph 12;

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(c) the failure of the Society to deal with any application by him for registration, renewal of registration or the termination (under paragraph 12(2)) of a suspension within a reasonable time; or

(d) any condition imposed by the Society under paragraph 2(3), 12(2) or 13.

(2) An appeal under sub-paragraph (1)(a), (b) or (d) must be brought within the period of one month beginning with the date on which the Society notifies the applicant of its decision on his application.

(3) On an appeal to him under this paragraph, the Master of the Rolls may make such order as he thinks fit.

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

**C49** Sch. 14 para. 14(1)(a)(c)(2)(3) extended (22.5.2000) by S.I. 2000/1119, regs. 1(1), 37, **Sch. 4 para. 5(3)**

**Commencement Information**

**I103** Sch. 14 para. 14 wholly in force at 14.10.1991 see s. 124(3) and S.I. 1991/1883, art. 3, **Sch.**

*Jurisdiction and powers of Disciplinary Tribunal*

15 (1) Subject to paragraph 16, section 46 of the Act of 1974 (Solicitors Disciplinary Tribunal) shall apply, with the necessary modifications, in relation to applications and complaints made by virtue of any provision of this Schedule as it applies in relation to applications and complaints made by virtue of any provision of that Act.

(2) Any application—

(a) to strike the name of a foreign lawyer off the register;

(b) to require a registered foreign lawyer to answer allegations in an affidavit;

(c) to suspend the registration of a foreign lawyer for a specified or indefinite period;

(d) by a foreign lawyer whose name has been struck off the register by order of the Tribunal to have his name restored to the register;

(e) by a foreign lawyer whose registration has been suspended for an indefinite period by order of the Tribunal for the termination of that suspension,

shall be made to the Tribunal.

(3) Any person who alleges that a registered foreign lawyer has failed to comply with any rule made under section 31, 32, 34, or 37 of the Act of 1974 may make a complaint to the Tribunal.

(4) On the hearing of any application or complaint made to the Tribunal with respect to a foreign lawyer, the Tribunal shall have power to make such order as it may think fit, and any such order may in particular include provision for any of the following matters—

(a) the striking off the register of the name of the foreign lawyer to whom the application or complaint relates;

(b) the suspension of that foreign lawyer's registration indefinitely or for a specified period;

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(c) the payment by that foreign lawyer of a penalty not exceeding £5,000, which shall be forfeit to Her Majesty;

(d) the termination of that foreign lawyer's unspecified period of suspension from registration;

(e) the restoration to the register of the name of a foreign lawyer which has been struck off the register;

(f) the payment by any party of costs or a contribution towards costs of such amount as the Tribunal may consider reasonable.

(5) Any order made under subsection (4) of section 47 of the Act of 1974 varying the maximum amount of the penalty which may be imposed under subsection (2)(c) of that section may make the same variation in the corresponding amount mentioned in sub-paragraph (4)(c).

**Commencement Information**

**I104** Sch. 14 para. 15 wholly in force at 14.10.1991 see s. 124(3) and S.I. 1991/1883, art. 3, **Sch.**

*Foreign lawyers assisting the Tribunal*

16 (1) For the purposes of section 46 of the Act of 1974 (Solicitors Disciplinary Tribunal), the Tribunal may make rules providing for it to be assisted, in dealing with any application or complaint of a kind mentioned in paragraph 15, by a member of the legal profession in the jurisdiction by reference to which the foreign lawyer is or was qualified to be registered.

(2) Rules under sub-paragraph (1) shall not be made without the concurrence of the Master of the Rolls.

(3) Subsection (12) of section 46 of the Act of 1974 (rules to be made by statutory instrument etc.) shall apply to rules made under this paragraph as it applies to rules made under subsection (9) of that section.

**Commencement Information**

**I105** Sch. 14 para. 16 wholly in force at 14.10.1991 see s. 124(3) and S.I. 1991/1883, art.3, **Sch.**

*Appeals from Tribunal*

17 (1) An Appeal from the Tribunal shall lie—

(a) in the case of an order on an application under paragraph 15(2)(d) or (e), or the refusal of any such application, to the Master of the Rolls;

(b) in the case of any other order or refusal under paragraph 15, to the High Court.

(2) The High Court and the Master of the Rolls shall have power to make such order on an appeal under this paragraph as they may think fit.

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(3) Any decision of the Master of the Rolls on an appeal under this paragraph shall be final.

(4) The Master of the Rolls may make regulations about appeals to him under this paragraph.

**Commencement Information**
**I106** Sch. 14 para. 17 wholly in force at 14.10.1991 see s. 124(3) and S.I. 1991/1883, art. 3, **Sch.**

## [F405]SCHEDULE 15

Section 93(3).

### INADEQUATE PROFESSIONAL SERVICES

**Textual Amendments**
**F405** Sch. 15 repealed (prosp.) by Legal Services Act 2007 (c. 29), ss. 210, 211, **Sch. 23** (with ss. 29, 192, 193)

**Commencement Information**
**I107** Sch. 15 wholly in force at 1.4.1991 see s. 124(3) and S.I. 1991/608, art. 2, **Sch.**

The following are the provisions which are inserted in the [M104]Solicitors Act 1974 as Schedule 1A—

## "SCHEDULE 1A

### INADEQUATE PROFESSIONAL SERVICES

*Circumstances in which Council's powers may be exercised*

1 (1) The Council may take any of the steps mentioned in paragraph 2 ("the steps") with respect to a solicitor where it appears to them that the professional services provided by him in connection with any matter in which he or his firm have been instructed by a client have, in any respect, not been of the quality which it is reasonable to expect of him as a solicitor.

(2) The Council shall not take any of the steps unless they are satisfied that in all the circumstances of the case it is appropriate to do so.

(3) In determining in any case whether it is appropriate to take any of the steps, the Council may—

(a) have regard to the existence of any remedy which it is reasonable to expect to be available to the client in civil proceedings; and

(b) where proceedings seeking any such remedy have not been begun by him, have regard to whether it is reasonable to expect him to begin them.

*Directions which may be given*

2 (1) The steps are—

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(a) determining that the costs to which the solicitor is entitled in respect of his services ("the costs") are to be limited to such amount as may be specified in the determination and directing him to comply, or to secure compliance, with such one or more of the permitted requirements as appear to the Council to be necessary in order for effect to be given to their determination;

(b) directing him to secure the rectification, at his expense or at that of his firm, of any such error, omission or other deficiency arising in connection with the matter in question as they may specify;

(c) directing him to pay such compensation to the client as the Council sees fit to specify in the direction;

(d) directing him to take, at his expense or at that of his firm, such other action in the interests of the client as they may specify.

(2) The "permitted requirements" are—

(a) that the whole or part of any amount already paid by or on behalf of the client in respect of the costs be refunded;

(b) that the whole or part of the costs be remitted;

(c) that the right to recover the costs be waived, whether wholly or to any specified extent.

(3) The power of the Council to take any such steps is not confined to cases where the client may have a cause of action against the solicitor for negligence.

*Compensation*

3 (1) The amount specified in a direction by virtue of paragraph 2(1)(c) shall not exceed £1,000.

(2) The Lord Chancellor may by order made by statutory instrument amend sub-paragraph (1) by substituting for the sum of £1,000 such other sum as he considers appropriate.

(3) Before making any such order the Lord Chancellor shall consult the Law Society.

(4) Any statutory instrument made under this paragraph shall be subject to annulment in pursuance of a resolution of either House of Parliament.

*Taxation of costs*

4 (1) Where the Council have given a direction under paragraph 2(1)(a), then—

(a) for the purposes of any taxation of a bill covering the costs, the amount charged by the bill in respect of them shall be deemed to be limited to the amount specified in the determination; and

(b) where a bill covering the costs has not been taxed, the client shall, for the purposes of their recovery (by whatever means and notwithstanding any statutory provision or agreement) be deemed to be liable to pay in respect of them only the amount specified in the determination.

(2) Where a bill covering the costs has been taxed, the direction shall, so far as it relates to the costs, cease to have effect.

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*Failure to comply with direction*

5 (1) If a solicitor fails to comply with a direction given under this Schedule, any person may make a complaint in respect of that failure to the Tribunal; but no other proceedings whatever shall be brought in respect of it.

(2) On the hearing of such a complaint the Tribunal may, if it thinks fit (and whether or not it makes any order under section 47(2)), direct that the direction be treated, for the purpose of enforcement, as if it were contained in an order made by the High Court.

*Fees*

6 (1) The Council may, by regulations made with the concurrence of the Lord Chancellor and the Master of the Rolls, make provision for the payment, by any client with respect to whom the Council are asked to consider whether to take any of the steps, of such fee as may be prescribed.

(2) The regulations may provide for the exemption of such classes of client as may be prescribed.

(3) Where a client pays the prescribed fee it shall be repaid to him if the Council take any of the steps in the matter with respect to which the fee was paid.

(4) In this paragraph "prescribed" means prescribed by the regulations.

*Costs*

7 Where the Council take any of the steps with respect to a solicitor they may also direct him to pay to the Council—

(a) the amount of the fee repayable by the Council to the client under paragraph 6(3); and

(b) an amount which is calculated by the Council as the cost to them of dealing with the complaint, or which in their opinion represents a reasonable contribution towards that cost.

*Duty of Tribunal*

8 Where the Tribunal—

(a) is considering, or has considered, an application or complaint with respect to a solicitor; and

(b) is of the opinion that the Council should consider whether to take any of the steps with respect to that solicitor,

it shall inform the Council.

*Interpretation*

9 The Council's powers under this Schedule are exercisable in relation to a person even though his name has been removed from, or struck off, the roll and references to a solicitor in this Schedule, so far as they relate to the exercise of those powers, shall be construed accordingly."

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**Marginal Citations**
**M104** 1974 c. 47.

## SCHEDULE 16

Section 116.

## CHILDREN ACT 1989

### PART I

### AMENDMENT OF ACT AND OTHER ENACTMENTS AFFECTED

1 In this Part of this Schedule "the Act of 1989" means the [M105]Children Act 1989.

**Commencement Information**
**I108** Sch. 16 para. 1 wholly in force at 14.10.1991 see s. 124(3) and S.I 1991/1883, art.3, Sch.

**Marginal Citations**
**M105** 1989 c. 41.

*The Civil Evidence Act 1968 (c. 64)*

2 (1) In section 12(5) of the Civil Evidence Act 1968 (findings of paternity in civil proceedings: meaning of "relevant proceedings") for the definition of "relevant proceedings" there shall be substituted—

""relevant proceedings" means—

(a) proceedings on a complaint under section 42 of the National Assistance Act 1948 or section 26 of the Social Security Act 1986;

(b) proceedings under the Children Act 1989;

(c) proceedings which would have been relevant proceedings for the purposes of this section in the form in which it was in force before the passing of the Children Act 1989."

(2) Paragraph 24 of Schedule 13 to the Act of 1989 shall be omitted.

**Commencement Information**
**I109** Sch. 16 para. 2 wholly in force at 14.10.1991 see s. 124(3) and S.I 1991/1883, art.3, Sch.

