

Status: Point in time view as at 01/01/2010.

Changes to legislation: There are currently no known outstanding effects for the Legal Services Act 2007, SCHEDULE 17. (See end of Document for details)

SCHEDULES

SCHEDULE 17

Section 182

LICENSED CONVEYANCING

PART 1

ADMINISTRATION OF JUSTICE ACT 1985 (C. 61)

- 1 Part 2 of the Administration of Justice Act 1985 (licensed conveyancing) is amended in accordance with this Part.
- 2 In section 11 (provision of conveyancing services by licensed conveyancers)—
- (a) in subsection (1) for “by persons” to the end substitute “and other services by persons who hold licences in force under this Part or who are recognised bodies.”,
 - (b) for subsection (3) substitute—
 - “(3) References in this Part to conveyancing services are references to—
 - (a) 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, and
 - (b) any other activities which are reserved instrument activities for the purposes of the Legal Services Act 2007 (see section 12 of and Schedule 2 to that Act).
- (3A) For the purposes of subsection (3)—
- (a) “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 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
 - (b) “acquisition” has a corresponding meaning.”, and
 - (c) omit subsection (4).

Commencement Information

- II** Sch. 17 para. 2 wholly in force at 1.1.2010; Sch. 17 para. 2 not in force at Royal Assent see s. 211; Sch. 17 para. 2(a) in force at 31.3.2009 by *S.I. 2009/503*, **art. 2(c)(i)**; Sch. 17 para. 2 in force otherwise at 1.1.2010 by *S.I. 2009/3250*, **art. 2(f)(iii)** (with art. 9)

- 3 In section 12 (establishment of the Council), omit subsection (2).

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- 4 (1) Section 15 (issue of licences by Council) is amended as follows.
- (2) In subsection (3)(b), for “21” substitute “ 42 ”.
- (3) In subsection (4), for “the period of” to the end substitute “ such period, beginning with the date of issue of the licence, as may be specified in the licence. ”
- (4) Omit subsections (7) and (8).
- 5 (1) Section 16 (conditional licences) is amended as follows.
- (2) In subsection (1)—
- (a) after paragraph (c) insert—
- “(ca) after the Investigating Committee established under section 24 has made any order in his case under section 24A;”, and
- (b) after paragraph (e) insert—
- “(ea) when, having been required by rules made under section 22 to deliver to the Council a report by an accountant, he has not delivered such a report within the period required by the rules;
- (eb) after having been disqualified under section 99 of the Legal Services Act 2007 (disqualification from being manager or employee of a licensed body etc);
- (ec) after his holding of a restricted interest in a licensed body has been approved subject to conditions under paragraph 17, 28 or 33 of Schedule 13 to that Act (ownership of licensed bodies) or objected to under paragraph 19, 31 or 36 of that Schedule;”.
- (3) In subsection (4)—
- (a) after “paragraph” insert “ (ca), ”, and
- (b) after “(e),” insert “ (ea), (eb), (ec), ”.
- (4) In subsection (5) for “or” at the end of paragraph (a) substitute—
- “(aa) pending the hearing and determination of any appeal brought by the applicant under paragraph 18, 20, 29, 32, 34 or 37 of Schedule 13 to the Legal Services Act 2007;
- (ab) pending the review by a licensing authority, in accordance with its licensing rules, of a determination that the applicant should be disqualified under section 99 of the Legal Services Act 2007; or”.
- (5) After that subsection insert—
- “(6) In this section—
- “licensed body”, “licensing authority” and “licensing rules” have the same meaning as in the Legal Services Act 2007 (see sections 71, 73 and 83 of that Act);
- “restricted interest”, in relation to a body, has the same meaning as in Schedule 13 to that Act (ownership of licensed bodies).”

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Commencement Information

I2 Sch. 17 para. 5(1)(2)(a)(3)(a) in force and Sch. 17 para. 5(2)(b)(3)(b) in force for certain purposes at 31.3.2009 by [S.I. 2009/503](#), [art. 2\(c\)\(i\)](#)

6 After section 16 insert—

“16A Additional fee payable by certain persons when applying for licences

(1) This section applies where a person applies for a licence at a time when section 16 has effect in relation to him by reason of the circumstances mentioned in section 16(1)(ea).

(2) The application must be accompanied by an additional fee of an amount prescribed by rules made by the Council for the purposes of this section.”

7 (1) Section 17 (imposition of conditions during currency of licence) is amended as follows.

(2) In subsection (2)(a)—

(a) after “paragraph” insert “ (ca), ”, and

(b) after “(e),” insert “ (ea), (eb), (ec), ”.

(3) In subsection (4), for “or” at the end of paragraph (a) substitute—

“(aa) pending the hearing and determination of any appeal brought by the licensed conveyancer under paragraph 18, 20, 29, 32, 34 or 37 of Schedule 13 to the Legal Services Act 2007;

(ab) pending the review by a licensing authority, in accordance with its licensing rules, of a determination that the licensed conveyancer should be disqualified under section 99 of the Legal Services Act 2007; or”.