*The Family Law Reform Act 1969 (c. 46)*

[F406]3 . . . . . .

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**Textual Amendments**

**F406** Sch. 16 para. 3 repealed (1.4.2001) by 2000 c. 19, s. 85, **Sch. 9 Pt. IX** (with s. 83(6)); S.I. 2001/774, **art. 2(d)**

*The Children and Young Persons Act 1969 (c. 54)*

F407 4 . . . . . .

**Textual Amendments**

**F407** Sch. 16 para. 4 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F408 5 . . . . . .

**Textual Amendments**

**F408** Sch. 16 para. 5 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

*The Administration of Justice Act 1970 (c. 31)*

6 (1) In paragraph 6 of Schedule 8 to the Administration of Justice Act 1970 (maintenance orders for purposes of Maintenance Orders Act 1958 and the 1970 Act) for the words "under section 47 or 51 of the Child Care Act 1980" there shall be substituted "—

(a) made or having effect as if made under paragraph 23 of Schedule 2 to the Children Act 1989; or

(b) made under".

(2) Paragraph 25 of Schedule 13 to the Act of 1989 shall be omitted.

**Commencement Information**

**I110** Sch. 16 para. 6 wholly in force at 14.10.1991 see s. 124(3) and S.I 1991/1883, art. 3, Sch.

*The Adoption Act 1976 (c. 36)*

F409 7 . . . . . .

**Textual Amendments**

**F409** Sch. 16 para. 7 repealed (1.4.2001) by 2000 c. 43, s. 75, **Sch. 8**; S.I. 2001/919, **art. 2(g)** Table

*The Child Care Act 1980 (c. 5)*

8 After section 21(2) of the Child Care Act 1980 (power of local authority to allow child in care to be under charge and control of parent, etc.) there shall be inserted the following subsection—

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"(2A) For the purposes of subsection (2) above and section 22A below a child shall be regarded as being under the charge and control of a person if he stays with that person for a continuous period of more than 24 hours".

**Commencement Information**

**I111** Sch. 16 para. 8 wholly in force at 1.1.1991 see s. 124(3) and S.I 1990/2484, art. 2, Sch.

*The Education Act 1981 (c. 60)*

9 (1) In section 3A(1) of the Education Act 1981 (provision outside England and Wales for certain children), which was inserted in that Act by paragraph 36 of Schedule 12 to the Act of 1989, after the word "local", where it first occurs, there shall be inserted " education" ".

(2) That amendment shall be deemed to have been incorporated in section 3A(1) as originally enacted.

**Commencement Information**

**I112** Sch. 16 para. 9 wholly in force at 14.10.1991 see s. 124(3) and S.I 1991/1883, art.3, Sch.

*The Children Act 1989 (c. 41)*

10 (1) In section 15(1) of the Children Act 1989 (orders for financial relief with respect to children) after the words "provisions of" there shall be inserted " section 6 of the [M106]Family Law Reform Act 1969" ".

(2) At the end of paragraph 1 of Schedule 1 to the Act of 1989 (financial provision for children) there shall be inserted the following sub-paragraph—

"(7) Where a child is a ward of court, the court may exercise any of its powers under this Schedule even though no application has been made to it."

**Commencement Information**

**I113** Sch. 16 para. 10 wholly in force at 14.10.1991 see s. 124(3) and S.I 1991/1883, art. 3, Sch.

**Marginal Citations**

**M106** 1969 c. 46.

11 In section 21(2)(c)(i) of the Act of 1989 (provision of accommodation for children on remand) after the word "section" there shall be inserted " 16(3A) or" ".

**Commencement Information**

**I114** Sch. 16 para. 11 wholly in force at 14.10.1991 see s. 124(3) and S.I 1991/1883, art. 3, Sch.

12 (1) In section 23 of the Act of 1989 (provision of accommodation and maintenance made by local authority for children whom they are looking after), in subsection (2)(e)

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after the word "provided" there shall be inserted " in accordance with arrangements made" ".

(2) After subsection (5) of that section there shall be inserted the following subsection—

"(5A) For the purposes of subsection (5) a child shall be regarded as living with a person if he stays with that person for a continuous period of more than 24 hours".

**Commencement Information**
**I115** Sch. 16 para. 12 wholly in force at 14.10.1991 see s. 124(3) and S.I 1991/1883, art.3, Sch.

13 At the end of section 24 of the Act of 1989 (advice and assistance) there shall be added the following subsections—

"(14) Every local authority shall establish a procedure for considering any representations (including any complaint) made to them by a person qualifying for advice and assistance about the discharge of their functions under this Part in relation to him.

(15) In carrying out any consideration of representations under subsection (14), a local authority shall comply with any regulations made by the Secretary of State for the purposes of this subsection."

**Commencement Information**
**I116** Sch. 16 para. 13 wholly in force at 14.10.1991 see s. 124(3) and S.I 1991/1883, art.3, Sch.

14 In section 27 of the Act of 1989 (co-operation between authorities)—

(a) in subsection (1) the words "or other person" and the words "or person" shall be omitted; and

(b) in subsection (3) for the word "persons" there shall be substituted " authorities" "[F410]. . . .

**Textual Amendments**
**F410** Words in Sch. 16 para. 14(b) repealed (1.4.2004) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), ss. 196, 199, **Sch. 14 Pt. 1**; S.I. 2004/749, **art. 12**

**Commencement Information**
**I117** Sch. 16 para. 14 wholly in force at 14.10.1991 see s. 124(3) and S.I 1991/1883, art.3, Sch.

15 In section 29 of the Act of 1989 (recoupment of cost of providing services etc.), in subsection (9), for the words "expenses reasonably" there shall be substituted " reasonable expenses" ".

**Commencement Information**
**I118** Sch. 16, para. 15 wholly in force at 14.10.1991 see s. 124(3) and S.I 1991/1883, art. 3, Sch.

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16 In section 37 of the Act of 1989 (powers of court in certain family proceedings), in subsection (5)(b) for the words "does not reside" there shall be substituted " is not ordinarily resident" ".

**Commencement Information**

**I119** Sch. 16 para. 16 wholly in force at 14.10.1991 see s. 124(3) and S.I 1991/1883, art.3, Sch.

F411 17 . . . . . .

**Textual Amendments**

**F411** Sch. 16 para. 17 repealed (1.4.2001) by 2000 c. 43, s. 75, **Sch. 8**; S.I. 2001/919, **art. 2(g)** Table

18 (1) Section 42 of the Act of 1989 (right of guardian ad litem to have access to local authority records) shall be amended as follows.

(2) In subsection (1)(a), after the word "authority" there shall be inserted " or an authorised person" ".

(3) At the end of subsection (1) there shall be added—

"; or

(c) any records of, or held by, an authorised person which were compiled in connection with the activities of that person, so far as those records relate to that child."

(4) The following subsection shall be added at the end—

"(4) In this section "authorised person" has the same meaning as in section 31."

**Commencement Information**

**I120** Sch. 16 para. 18 wholly in force at 14.10.1991 see s. 124(3) and S.I 1991/1883, art. 3, Sch.

19 For section 45(10) of the Act of 1989 (appeals against emergency protection orders) there shall be substituted—

"(10) No appeal may be made against—

(a) the making of, or refusal to make, an emergency protection order;

(b) the extension of, or refusal to extend, the period during which such an order is to have effect;

(c) the discharge of, or refusal to discharge, such an order; or

(d) the giving of, or refusal to give, any direction in connection with such an order."

**Commencement Information**

**I121** Sch. 16 para. 19 wholly in force at 14.10.1991 see s. 124(3) and S.I 1991/1883, art.3, Sch.

20 F412 . . . . . .

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**Textual Amendments**

**F412** Sch. 16 para. 20 repealed (1.4.2004) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), ss. 196, 199, **Sch. 14 Pt. 1**; S.I. 2004/749, **art. 12**

21 F413 . . . . . .

**Textual Amendments**

**F413** Sch. 16 para. 21 repealed (7.6.2005) by Inquiries Act 2005 (c. 12), ss. 49(2), 51, **Sch. 3** (with ss. 44, 50); S.I. 2005/1432, **art. 2**

22 In section 93(2) of the Act of 1989 (rules of court)—

(a) in paragraph (f) for the words "the United Kingdom" there shall be substituted " England and Wales" "; and

(b) in paragraph (g) after the word "is" there shall be inserted " or resides" ".

**Commencement Information**

**I122** Sch. 16 para. 22 wholly in force at 14.10.1991 see s. 124(3) and S.I 1991/1883, art. 3, Sch.

23 In section 94(1) (appeals), for the first word "An" there shall be substituted " Subject to any express provisions to the contrary made by or under this Act, an" ".

**Commencement Information**

**I123** Sch. 16 para. 23 wholly in force at 14.10.1991 see s. 124(3) and S.I 1991/1883, art.3, Sch.

24 In section 97(8) of the Act of 1989 (privacy for children involved in certain proceedings) for the words "Section 71 of the Act of 1980 (newspaper reports of certain proceedings)" there shall be substituted " Sections 69 (sittings of magistrates' courts for family proceedings) and 71 (newspaper reports of certain proceedings) of the Act of 1980" ".

**Commencement Information**

**I124** Sch. 16 para. 24 wholly in force at 14.10.1991 see s. 124(3) and S.I 1991/1883, art. 3, Sch.

25 In section 108(12) of the Act of 1989 (provisions extending to Northern Ireland), in the entry relating to Schedule 14, the word "18" shall be omitted.

**Commencement Information**

**I125** Sch. 16 para. 25 wholly in force at 14.10.1991 see s. 124(3) and S.I. 1991/1883, art. 3, **Sch.**

26 In paragraph 14 of Schedule 2 to the Act of 1989 (regulations as to conditions under which child in care is allowed to live with parent, etc.), the following sub-paragraph shall be added at the end—

"(d) the records to be kept by local authorities."

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**Commencement Information**
**I126** Sch. 16 para. 26 wholly in force at 14.10.1991 see s. 124(3) and S.I. 1991/1883, art.3, **Sch.**

27 In Schedule 3 to the Act of 1989 (supervision orders) paragraph 7 shall be omitted.

**Commencement Information**
**I127** Sch. 16 para. 27 wholly in force at 14.10.1991 see s. 124(3) and S.I. 1991/1883, art. 3, **Sch.**

28 (1) In Schedule 4 to the Act of 1989 (management and conduct of community homes) the word “voluntary” wherever it occurs in paragraph 1(1), (2), (4), (5), (8) and (9) shall be omitted.

(2) In paragraph 1(6)(b)(i) of that Schedule, the words “as a voluntary home” shall be omitted.

**Commencement Information**
**I128** Sch. 16 para. 28 wholly in force at 14.10.1991 see s. 124(3) and S.I. 1991/1883, art.3, **Sch.**

29 In paragraph 3(1) of Schedule 6 to the Act of 1989 (registered children’s homes – meaning of “responsible authority") for the word “Part" there shall be substituted “ Schedule" ”.

**Commencement Information**
**I129** Sch. 16 para. 29 wholly in force at 14.10.1991 see s. 124(3) and S.I. 1991/1883, art.3, **Sch.**

30 (1) Paragraph 2 of Schedule 9 to the Act of 1989 (disqualification from registration as child minder etc. under section 71) shall be amended as follows.

(2) In sub-paragraph (1), there shall be added at the end “unless—

(a) he has disclosed the fact to the appropriate local authority; and

(b) obtained their written consent.”

(3) In sub-paragraph (2)(g), for “61" there shall be substituted “ 69" ”.

**Commencement Information**
**I130** Sch. 16 para. 30 wholly in force at 14.10.1991 see s. 124(3) and S.I. 1991/1883, art. 3, **Sch.**

31 In Schedule 12 to the Act of 1989 (minor amendments), paragraph 25 (which amended section 16 of the Children and Young Persons Act 1969) shall be omitted.

**Commencement Information**
**I131** Sch. 16 para. 31 wholly in force at 14.10.1991 see s. 124(3) and S.I. 1991/1883, art.3, **Sch.**

32 In Schedule 13 to the Act of 1989 (consequential amendments), paragraph 40 shall be omitted.

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**Commencement Information**
**I132** Sch. 16 para. 32 wholly in force at 14.10.1991 see s. 124(3) and S.I. 1991/1883, art. 3, **Sch.**

33 (1) Schedule 14 to the Act of 1989 (transitionals and savings) shall be amended as follows.

(2) In paragraph 15 (children in compulsory care) at the end of sub-paragraph (1) there shall be added "; or—

(h) in care by virtue of an order of the court made in the exercise of the High Court's inherent jurisdiction with respect to children,".

(3) In paragraph 16 (modifications)—

(a) in sub-paragraph (4), for the word "(g)" there shall be substituted " (h)" "; and

(b) in sub-paragraph (5) for the words from "under" to "1973" there shall be substituted "—

(a) under section 4(4)(a) of the Guardianship Act 1973;

(b) under section 43(5)(a) of the Matrimonial Causes Act 1973; or

(c) in the exercise of the High Court's inherent jurisdiction with respect to children,".

(4) After paragraph 16 there shall be inserted the following paragraph—

*" Cessation of wardship where ward in care*

16A Where a child who is a ward of court is in care by virtue of—

(a) an order under section 7(2) of the Family Law Reform Act 1969; or

(b) an order made in the exercise of the High Court's inherent jurisdiction with respect to children,

he shall, on the day on which Part IV commences, cease to be a ward of court."

(5) In paragraph 22(a) for the word "(g)" there shall be substituted " (h)" ".

(6) In paragraph 36(5)(b) for the words "subsection (4)" there shall be substituted " subsection (6)" ".

**Commencement Information**
**I133** Sch. 16 para. 33 wholly in force at 14.10.1991 see s. 124(3) and S.I. 1991/1883, art.3, **Sch.**

## PART II

### FURTHER CONSEQUENTIAL AMENDMENTS

*The Maintenance Orders Act 1950 (c. 37)*

34 In section 15(1)(a) of the Maintenance Orders Act 1950 (service of process), for sub-paragraphs (iii) and (iv) there shall be substituted—

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"(iii) section 92 of and Schedule 11 to the Children Act 1989; or

(iv) section 93(2)(g) of that Act (including that provision as applied in relation to Northern Ireland by section 116(3) of the Courts and Legal Services Act 1990)".

**Commencement Information**

**I134** Sch. 16 para. 34 wholly in force at 14.10.1991 see s. 124(3) and S.I. 1991/1883, art. 3, **Sch.**

35 In section 16(2)(a) of that Act (application of Part II)—

(a) for sub-paragraph (iii) there shall be substituted—

"(iii) Schedule 1 to the Children Act 1989"; and

(b) in sub-paragraph (v), for the words "section 47 of the [M107]Child Care Act 1980" there shall be substituted " paragraph 23 of Schedule 2 to the [M108]Children Act 1989" ".

**Commencement Information**

**I135** Sch. 16 para. 35 wholly in force at 14.10.1991 see s. 124(3) and S.I. 1991/1883, art. 3, **Sch.**

**Marginal Citations**

**M107** 1980 c. 5.

**M108** 1989 c. 41.

*The Social Work (Scotland) Act 1968 (c. 49)*

36 In section 94(1) of the Social Work (Scotland) Act 1968 (interpretation), in the definition of "supervision order" for the words from first "has" to "1969" there shall be substituted " means a supervision order under the Children and Young Persons Act 1969 or the Children Act 1989" ".

**Commencement Information**

**I136** Sch. 16 para. 36 wholly in force at 14.10.1991 see s. 124(3) and S.I. 1991/1883, art. 3, **Sch.**

*The Administration of Justice Act 1970 (c. 31)*

37 (1) In Schedule 8 to the Administration of Justice Act 1970 (maintenance orders for purposes of Maintenance Orders Act 1958 and the 1970 Act), for paragraph 4 there shall be substituted—

"4 An order for periodical or other payments made or having effect as if made under Schedule 1 to the Children Act 1989."

(2) Paragraph 12 of that Schedule shall cease to have effect.

**Commencement Information**

**I137** Sch. 16 para. 37 wholly in force at 14.10.1991 see s. 124(3) and S.I. 1991/1883, art. 3, **Sch.**

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*The Attachment of Earnings Act 1971 (c. 32)*

38 In Schedule 1 to the Attachment of Earnings Act 1971 (maintenance orders to which Act of 1971 applies) for paragraph 5 there shall be substituted—

"5 An order for periodical or other payments made or having effect as if made under Schedule 1 to the Children Act 1989."

**Commencement Information**

**I138** Sch. 16 para. 38 wholly in force at 14.10.1991 see s. 124(3) and S.I. 1991/1883, art. 3, **Sch.**

*The Maintenance Orders (Reciprocal Enforcement) Act 1972 (c. 18)*

39 F414(1) . . . . . .

F414(2) . . . . . .

(3) In section 30 of that Act (further provisions relating to recovery in England, Wales and Northern Ireland of maintenance for children) subsections (1), (2) and (6) shall cease to have effect.

**Textual Amendments**

**F414** Sch. 16 para. 39(1)(2) repealed (5.4.1993) by Maintenance Orders (Reciprocal Enforcement) Act 1992 (c. 56, SIF 49:3), s. 2(2), **Sch.3**; S.I. 1993/618, **art. 2**.

**Commencement Information**

**I139** Sch. 16 para. 39 wholly in force at 14.10.1991 see s. 124(3) and S.I. 1991/1883, art. 3, **Sch.**

*The Magistrates' Courts Act 1980 (c. 43)*

40 In section 65(1) of the Magistrates' Courts Act 1980 (meaning of family proceedings), paragraph (k) shall be omitted.

**Commencement Information**

**I140** Sch. 16 para. 40 wholly in force at 14.10.1991 see s. 124(3) and S.I. 1991/1883, art.3, **Sch.**

*The Civil Jurisdiction and Judgments Act 1982 (c. 27)*

41 In section 18(6) of the Civil Jurisdiction and Judgments Act 1982 (enforcement of UK judgments in other parts of UK) for paragraph (b) there shall be substituted—

"(b) any order which is a Part I order for the purposes of the Family Law Act 1986."

**Commencement Information**

**I141** Sch. 16 para. 41 wholly in force at 14.10.1991 see s. 124(3) and S.I. 1991/1883, art.3, **Sch.**

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*The Mental Health Act 1983 (c.20)*

42 In section 116(2) of the Mental Health Act 1983 (visiting of patients who are children) for paragraph (a) there shall be substituted—

"(a) a child or young person—

(i) who is in the care of a local authority by virtue of a care order within the meaning of the Children Act 1989, or

(ii) in respect of whom the rights and powers of a parent are vested in a local authority by virtue of section 16 of the Social Work (Scotland) Act 1968;".

**Commencement Information**

**I142** Sch. 16 para. 42 wholly in force at 14.10.1991 see s. 124(3) and S.I. 1991/1883, art.3, **Sch.**

## SCHEDULE 17

Section 125(2).

### MINOR AMENDMENTS

*The Naval Agency and Distribution Act 1864 (c. 24)*

1 **F415** . . . . . .

**Textual Amendments**

**F415** Sch. 17 para. 1 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **s. 1(1)**, {Sch. 1 Pt. 1 Group. 4}

*The Land Registration Act 1925 (c. 21)*

2 **F416** . . . . . .

**Textual Amendments**

**F416** Sch. 17 para. 2 repealed (13.10.2003) by 2002 c. 9, ss. 135, 136(2), Sch. 13 (with s. 129, Sch. 12 para. 1); S.I. 2003/1725, **art. 2**

*The Administration of Justice Act 1956 (c. 46)*

3 **F417** . . . . . .

**Textual Amendments**

**F417** Sch. 17 para. 3 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **s. 1(1)**, {Sch. 1 Pt. 1 Group. 4}

***Status:*** *Point in time view as at 12/01/2006. This version of this Act contains provisions that are not valid for this point in time.*
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*The Powers of Attorney Act 1971 (c. 27)*

4 In section 3 of the Powers of Attorney Act 1971 (proof of instruments creating powers of attorney)—

(a) in subsection (1)(b), after the word "solicitor" there shall be inserted " duly certificated notary public" "; and

(b) in subsection (3), after the word "section" there shall be inserted " "duly certificated notary public" has the same meaning as it has in the Solicitors Act 1974 by virtue of section 87(1) of that Act and" ".

**Commencement Information**

**I143** Sch. 17 para. 4 wholly in force at 1. 4.1991 see s. 124(3) and S.I. 1991/608, **art. 2**.

*The Attachment of Earnings Act 1971 (c. 32)*

PROSPECTIVE

5 In section 6 of the Attachment of Earnings Act 1971 (effect of attachment of earnings order), the following subsections shall be added at the end—

"(9) The Lord Chancellor may by order make such provision as he considers expedient (including transitional provision) with a view to providing for the payment of amounts deducted under attachment of earnings orders to be made to such officers as may be designated by the order rather than to collecting officers of the court.

(10) Any such order may make such amendments in this Act, in relation to functions exercised by or in relation to collecting officers of the court as he considers expedient in consequence of the provision made by virtue of subsection (9) above.

(11) The power to make such an order shall be exercisable by statutory instrument.

(12) Any such statutory instrument shall be subject to annulment in pursuance of a resolution of either House of Parliament."

6 In section 23 of that Act (powers of judge in relation to failure by debtor to comply with order etc.) the following subsection shall be inserted at the end—

"(11) A district judge, assistant district judge or deputy district judge shall have the same powers under this section as a judge of a county court."

**Commencement Information**

**I144** Sch. 17 para. 6 wholly in force at 1.7.1991 see s. 124(3) and S.I. 1991/1364, art. 2, **Sch.**

***Status:*** *Point in time view as at 12/01/2006. This version of this Act contains provisions that are not valid for this point in time.*
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*The Juries Act 1974 (c. 23)*

7 **F418** . . . . . .

**Textual Amendments**

**F418** Sch. 17 para. 7 repealed (5.4.2004) by Criminal Justice Act 2003 (c. 44), ss. 332, 336, **Sch. 37 Pt. 10**; S.I. 2004/829, **art. 2(1)(2)(l)(iv)** (subject to art. 2(3)-(6))

*The Solicitors Act 1974 (c. 47)*

8 In section 2 of the Solicitors Act 1974 (training regulations), the following subsections shall be added at the end—

"(4) Where, under Schedule 4 to the Courts and Legal Services Act 1990 (approval of certain regulations in connection with the grant of rights of audience or rights to conduct litigation), the Lord Chancellor, the Lord Chief Justice or the Master of the Rolls approves any regulation made under this section he shall be taken, for the purposes of this section, to have concurred in the making of that regulation.

(5) Subsection (4) shall have effect whether or not the regulation required to be approved under Schedule 4 to the Act of 1990."

**Commencement Information**

**I145** Sch. 17 para. 8 wholly in force at 1. 4. 1991 see s. 124(3) and S.I. 1991/608, art. 2, **Sch.**

9 **F419** . . . . . .

**Textual Amendments**

**F419** Sch. 17 para. 9 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **s. 1(1)**, {Sch. 1 Pt. 1 Group. 4}

10 In section 31 of that Act (rules as to professional practice, conduct and discipline), the following subsections shall be added at the end—

"(3) Where, under Schedule 4 to the Courts and Legal Services Act 1990 (approval of certain rules in connection with the grant of rights of audience or rights to conduct litigation), the Master of the Rolls approves any rule made under this section he shall be taken, for the purposes of this section, to have concurred in the making of that rule.

(4) Subsection (3) shall have effect whether or not the rule required to be approved under Schedule 4 to the Act of 1990."

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**Commencement Information**

**I146** Sch. 17 para. 10 wholly in force at 1. 4.1991 see s. 124(3) and S.I. 1991/608, art. 2, **Sch.**

*The Magistrates' Courts Act 1980 (c. 43)*

F420 11 . . . . . .

**Textual Amendments**

**F420** Sch. 17 para. 11 repealed (8.1.2001) by 1999 c. 22, s. 106, **Sch. 15 Pt. V(8)** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2000/3280, **art. 2(c)**

*The Supreme Court Act 1981 (c. 54)*

12 In section 5(3) of the Supreme Court Act 1981 (judges to sit in other divisions of the High Court at the request of the Lord Chancellor) for the words "Lord Chancellor" to the end there shall be substituted " Lord Chief Justice made with the concurrence of the President of the Family Division or the Vice-Chancellor, or both, as appropriate" ".

13 In section 36(4) of that Act (witness not to be punished for failing to appear if he is not offered payment of his reasonable expenses of attending), for the words from "the expenses", to the end, there shall be substituted "—

(a) the expenses of coming and attending to give evidence and of returning from giving evidence; and

(b) any other reasonable expenses which he has asked to be defrayed in connection with his evidence,

was tendered to him at the time when the writ was served upon him. "

**Commencement Information**

**I147** Sch. 17 para. 13 wholly in force at 1. 4.1991 see s. 124(3) and S.I. 1991/608, art. 2, **Sch.**

*The County Courts Act 1984 (c. 28)*

14 F421 . . . . . .

**Textual Amendments**

**F421** Sch. 17 para. 14 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, **art. 3(aa)(bb)**

15 In section 77 of that Act (appeals: general provisions) after subsection (1) the following subsection shall be inserted—

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"(1A) Without prejudice to the generality of the power to make county court rules under section 75, such rules may make provision for any appeal from the exercise by a district judge, assistant district judge or deputy district judge of any power given to him by virtue of any enactment to be to a judge of a county court."

16 In section 103 of that Act (execution out of the jurisdiction of the court), the following subsection shall be added at the end—

"(6) County court rules may make provision for the suspension of any judgment or order, on terms, in connection with any warrant issued with respect to any instalment payable under the judgment or order."

17 In section 138 of that Act (forfeiture for non-payment of rent), in subsections (2), (3), (5), (7), (8) and (9) (which relate to relief from forfeiture on payment into court of rent and costs), after the words "into court", in each place where they occur, there shall be inserted " or to the lessor" ".

**Commencement Information**

**I148** Sch. 17 para. 17 wholly in force at 1.7.1991 see s. 124(3) and S.I. 1991/1364, art. 2, **Sch.**

18 F422 . . . . . .

**Textual Amendments**

**F422** Sch. 17 para. 18 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **s. 1(1)**, {Sch. 1 Pt. 1 Group. 4}

PROSPECTIVE

*The Legal Aid Act 1988 (c. 34)*

F423 19 . . . . . .

**Textual Amendments**

**F423** Sch. 17 para. 19 repealed (1.4.2000) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2000/774, art. 2(c)(ii), **Sch. para. 7** (with arts. 3-5)

*The Law of Property (Miscellaneous Provisions) Act 1989 (c. 34)*

20 (1) In subsection (5) of section 1 of the Law of Property (Miscellaneous Provisions) Act 1989 (presumption that solicitor is authorised to deliver certain instruments), after the word "solicitor", in both places where it occurs, there shall be inserted " , duly certificated notary public" ".

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(2) In subsection (6) of that section (meaning of expressions used in subsection (5)), after the words "Act 1925" there shall be inserted— " "duly certificated notary public" has the same meaning as it has in the Solicitors Act 1974 by virtue of section 87 of that Act; ".

## SCHEDULE 18

Section 125(3).

### CONSEQUENTIAL AMENDMENTS

*The Public Records Act 1958 (c. 51)*

1 (1) In the First Schedule to the Public Records Act 1958 (definition of public records) the following entries shall be inserted in the appropriate places in Part II of the Table in paragraph 3—

"The Authorised Conveyancing Practitioners Board"

"The Conveyancing Ombudsman"

"The Legal Services Ombudsman"

"The Lord Chancellor's Advisory Committee on Legal Education and Conduct".

(2) After paragraph 4(1)(k) of that Schedule there shall be inserted—

"(kk) records of any Conveyancing Appeal Tribunal;".

**Commencement Information**

**I149** Sch. 18 para. 1 in force for certain purposes at 1. 4. 1991 see s. 124(3) and S.I. 1991/608, **art. 2**

*The Tribunals and Inquiries Act 1971 (c. 62)*

F424 2 . . . . . .

**Textual Amendments**

**F424** Sch. 18 para. 2 repealed (1.10.1992) by Tribunals and Inquiries Act 1992 (c. 53, SIF 127), ss. 18(2), 19(2), **Sch. 4 Pt.I**

*The Matrimonial Causes Act 1973 (c.18)*

3 In section 50(1) of the Matrimonial Causes Act 1973 (matrimonial causes rules), for the words from "one registrar of the divorce registry" to "local law society" there shall be substituted " one district judge of the principal registry of the Family Division, two Circuit judges, one district judge appointed under the County Courts Act 1984, two persons who have a Supreme Court qualification (within the meaning of section 71 of the Courts and Legal Services Act 1990), and two persons who have

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been granted by an authorised body, under Part II of that Act, the right to conduct litigation in relation to all proceedings in the Supreme Court." ".

PROSPECTIVE

*The Fair Trading Act 1973 (c.41)*

4 F425 . . . . . .

**Textual Amendments**

**F425** Sch. 18 para. 4 repealed (20.6.2003) by 2002 c. 40, ss. 278, 279, Sch. 26; S.I. 2003/1397, **art. 2**, Sch. (with art. 10)

*The Juries Act 1974 (c. 23)*

5 F426 . . . . . .

**Textual Amendments**

**F426** Sch. 18 para. 5 repealed (5.4.2004) by Criminal Justice Act 2003 (c. 44), ss. 332, 336, **Sch. 37 Pt. 10**; S.I. 2004/829, **art. 2(1)(2)(l)(iv)** (subject to art. 2(3)-(6))

PROSPECTIVE

*The Consumer Credit Act 1974 (c.39)*

6 F427 . . . . . .

**Textual Amendments**

**F427** Sch. 18 para. 6 repealed (20.6.2003) by 2002 c. 40, ss. 278, 279, Sch. 26; S.I. 2003/1397, **art. 2**, Sch. (with art. 10)

*The Solicitors Act 1974 (c. 47)*

7 In section 7 of the Solicitors Act 1974 (entry of names in the roll and restoration of names struck off), the following shall be inserted at the end of paragraph (b)—

" or

(c) of an order under section 47(2)(h) for the restoration of a person's name to the roll,".

8 In section 8 of that Act (removal or restoration of name at solicitor's request), the following subsection shall be inserted after subsection (2)—

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"(2A) Subsection (2) does not apply to a former solicitor with respect to whom a direction has been given under section 47(2)(g)."

9 In section 12 of that Act (discretion of Society with respect to issue of practising certificates in special cases), in subsection (1)(c), for the words "when on the first day of the period to which the practising certificate would, if granted, relate" there shall be substituted " when, on what would be the commencement date for the certificate, if it were granted" ".

**Commencement Information**
**I150** Sch. 18 para. 9 wholly in force at 1.7.1991 see s. 124(3) and S.I. 1991/1364, art. 2, **Sch.**

10 (1) Section 16 of that Act (duration of suspension of practising certificates) shall be amended as follows.

(2) For subsection (1) there shall be substituted—

"(1) Where, on the replacement date for a practising certificate, the certificate is suspended it shall expire on that date."

(3) In subsection (3) for the words "date of expiry", in paragraph (c), there shall be substituted " replacement date" ".

**Commencement Information**
**I151** Sch. 18 para 10 wholly in force at 1.7.1991 see s. 124(3) and S.I. 1991/1364, art. 2, **Sch.**

11 In section 20 of that Act (unqualified person not to act as solicitor) the following subsections shall be added at the end—

"(3) A person exempted from the provisions of section 23(1) by virtue of section 23(2) or (3) of this Act or section 55 of the Courts and Legal Services Act 1990 may, in any non-contentious or common form probate business, apply for a grant of probate or for letters of administration or oppose such an application without committing an offence under this section.

(4) In subsection (3) "non-contentious or common form probate business" has the same meaning as in section 128 of the Supreme Court Act 1981."

12 In section 25 of that Act (costs where unqualified person acts as solicitor) the following subsection shall be added at the end—

"(3) For the avoidance of doubt, where a person does an act which would be an offence under section 23 were it not for the provisions of section 54 or 55 of the Courts and Legal Services Act 1990, this section does not apply in relation to that act."

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13 In section 32 of that Act (accounts rules and trust account rules), the following subsection shall be inserted after subsection (5)—

"(6) For the purposes of this section and section 33 references to clients' money and money of a kind mentioned in subsection (1)(b) of this section or (1)(a) of section 33 include references to money held by a solicitor as a stakeholder (whether or not paid by a client of his)."

**Commencement Information**

**I152** Sch. 18 para. 13 wholly in force at 1.6.1992 see s. 124 and S.I. 1992/1221, **art. 2**,Sch.

14 In section 41 of that Act (employment by solicitor of person struck off or suspended), the following subsection shall be inserted after subsection (1)—

"(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."

15 In section 42 of that Act (failure to disclose certain facts to solicitor employer), the following subsection shall be inserted after subsection (1)—

"(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."

16 (1) Section 80 of that Act (powers to act on behalf of Society) shall be amended as follows.

(2) In subsection (1) for the words "to committees conferred on the Council" there shall be substituted " conferred" ".

(3) In subsection (3)—

(a) after the word "Council", in the second place where it occurs, there shall be inserted " or sub-committee" "; and

(b) for the words "or the committee" there shall be substituted " , committee or sub-committee" ".

17 In section 87(1) of that Act (interpretation) after the definition of "practising certificate" there shall be inserted— " "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); ".

**Commencement Information**

**I153** Sch. 18 para. 17 wholly in force at 1.7.1991 see s. 124(3) and S.I. 1991/1364, art. 2, **Sch.**

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18 In Schedule 2 to that Act after sub-paragraph (3) of paragraph 2 there shall be inserted—

"(3A) The Council may require a solicitor to pay an annual contribution of a reduced amount where that payment is made with respect to a practising certificate which has a replacement date which is less than 12 months after the replacement date of the solicitor's previous practising certificate.

(3B) Where it appears from his application for a practising certificate that a solicitor has not held or received clients' money at any time during the period specified in the application, the Council may require him—

(a) to pay an annual contribution of a specified reduced amount on that application, or

(b) to pay no annual contribution on that application."

**Commencement Information**

**I154** Sch. 18 para. 18 wholly in force at 1.7.1991 see s. 124(3) and S.I. 1991/1364, art. 2, **Sch.**

PROSPECTIVE

*The Restrictive Trade Practices Act 1976 (c.34)*

19 In section 41(1) of the Restrictive Trade Practices Act 1976 (purposes for which certain information obtained under the Act may be disclosed), in paragraph (a)—

(a) after the words "Electricity Supply" there shall be inserted " or the Authorised Conveyancing Practitioners Board" "; and

(b) after the words "Regulations 1988" there shall be inserted " or the Courts and Legal Services Act 1990" ".

*The Patents Act 1977 (c.37)*

20 (1) In section 102 of the Patents Act 1977 (right of audience etc. in proceedings before the comptroller), the following subsection shall be added at the end—

"(5) Nothing in this section shall be taken to limit the right to draw or prepare deeds given to a registered patent agent by section 68 of the Courts and Legal Services Act 1990."

(2) In section 102A of that Act (right of audience etc. in proceedings on appeal from the comptroller), the following subsection shall be added at the end—

"(6) Nothing in this section shall be taken to limit the right to draw or prepare deeds given to a registered patent agent by section 68 of the Courts and Legal Services Act 1990."

*The Domestic Proceedings and Magistrates' Courts Act 1978 (c.22)*

F428 21 . . . . . .

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**Textual Amendments**

**F428** Sch. 18 para. 21 repealed (1.10.1997) by 1996 c. 27, s. 66(3), **Sch. 10**; S.I. 1997/1892, **art. 3(1)**

PROSPECTIVE

*The Estate Agents Act 1979 (c.38)*

22 F429 . . . . . .

**Textual Amendments**

**F429** Sch. 18 para. 22 repealed (20.6.2003) by 2002 c. 40, ss. 278, 279, Sch. 26; S.I. 2003/1397, **art. 2**, Sch. (with art. 10)

PROSPECTIVE

*The Competition Act 1980 (c.21)*

23 F430 . . . . . .

**Textual Amendments**

**F430** Sch. 18 para. 23 repealed (20.6.2003) by 2002 c. 40, ss. 278, 279, Sch. 26; S.I. 2003/1397, **art. 2**, Sch. (with art. 10)

*The Social Security Act 1980 (c. 30)*

F431 24 . . . . . .

**Textual Amendments**

**F431** Sch. 18 para. 24 repealed (1.7.1992) by Social Security (Consequential Provisions) Act 1992 (c. 6, SIF 113:1), ss. 3, 7(2), **Sch.1** (with Sch. 3) (subject as mentioned (6.3.1992) in Local Government Finance Act 1992 (c. 14), **s.118**)

*The Magistrates' Courts Act 1980 (c.43)*

25 (1) The Magistrates' Courts Act 1980 shall be amended as follows.

(2) In section 150(1) (interpretation) after the definition of "impose imprisonment" there shall be inserted the following definition—

> ""legal representative" means an authorised advocate or authorised litigator, as defined by section 119(1) of the Courts and Legal Services Act 1990;".

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(3) For the words—

(a) "counsel or a solicitor" in sections 4(4)(b), 6(2)(b), 23(1)(a) and 128(1B);

(b) "counsel or solicitor" in sections 122(1) and (3);

there shall be substituted " a legal representative" ".

(4) For the words—

(a) "solicitor" in sections 6(2)(a), 12(2), 128(1A)(ii) and (3B);

F432(b) . . . . . .

F433(c) . . . . . .

there shall be substituted " legal representative" ".

(5) For the words "counsel and solicitors" in section 8(4)(d) there shall be substituted " the legal representatives" ".

(6) For the words—

(a) "solicitors and counsel" in section 69(2)(b);

(b) "solicitors or counsel" in section 69(4),

there shall be substituted " legal representatives" ".

(7) In section 144(3) (members of the rule committee) in subsection (3), for the words "one justices' clerk" to the end there shall be substituted—

"(a) one justices' clerk;

(b) one person who has a Supreme Court qualification (within the meaning of section 71 of the Courts and Legal Services Act 1990); and

(c) one person who has been granted by an authorised body, under Part II of that Act, the right to conduct litigation in relation to all proceedings in the Supreme Court.".

**Textual Amendments**

**F432** Sch. 18 para. 25(4)(b) repealed (1.4.2001) by 2000 c. 43, s. 75, **Sch. 8**; S.I. 2001/919, **art. 2(g)** Table

**F433** Sch. 18 para. 25(4)(c) repealed (1.4.1995) by 1994 c. 29, s. 93, **Sch. 9 Pt. II**; S.I. 1995/685, **art. 1(2)**

*The Judicial Pensions Act 1981 (c. 20)*

26 In section 16 of the Judicial Pensions Act 1981 (application of Part II and interpretation), in the definition of "derivative benefit", after the word "widow's" there shall be inserted " widower's" ".

**Commencement Information**

**I155** Sch. 18 para. 26 wholly in force at 1.1.1992 see s. 124(3) and S.I. 1991/2730, **art. 2**,Sch.

27 In section 22 of that Act (children's pension: rate and mode of payment)—

(a) in subsection (2) for the words "leaves no widow and, if he leaves a widow, after her death" there shall be substituted " leaves no widow or widower and, if he or she leaves a widow or widower, after his or her death" ";

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(b) in subsection (3), after the word "widow" there shall be inserted " or widower" " and after the word "her" there shall be inserted " or his" "; and

(c) in subsection (4), after the word "widow", in both places, there shall be inserted " or widower" " and after the words "she has a husband" there shall be inserted " or he has a wife" ".

**Commencement Information**

**I156** Sch. 18 para. 27 wholly in force at 1.1.1992 see s. 124(3) and S.I. 1991/2730, art. 2, **Sch.**

28 In section 23 of that Act (contributions towards widows and children's pensions) for the words "man's" and "man" there shall be substituted " person's" " and "person".

**Commencement Information**

**I157** Sch. 18 para. 28 wholly in force at 1.1.1992 see s. 124(3) and S.I. 1991/2730, **art. 2**,Sch.

29 In section 25 of that Act (persons serving again after retirement), in subsection (1)—

(a) in paragraph (a), for the words "widow or child of his" there shall be substituted " widow, widower or child of that person" "; and

(b) in paragraph (b), for the word "his" there shall be substituted " that person's" ".

**Commencement Information**

**I158** Sch. 18 para. 29 wholly in force at 1.1.1992 see s. 124(3) and S.I. 1991/2730, art. 2, **Sch.**

30 In the following sections of that Act—

(a) 29 (recommendation of a Minister required in certain cases);

(b) 31 (payments charged on Consolidated Fund); and

(c) 32(3)(b) (definition of "pension benefits"),

after the word "widow's" there shall in each case be inserted " widower's" ".

**Commencement Information**

**I159** Sch. 18 para. 30 wholly in force at 1.1.1992 see s. 124(3) and S.I. 1991/2730, **art. 2**,Sch.

PROSPECTIVE

31 The following section shall be inserted in that Act at the beginning of Part III—

"**29A Transfer of accrued benefits.**

Schedule 1A shall have effect with respect to the transfer of accrued rights into and out of the judicial pension schemes constituted by this Act and the Sheriffs' Pensions (Scotland) Act 1961."

32 In Part I of Schedule 1 to that Act (certain Supreme Court officers)—

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(a) for the entry "Registrar, Principal Registry of the Family Division" there shall be substituted— " District judge of the Principal Registry of the Family Division. "; and

(b) for the entries "County court registrar" and "county court assistant registrar" there shall be substituted—

"District judge.

Assistant district judge."

33 In paragraph 15 of Schedule 1 to that Act (persons injured, or contracting disease, in discharge of their duties), in sub-paragraph (2)(a), after the word "widow" there shall be inserted " or, in the case of a female officer, her widower" ".

**Commencement Information**

**I160** Sch. 18 para. 33 wholly in force at 1.1.1992 see s. 124(3) and S.I. 1991/2730, art. 2, **Sch.**

34 At the beginning of sub-paragraph (1) of paragraphs 15 and 16 of Schedule 2 to that Act (transitional provisions with respect to derivative benefits) there shall be inserted the words " Subject to paragraph 28 below," ".

**Commencement Information**

**I161** Sch. 18 para. 34 wholly in force at 1.1.1992 see s. 124(3) and S.I. 1991/2730, art. 2, **Sch.**

35 In paragraph 7(3) of Schedule 3 to that Act, after the word "widow's" there shall be inserted " widower's" ".

**Commencement Information**

**I162** Sch. 18 para. 35 wholly in force at 1.1.1992 see s. 124(3) and S.I. 1991/2730, **art. 2**,Sch.

*The Supreme Court Act 1981 (c. 54)*

36 (1) In section 85 of the Supreme Court Act 1981 (Supreme Court Rule Committee)—

(a) for paragraphs (f) and (g) of subsection (1), there shall be substituted—

"(f) two persons who have a Supreme Court qualification (within the meaning of section 71 of the Courts and Legal Services Act 1990); and

(g) two persons who have been granted by an authorised body, under Part II of that Act, the right to conduct litigation in relation to all proceedings in the Supreme Court."

(b) for subsection (4) there shall be substituted—

"(4) Before appointing a person under paragraph (f) or (g) of subsection (1), the Lord Chancellor shall consult any authorised body with members who are eligible for appointment under that paragraph."

(2) In section 86 of that Act (Crown Court Rule Committee)—

***Status:*** *Point in time view as at 12/01/2006. This version of this Act contains provisions that are not valid for this point in time.*
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(a) for paragraphs (f) and (g) of subsection (1), there shall be substituted—

"(f) two persons who have a Supreme Court qualification (within the meaning of section 71 of the Courts and Legal Services Act 1990); and

(g) two persons who have been granted by an authorised body, under Part II of that Act, the right to conduct litigation in relation to all proceedings in the Supreme Court."

(b) for subsection (4) there shall be substituted—

"(4) Before appointing a person under paragraph (f) or (g) of subsection (1), the Lord Chancellor shall consult any authorised body with members who are eligible for appointment under that paragraph.".

37 In section 89(2) of that Act (person appointed as Queen's coroner and attorney and master of the Crown Office to be master of Queen's Bench Division) after the words "Crown Office" there shall be inserted " and Registrar of criminal appeals" ".

38 For section 89(3)(e) of that Act (Senior Registrar of Family Division) there shall be substituted—

"(e) one of the district judges of the Principal Registry of the Family Division as Senior District Judge of that Division; and".

39 In section 90 of that Act (Official Solicitor) the following subsections shall be inserted after subsection (3)—

"(3A) The holder for the time being of the office of Official Solicitor shall have the right to conduct litigation in relation to any proceedings.

(3B) When acting as Official Solicitor a person who would otherwise have the right to conduct litigation by virtue of section 28(2)(a) of the Courts and Legal Services Act 1990 shall be treated as having acquired that right solely by virtue of subsection (3A)."

40 (1) In section 100(1) of that Act (county court registrar to be appointed as district registrar for each district registry) for the words "county court registrar as a district registrar of the High Court" there shall be substituted " district judge for a county court district, appointed under section 6 of the County Courts Act 1984, as a district judge of the High Court." "

(2) In sections 100(2) to (5) and 101 to 103 of that Act (further provisions with respect to district registrars, assistant district registrars and deputy district registrars)—

(a) for the words "county court registrar" there shall be substituted " district judge for a county court district" ";

(b) for the words "registrar" and "district registrar" in each place where they occur, except in the context of county court registrar, assistant district registrar or deputy district registrar, there shall be substituted " district judge" ";

(c) for the words "assistant district registrar" in each place where they occur there shall be substituted " assistant district judge" "; and

(d) for the words "deputy district registrar" in each place where they occur there shall be substituted " deputy district judge" ".

41 In section 151(1) of that Act (interpretation), the following shall be inserted after the definition of "appeal"—

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".

"arbitration agreement" has the same meaning as it has in the Arbitration Act 1950 by virtue of section 32 of that Act;".

**Commencement Information**
**I163** Sch. 18 para. 41 wholly in force at 1. 4.1991 see s. 124(3) and S.I. 1991/608, art. 2, **Sch.**

*The County Courts Act 1984 (c. 28)*

42 In sections 6 to 12 of the County Courts Act 1984 (provisions with respect to registrars, assistant registrars and deputy registrars)—

(a) for the word "registrar" in each place where it occurs, except where it is in the context of assistant registrar or deputy registrar, there shall be substituted " district judge" ";

F434(b) . . . . . .

and

(c) for the words "deputy county court registrar" and "deputy registrar" in each place where they occur there shall be substituted " deputy district judge" ".

**Textual Amendments**
**F434** Sch. 18 para. 42(b) repealed (31.3.1995) by 1993 c. 8, s. 31(2)(4), **Sch. 9**; S.I. 1995/631, **art. 2**

43 In section 52 of that Act (powers of court exercisable before commencement of action) the following subsection shall be added at the end—

"(3) This section is subject to any provision made under section 38,"

**Commencement Information**
**I164** Sch. 18 para. 43 wholly in force at 1.7.1991 see s. 124(3) and S.I. 1991/1364, art. 2, **Sch.**

44 In section 53 of that Act (powers of court to order disclosure of documents, inspection of property etc. in proceedings for personal injuries or death) the following subsection shall be added at the end—

"(5) This section is subject to any provision made under section 38,"

**Commencement Information**
**I165** Sch. 18 para. 44 wholly in force at 1.7.1991 see s. 124(3) and S.I. 1991/1364, art. 2, **Sch.**

45 In section 54 of that Act (provisions supplementary to sections 52 and 53) the following subsection shall be added at the end—

"(6) This section is subject to any provision made under section 38,"

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**Commencement Information**

**I166** Sch. 18 para. 45 wholly in force at 1.7.1991 see s. 124(3) and S.I. 1991/1364, art. 2, **Sch.**

46 In section 69 of that Act (power to award interest on debts and damages), the following shall be substituted for subsection (8)—

"(8) In determining whether the amount of any debt or damages exceeds that prescribed by or under any enactment, no account shall be taken of any interest payable by virtue of this section except where express provision to the contrary is made by or under that or any other enactment."

**Commencement Information**

**I167** Sch. 18 para. 46 wholly in force at 1.7.1991 see s. 124(3) and S.I. 1991/1364, art. 2, **Sch.**

47 For section 75(7) of that Act (members of the rule committee) there shall be substituted—

"(7) The rule committee shall consist of the following persons appointed by the Lord Chancellor—

(a) five judges of county courts;

(b) two district judges;

(c) two persons who have a Supreme Court qualification (within the meaning of section 71 of the Courts and Legal Services Act 1990); and

(d) two persons who have been granted by an authorised body, under Part II of that Act, the right to conduct litigation in relation to all proceedings in the Supreme Court."

48 For section 143(1) of that Act (prohibition on persons other than solicitors receiving remuneration for work in county courts) there shall be substituted—

"(1) No person other than—

(a) a legal representative; or

(b) a person exercising a right of audience or a right to conduct litigation by virtue of an order made under section 11 of the Courts and Legal Services Act 1990 (representation in county courts),

shall be entitled to have or recover any fee or reward for acting on behalf of a party in proceedings in a county court."

**Commencement Information**

**I168** Sch. 18 para. 48 wholly in force at 1. 4.1991 see s. 124(3) and S.I. 1991/608, art. 2, **Sch.**

49 (1) In section 147(1) of that Act (interpretation) after the definition of "landlord" there shall be inserted—

""legal representative" means an authorised advocate or authorised litigator, as defined by section 119(1) of the Courts and Legal Services Act 1990."

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(2) For the word "solicitor" in sections 13(1) and (4), 61(2) and 126 of that Act there shall be substituted " legal representative" ".

(3) For the word "solicitors" in sections 18, 24(1), 27(6), 75(3)(f) and 79 of that Act there shall be substituted " legal representatives" ".

**Commencement Information**

**I169** Sch. 18 para. 49 wholly in force at 1. 4.1991 see s. 124(3) and S.I. 1991/608, art. 2, **Sch.**

*The Matrimonial and Family Proceedings Act 1984 (c. 42)*

PROSPECTIVE

F435 50 . . . . . .

**Textual Amendments**

**F435** Sch. 18 para. 50 repealed (6.4.2011) by Courts Act 2003 (c. 39), s. 110(1), **Sch. 10**; S.I. 2010/2921, art. 3(c)

*The Prosecution of Offences Act 1985 (c. 23)*

F436 51 . . . . . .

**Textual Amendments**

**F436** Sch. 18 para. 51 repealed (31.7.2000) by 1999 c. 22, s. 106, **Sch. 15 Pt. II** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2000/1920, **art. 2(c)**

52 (1) In section 14(1)(a) of that Act (regulations in relation to fees of counsel) for the word "counsel" there shall be substituted " any legal representative" ".

(2) The following definition shall be inserted in section 15(1) of that Act after the definition of "Director"—

""legal representative" means an authorised advocate or authorised litigator, as defined by section 119(1) of the Courts and Legal Services Act 1990."

**Commencement Information**

**I170** Sch. 18 para. 52 wholly in force at 1. 4.1991 see s. 124(3) and S.I. 1991/608, art. 2, **Sch.**

53 In section 20(2) of that Act (regulations providing for the recovery of sums paid by the Legal Aid Board or out of central funds), in paragraph (a) for the words "party to proceedings" there shall be substituted " person" ".

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**Commencement Information**
**I171** Sch. 18 para. 53 wholly in force at 1.5.1991 see s. 124(3) and S.I. 1991/985, **art. 2(b)**

*The Administration of Justice Act 1985 (c. 61)*

54 (1) Section 9 of the Administration of Justice Act 1985 (management and control by solicitors of incorporated practices) shall be amended as follows.

(2) In subsection (1)(a)—

(a) after the word "solicitors", where it first occurs, there shall be inserted " or solicitors and one or more registered foreign lawyers" "; and

(b) at the end there shall be inserted " or by multi-national partnerships" ".

(3) In subsection (8), the following definitions shall be inserted at the appropriate places—

"multi-national partnership" means a schedule 20partnership whose members consist of one or more registered foreign lawyers and one or more solicitors;

"registered foreign lawyer" means a person who is registered under section 89 of the Courts and Legal Services Act 1990.

**Commencement Information**
**I172** Sch. 18 para. 54 wholly in force at 14.10.1991 see s. 124(3) and S.I. 1991/1883, art. 3, **Sch.**

55 In paragraph 10 of Schedule 2 to that Act (which extends the offence in section 42(1) of the Solicitors Act 1974 of seeking employment whilst struck off or suspended to employment by an incorporated practice) for the words "Section 42(1)" there shall be substituted " Section 42(1) and (1A)" ".

56 In paragraph 13 of Schedule 2 to that Act (incorporated practices)—

(a) in sub-paragraph (1), for the words from "section" to "and (8))" there shall be substituted " Schedule 1A of the Act of 1974 (except paragraphs 5(1) and 9" "; and

(b) in sub-paragraph (2), for the words "section 44A (1)(a)" there shall be substituted " paragraph 2(1)(a) of Schedule 1A to the Act of 1974" ".

**Commencement Information**
**I173** Sch. 18 para. 56 wholly in force at 1. 4.1991 see s. 124(3) and S.I. 1991/608, art. 2, **Sch.**

57 In Schedule 2 to that Act (incorporated practices), in paragraph 18 the following sub-paragraph shall be inserted after sub-paragraph (2)—

"(2A) Where, on the hearing of any application or complaint made to it under this Schedule, the Tribunal is satisfied that more than one allegation is proved against the recognised body to whom the application or complaint relates, it may impose a separate penalty (by virtue of sub-paragraph (2)(b)) with respect to each such allegation."

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58 In Schedule 6 to that Act (incorporated licensed conveyancers) the following shall be substituted for paragraph 4(3)—

"(3) Where it appears to the Council that the professional services provided by a recognised body in connection with any matter in which that body has been instructed by a client have, in any respect, not been of the quality which it is reasonable to expect of that body, the Council may take any step with respect to that recognised body as it could take under paragraphs 14 to 20 of Schedule 8 of the Courts and Legal Services Act 1990 with respect to a licensed conveyancer in similar circumstances.

(3A) Those paragraphs shall have effect (with the necessary modifications) with respect to any steps taken against the recognised body under this sub-paragraph as they have effect with respect to any steps taken with respect to a licensed conveyancer under paragraph 14 of that Schedule."

**Commencement Information**

**I174** Sch. 18 para. 58 wholly in force at 1.4.1991 see s. 124(3) and S.I. 1991/608, art. 2, **Sch.**

*The Legal Aid Act 1988 (c. 34)*

[F437]59 . . . . . .

**Textual Amendments**

**F437** Sch. 18 para. 59 repealed (1.4.2000) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2000/774, art. 2(c)(ii), **Sch. para. 7** (with arts. 3-5)

[F438]60 . . . . . .

**Textual Amendments**

**F438** Sch. 18 para. 60 repealed (1.4.2000) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2000/774, art. 2(c)(ii), **Sch. para. 7** (with arts. 3-5)

[F439]61 . . . . . .

**Textual Amendments**

**F439** Sch. 18 para. 61 repealed (1.4.2000) by 1999 c.22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2000/774, art. 2(c)(ii), **Sch. para. 7** (with arts. 3-5)

[F440]62 . . . . . .

**Textual Amendments**

**F440** Sch. 18 para. 62 repealed (1.4.2000) by 1999 c.22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2000/774, art. 2(c)(ii), **Sch. para. 7** (with arts. 3-5)

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[F441]63 . . . . . .

**Textual Amendments**

**F441** Sch. 18 para. 63 repealed (1.4.2000) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2000/774, art. 2(c)(ii), **Sch. para. 7** (with arts. 3-5)

## SCHEDULE 19

Section 125(6).

### TRANSITIONALS AND SAVINGS

*Discrimination by, or in relation to, barristers*

1 Nothing in section 64 shall have effect in relation to anything done before the date on which that section came into force in relation to a pupillage or tenancy which began before that date.

*Judicial appointments: barristers*

[F442]2 . . . . . .

**Textual Amendments**

**F442** Sch. 19 para. 2 repealed (27.9.1999) by 1999 c. 22, s. 106, **Sch. 15 Pt. II** (with Sch. 14 paras. 7(2), 36(9)); S.I. 1999/2657, art. 2(d)(ii)(a), **Sch. 2 Pt. I para.2(d)**

*Judicial appointments: solicitors*

[F443]3 . . . . . .

**Textual Amendments**

**F443** Sch. 19 para. 3 repealed (27.9.1999) by 1999 c. 22, s. 106, **Sch. 15 Pt. II** (with Sch. 14 paras. 7(2), 36(9)); S.I. 1999/2657, art. 2(d)(ii)(a), **Sch. 2 Pt. I para. 2(d)**

*Directions under section 83 of the Supreme Court Act 1981 (c. 54)*

4 (1) Any direction given under section 83 of the Supreme Court Act 1981 (right of audience for solicitors in Crown Courts) and in force immediately before the commencement of section 67 shall have effect as if validly made under section 83 as substituted by section 67.

(2) This paragraph is without prejudice to section 17(2)(b) of the [M109]Interpretation Act 1978.

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**Marginal Citations**
**M109** 1978 c. 30.

*District judges*

5 For the purposes of section 16(3)(c) of the [M110]Courts Act 1971 (certain office-holders eligible, after 3 years, for appointment as Circuit judges) a person who holds an office (the "former office") which, on the coming into force of section 74, becomes the office of district judge shall be deemed to have held that office since his appointment to the former office.

**Marginal Citations**
**M110** 1971 c. 23.

*Judicial oaths*

6 (1) Sub-paragraph (2) applies in relation to any person who, immediately after the coming into force of section 76, holds any of the offices listed in subsection (1) of that section.

(2) The [M111]Promissory Oaths Act 1868 shall have effect as if in section 6 for the words "as soon as may be after his acceptance of office" there were substituted " not later than 6 months after the coming into force of section 76 of the Courts and Legal Services Act 1990" ".

**Marginal Citations**
**M111** 1868 c. 72.

*Retirement age of certain officers of Supreme Court*

7 [F444] . . . . . .

**Textual Amendments**
**F444** Sch. 19 para. 7 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, **art. 3(aa)(bb)**

*Investigations by lay observers*

8 (1) Where, before the coming into force of section 21, the Law Society has received a report from a lay observer under section 45 of the [M112]Solicitors Act 1974 (investigation by lay observers of Law Society's treatment of complaints), the Legal Services Ombudsman shall have no power to investigate any allegation in relation to that complaint.

(2) Where—

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(a) any allegation has been duly made to a lay observer under section 45 of the Act of 1974; but

(b) he has not—

(i) concluded his examination of the allegation; or

(ii) reported to the Law Society,

before the repeal of that section has effect,

the Ombudsman may either exercise the functions of a lay observer under the Act of 1974 in relation to that allegation or treat it as an allegation duly made under this Act.

(3) Where the Ombudsman decides to exercise the functions of a lay observer, by virtue of sub-paragraph (2), the Act of 1974 shall have effect in relation to his investigation as if this Act had not been passed.

**Marginal Citations**

**M112** 1974 c. 47.

*Judicial pensions*

9 The repeal by this Act of sections 18(3), 20(6) and 24 of the [M113]Judicial Pensions Act 1981 shall not apply in relation to any person who is entitled to exercise the option given by paragraph 26 or 27 of the Part IV inserted in Schedule 2 to that Act by Schedule 12 to this Act but does not do so.

**Commencement Information**

**I175** Sch. 19 para. 9 wholly in force at 1.1.1992 see s. 124(3) and S.I. 1991/2730, **art. 2**,Sch.

**Marginal Citations**

**M113** 1981 c. 20.

10 (1) The repeal by this Act of subsection (3) of section 3 of the [M114]Superannuation (Miscellaneous Provisions) Act 1967 shall not affect its application in relation to any abatement made under that section.

(2) The repeal by this Act of subsection (3) of section 1 of the [M115]Superannuation (Miscellaneous Provisions) Act (Northern Ireland) 1969 shall not affect its application in relation to any abatement made under that section.

(3) The repeal by this Act of section 19(5) of the [M116]Courts Act 1971 shall not affect its application in relation to any abatement made under section 18(3) of that Act.

(4) The repeal by this Act of subsection (4) of section 9 of the [M117]Administration of Justice Act 1973 shall not affect its application so far as it provides for any abatement which has been made under that subsection to be disregarded.

(5) The repeal by this Act of subsection (4) of section 12 of the [M118]Supreme Court Act 1981 shall not affect its application so far as it provides for any abatement which has been made under that subsection to be disregarded.

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**Marginal Citations**
**M114** 1967 c. 28.
**M115** 1969 c. 7 (N.I.).
**M116** 1971 c. 23.
**M117** 1973 c. 15.
**M118** 1981 c. 54.

*Overseas solicitors*

11 (1) Notwithstanding the repeal by this Act of section 4 of the Solicitors Act 1974 (under which the [M119]Overseas Solicitors (Admission) Order 1964 has effect) training regulations made under section 2 of that Act may contain provisions expressed to have effect in relation to territories listed in Schedule 1 to that Order.

(2) Sub-paragraph (1) is without prejudice to the power in section 2(3)(d) of that Act to make different provision for different classes of person and different circumstances.

(3) Sub-paragraph (1) shall cease to have effect on the coming into force of any such training regulations which contain provisions applying in relation to any territory—
(a) which is listed in the Order of 1964; but
(b) which is identified in the regulations otherwise than by reference to that list.

**Marginal Citations**
**M119** S.I. 1964/1848.

*Practising certificates*

12 (1) Section 14 of the [M120]Solicitors Act 1974, as substituted by section 86 shall have effect, in relation to any practising certificate which is in force on the commencement of section 86, as if it provided for the replacement date for that certificate to be the 31st October following that commencement.

(2) Sub-paragraph (1) is subject to any direction (whether general or specific) given by the Law Society.

(3) The definition of “replacement date", inserted in section 87(1) of the Solicitors Act 1974 by paragraph 17 of Schedule 18 shall have effect subject to the provision made by this paragraph.

**Commencement Information**
**I176** Sch. 19 para. 12 wholly in force at 1.7.1991 see s. 124(3) and S.I. 1991/1364, art. 2, **Sch.**

**Marginal Citations**
**M120** 1974 c. 47.

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*Notaries*

13 (1) Subsection (2) of section 57 and the repeal by this Act of the provisions relating to the serving of apprenticeships mentioned in subsection (3) of that section shall not have effect in relation to any person who, at the date on which subsection (2) of that section comes into force, is serving such an apprenticeship.

(2) The Master of the Faculties may make rules providing—

(a) for a reduction in the period of apprenticeship of any person to whom this paragraph applies with a view to securing that no such person is required to undertake a period of training longer than the period which he would have been required to undertake, by virtue of rules made by the Master, had he started his training after the commencement of subsection (2) of section 57; or

(b) for all such apprenticeships to be brought to an end on such day as may be prescribed.

**Commencement Information**

**I177** Sch. 19 para. 13 wholly in force at 1.7.1991 see s. 124(3) and S.I. 1991/1364, art. 2, **Sch.**

*Redress for inadequate professional services*

14 Section 93 and the repeal by Schedule 20 of—

(a) section 44A of the Solicitors Act 1974;

(b) section 47A of that Act; and

(c) paragraph 19 of Schedule 2 to the [M121]Administration of Justice Act 1985,

shall not affect any case in which the final bill of costs was delivered to the client concerned before the commencement of section 93 or those repeals.

**Commencement Information**

**I178** Sch. 19 para. 14 in force at 1. 4.1991 see s. 124(3) and S.I. 1991/608, art. 2, **Sch.**

**Marginal Citations**

**M121** 1985 c. 61.

*The Council for Licensed Conveyancers*

15 (1) The following provisions—

(a) section 53;

(b) the repeal by Schedule 20 of section 26(3) of the Administration of Justice Act 1985; and

(c) paragraph 58 of Schedule 18,

shall not affect any case in which the final bill of costs was delivered to the client concerned before the commencement of section 53.

(2) Until such date as may be specified by order made by the Lord Chancellor, the provisions of—

(a) paragraphs 14 to 20 of Schedule 8; and

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(b) paragraph 4(3) and (3A) of Schedule 6 to the Administration of Justice Act 1985 (as substituted by paragraph 58 of Schedule 18),

shall have effect as if they conferred powers on the Discipline and Appeals Committee and not on the Council for Licensed Conveyancers.

(3) Any order made by the Lord Chancellor under sub-paragraph (2) may make such transitional, consequential or supplemental provision as he thinks necessary or expedient in consequence of the transfer of jurisdiction under the provisions in question from the Discipline and Appeals Committee to the Council.

**Commencement Information**

**I179** Sch. 19 para. 15 in force at 1. 4.1991 see s. 124(3) and S.I. 1991/608, art. 2, **Sch.**

*Immunity of magistrates etc.*

16 (1) The Justices of the Peace Act 1979 shall continue to apply in relation to any matter arising before the coming into force of section 108, in connection with the exercise or purported exercise of his office by a justice of the peace, as if section 108 had not been enacted.

(2) The Magistrates' Courts (Northern Ireland) Order 1981 shall continue to apply in relation to any matter arising before the coming into force of section 109, in connection with the exercise or purported exercise of his office by a resident magistrate or justice of the peace, as if section 109 had not been enacted.

(3) Section 63 of the Administration of Justice Act 1985 shall continue to apply in relation to any matter arising before the coming into force of section 109, in connection with the exercise or purported exercise of his office by a person to whom this sub-paragraph applies, as if section 109 had not been enacted.

(4) Sub-paragraph (3) applies to—

(a) a resident magistrate, including a deputy resident magistrate;

(b) a justice of the peace; and

(c) a person specified in section 63(7) of the Act of 1985 (county court judges sitting in connection with certain appeals and members of juvenile court panels).

*Commissioners for Oaths*

17 The repeal by this Act of section 1(1) of the [M122]Commissioners for Oaths Act 1889 shall not affect the power of the **[**[F445]Secretary of State**]** to revoke any appointment made by **[**[F446]the Lord Chancellor**]** under that provision.

**Textual Amendments**

**F445** Words in Sch. 19 para. 17 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(4)(a)** (with arts. 6, 8)

**F446** Words in Sch. 19 para. 17 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 8(4)(b)** (with arts. 6, 8)

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**Commencement Information**

**I180** Sch. 19 para. 17 in force at 1. 4.1991 see s. 124(3) and S.I. 1991/608, art. 2, **Sch**

**Marginal Citations**

**M122** 1889 c. 10.

## SCHEDULE 20

Section 125(7).

### REPEALS

**Extent Information**

**E2** For extent of this Schedule see s. 123

**Commencement Information**

**I181** Sch. 20 partly in force at 1.4.1991 see s. 124(3) and S.I. 1991/608, art. 2, **Sch.**; Sch. 20 partly in force at 1.7.1991 see s. 124(3) and S.I. 1991/1364, art. 2, **Sch**; Sch. 20 partly in force at 14.10.1991 see s. 124(3) and S.I. 1991/1883, art.3, **Sch**; Sch. 20 partly in force at 1.1.1992 see s. 124(3) and S.I. 1991/2730, **art. 2**,Sch; Sch. 20 partly in force at 1.6.1992 see s. 124(3) and S.I. 1992/1221, **art. 2**,Sch; Sch. 20 partly in force at 1.10.1993 see s. 124(3) and S.I. 1993/2132, art. 2, **Sch.**

| Chapter | Short title | Extent of repeal |
|---|---|---|
| 41 Geo. 3 c. 79. | The Public Notaries Act 1801. | In section 1, the words “in manner hereinafter directed".Sections 2 to 5.Sections 7 to 10.In section 14, the words from “Provided always" to the end. |
| 3 & 4 Will 4 c. 70. | The Public Notaries Act 1833. | The whole Act. |
| 6 & 7 Vict c. 90. | The Public Notaries Act 1843. | Sections 1 to 3.In section 6, the words “nor any service under this Act".Section 9.In section 10, the words “and also in the Public Notaries Act 1833". |
| 8 & 9 Vict. c. 127. | The Small Debts Act 1845. | The whole Act. |
| 20 & 21 Vict.c. 43. | The Summary Jurisdiction Act 1857. | In section 6, the words from “Provided always" to the end. |
| 27 & 28 Vict.c. 24. | The Naval Agency and Distribution Act 1864. | In section 7, the words “or a proctor, attorney or solicitor" and “or becomes a proctor, attorney or solicitor".Section 23(1). |

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| 52 & 53 Vict.c. 10. | The Commissioners for Oaths Act 1889. | In section 1, subsection (1) and in subsection (2) the words “by virtue of his commission". |
| 4 & 5 Geo 5 c. 91. | The Welsh Church Act 1914. | Section 37. |
| 9 & 10 Geo. 5c. 53. | The War Pensions (Administrative Provisions) Act 1919. | In the Schedule, in paragraph 2(i) the words from “being a barrister" to “standing". |
| 6 & 7 Geo. 6c. 39. | The Pensions Appeal Tribunals Act 1943. | Section 13(c). |
| 12 & 13 Geo. 6c. 42. | The Lands Tribunal Act 1949. | In section 8(1), the definition of “barrister-at-law". |
| 14 Geo. 6 c. 27. | The Arbitration Act 1950. | Section 12(6)(b). |
| 14 Geo. 6 c. 37. | The Maintenance Orders Act 1950. | Section 16(2)(a)(vii). |
| 14 & 15 Geo. 6c. 46. | The Courts-Martial (Appeals) Act 1951. | Section 28(5).Section 31(5). |
| 4 & 5 Eliz. 2 c. 46. | The Administration of Justice Act 1956. | Section 37.Section 53. |
| 1961 c. 44. | The Barristers (Qualification for Office) Act 1961. | The whole Act. |
| 1967 c. 28. | The Superannuation (Miscellaneous Provisions) Act 1967. | Section 3. |
| 1969 c. 7 (N.I.). | The Superannuation (Miscellaneous Provisions) Act (Northern Ireland) 1969. | Section 1. |
| 1969 c. 46. | The Family Law Reform Act 1969. | Section 6. |
| 1969 c. 54. | The Children and Young Persons Act 1969. | In section 16(3), the words from “and the justice" to the end. |
| 1969 c. 58. | The Administration of Justice Act 1969. | Section 29. |
| 1970 c. 31. | The Administration of Justice Act 1970. | In Schedule 8, paragraph 12. |
| 1971 c. 23. | The Courts Act 1971. | Section 17(6).Section 18(3) and (4).Section 19(5). |
| 1972 c. 18. | The Maintenance Orders (Reciprocal Enforcement) Act 1972. | Section 30(1), (2) and (6). |
| 1973 c. 13. | The Administration of Justice Act 1973. | Section 9(4). |

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| 1974 c. 47. | The Solicitors Act 1974. | Section 2(2).In section 3, in subsection (2) the words from “or a judge" to “time being" and subsection (3).<br>Section 4.Section 5.In section 7(a), the words “or a judge acting for him under section 3(2).".In section 20(2), paragraph (c) and the word “and" immediately preceding it.Section 33(4)(b) and the word “or" immediately preceding it.Section 39.Section 44A.Section 45.Section 47A.Section 81(5).Section 82.In Schedule 3, paragraph 7. |
| 1975 c. 14. | The Social Security Act 1975. | In Schedule 10, paragraph 1A(8). |
| 1975 c. 24. | The House of Commons Disqualification Act 1975. | In Part III of Schedule 1, the entry relating to the lay observer appointed under section 45 of the Solicitors Act 1974. |
| 1975 c. 27. | The Ministerial and other Salaries Act 1975. | In section 1(2), the words from “but" to the end. |
| 1976 c. 80. | The Rent (Agriculture) Act 1976. | Section 26(3). |
| 1977 c. 42. | The Rent Act 1977. | Section 141(4) and (5). |
| 1978 c. 22. | The Domestic Proceedings and Magistrates’ Courts Act 1978. | Section 16(7).Section 17(2).Section 23(1).Section 24.Section 30(2) to (4). |
| 1979 c. 55. | The Justices of the Peace Act 1979. | Section 31(4)(b).Section 46.Section 47.Section 48.Section 49.Section 51.Section 52.In section 53(1), the words “and of section 54 below".Section 54. |
| 1980 c. 30. | The Social Security Act 1980. | Section 13(4). |
| 1980 c. 43. | The Magistrates’ Courts Act 1980. | Section 65(1)(k). |
| 1980 c. 51. | The Housing Act 1980. | Section 86(3). |
| 1981 c. 20. | The Judicial Pensions Act 1981. | Section 18(3).Section 20(6).Section 22(5).Section |

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| | | 24.In section 25, in subsection (1) the word “his", in the first three places where it occurs and subsection (2).In section 33, the definition of “the Minister".In Part I of Schedule 1, the entries “Queen’s coroner and attorney and Master of the Crown Office" and “Registrar of criminal appeals".In Schedule 1, paragraph 15(3). |
| 1981 c. 54. | The Supreme Court Act 1981. | Section 12(4).In section 18, in subsection (1) paragraphs (e), (f) and (h) and subsection (2).Section 94.Section 100(5).Section 101(2).Section 102(6).Section 103(6). |
| 1984 c. 28. | The County Courts Act 1984. | Section 10.Section 19.Section 20.Section 22.Section 29.Section 34.Section 43.Section 44.In section 45, in subsection (1) the words from “and as to" to “to be taxed" and subsection (2).In section 60, subsection (1), and in subsection (2) the words “not being a person entitled to address the court by virtue of subsection (1)" and “as if he were a person so entitled".In section 63, the words “for the purposes of subsection (2)".In section 75(1), the words from “and prescribing" to the end.Section 89(3).Section 105.Section 106.Section 112(5).Section 143(2).In Schedule 1, paragraph 2(3) and paragraph 3 and the word “and" immediately preceding it. |
| 1984 c. 42. | The Matrimonial and Family Proceedings Act 1984. | In Schedule 1, paragraphs 29 and 31. |
| 1985 c. 23. | The Prosecution of Offences Act 1985. | Section 4(5).In section 15(1), the definition of “solicitor", and the word “and" immediately preceding it. |

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| 1985 c. 61. | The Administration of Justice Act 1985. | Section 1.Section 3.In section 9(8) the second “and".Section 26(3).Section 63.Section 65(5).In Schedule 1, paragraphs 4 and 11.In Schedule 2, paragraph 4(2)(b) and the word “or" immediately preceding it and paragraphs 8, 15 and 19.In Schedule 3, paragraph 8.In Schedule 7, paragraph 4, and in paragraph 5 the words “or under section 47A". |
| 1985 c. 68. | The Housing Act 1985. | Section 110(3).Section 181(3). |
| 1985 c. 70. | The Landlord and Tenant Act 1985. | Section 19(5). |
| 1986 c. 53. | The Building Societies Act 1986. | Section 35.Section 124. |
| 1987 c. 31. | The Landlord and Tenant Act 1987. | Section 52(4) and (5).In Schedule 2, paragraph 2(b). |
| 1987 c. 42. | The Family Law Reform Act 1987. | Section 29(4).In Schedule 2, paragraphs 12(a), 20 and 27(a). |
| 1988 c. 13. | The Coroners Act 1988. | In section 2(1) the words “in his profession". |
| 1988 c. 48. | The Copyright, Designs and Patents Act 1988. | Section 290. |
| 1988 c. 50. | The Housing Act 1988. | Section 40(4) and (5). |
| 1989 c. 41. | The Children Act 1989. | In section 27(1), the words “or other person" and the words “or person".In section 42(1), the word “or" immediately preceding para- graph (b) and in paragraph (b) the word “other".In section 81(1)(d), the word “registered".In section 108(12), in the entry relating to Schedule 14, the word “18".In Schedule 3, paragraph 7.In Schedule 4, in paragraph 1(1), (2), (4), (5), (8) and (9) the word “voluntary" in each place where it occurs, and in paragraph 1(6)(b)(i) the words “as a voluntary |

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| | | home".In Schedule 12, paragraph 25.In Schedule 13, paragraphs 24, 25 and 40.In Schedule 14, in paragraph 15(1), the word “or" immediately preceding paragraph (g). |

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