(4) After subsection (5) insert—

“(6) In this section “licensing authority” and “licensing rules” have the same meaning as in the Legal Services Act 2007 (see sections 73 and 83 of that Act).”

Commencement Information

I3 Sch. 17 para. 7(1)(2)(a) in force and Sch. 17 para. 7(2)(b) in force for certain purposes at 31.3.2009 by [S.I. 2009/503](#), [art. 2\(c\)\(i\)](#)

8 After section 17 insert—

“17A Variation of conditions

(1) This section applies where a licensed conveyancer's licence has effect subject to conditions.

(2) On an application made by the licensed conveyancer, the Council may in prescribed circumstances direct—

(a) the removal of a condition;

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- (b) the variation of a condition in the manner described in the application.
- (3) “Prescribed” means prescribed by rules made by the Council.
- (4) Section 14 (applications for licences) applies in relation to an application under this section as it applies in relation to applications for a licence under this Part.”
- 9 In section 18 (suspension or termination of licences), after subsection (2) insert—
- “(2A) Where the power conferred by paragraph 6(1) or 9(1) of Schedule 5 has been exercised in relation to a licensed conveyancer by virtue of paragraph 1(1)(a) (i), (aa), (c) or (e) of that Schedule, the exercise of that power shall operate immediately to suspend any licence held by that person under this Part.
- (2B) Subsection (2A) does not apply if, at the time when the power referred to there is exercised, the Council directs that subsection (2A) is not to apply in relation to the licensed conveyancer concerned.
- (2C) If, at the time when the power referred to in subsection (2A) is exercised, the Council gives a direction to that effect, the licensed conveyancer concerned may continue to act in relation to any matter specified in the direction as if the licence had not been suspended by virtue of subsection (2A), but subject to such conditions (if any) as the Council sees fit to impose.
- (2D) Subject to subsection (2E), where a licence is suspended by virtue of subsection (2A) the suspension of the licence shall continue until the licence expires.
- (2E) The licensed conveyancer may, at any time before the licence expires, apply to the Council to terminate the suspension.
- (2F) On an application under subsection (2E), the Council may in its discretion—
- (a) by order terminate the suspension either unconditionally or subject to such conditions as the Council may think fit, or
- (b) refuse the application.
- (2G) If on an application by a licensed conveyancer under subsection (2E) the Council refuses the application or terminates the suspension subject to conditions, the licensed conveyancer may appeal against the decision of the Council to the High Court which may—
- (a) affirm the decision, or
- (b) terminate the suspension either unconditionally or subject to such conditions as it may think fit.
- (2H) In relation to an appeal under subsection (2G) the High Court may make such order as it thinks fit as to payment of costs.”
- 10 In section 20 (rules as to professional practice, conduct and discipline), in subsection (1) omit “, in pursuance of its general duty referred to in section 12(2),”.
- 11 In section 22 (keeping of accounts and establishment of client accounts)—
- (a) in subsection (3)(a) omit “qualified”, and
- (b) for subsections (4) and (5) substitute—

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“(4) Provision made in rules by virtue of subsection (3)(a) may provide that the reports delivered to the Council must be reports given by accountants in respect of whom requirements prescribed by the rules are met.”

- 12 (1) Section 24 (preliminary investigation of disciplinary cases) is amended as follows.
- (2) In subsection (1)—
- (a) for “preliminary investigation” substitute “ consideration ”,
 - (b) omit paragraph (b), and
 - (c) omit from “with a view” to the end.
- (3) After subsection (1) insert—
- “(1A) The Investigating Committee shall make a preliminary investigation of such an allegation and—
- (a) hear and determine the allegation, or
 - (b) refer the allegation to the Discipline and Appeals Committee established under section 25 for hearing and determination by that Committee under section 26.”
- (4) Omit subsection (2).
- (5) In subsection (3) omit—
- (a) “or (2)”,
 - (b) “or complaint” (in both places), and
 - (c) “or paragraph (b)”.
- (6) After subsection (4) insert—
- “(4A) The Council shall make rules as to the cases in which the Investigating Committee may hear and determine an allegation, and the cases in which they must refer an allegation to the Discipline and Appeals Committee.”
- (7) In subsection (5) omit “or complaint” (in both places).
- (8) After that subsection insert—
- “(6) Before making a direction under subsection (5), the Investigating Committee must give the licensed conveyancer an opportunity to make representations against the making of the proposed direction.
- (7) In relation to proceedings under subsection (6), the Investigating Committee may make such order as they think fit as to the payment of costs by—
- (a) the Council, or
 - (b) the licensed conveyancer.
- (8) Where a direction under subsection (5) has been made, the licensed conveyancer may appeal to the Discipline and Appeals Committee, and on any such appeal the Committee may make such order as they think fit.
- (9) Where an order has been made under subsection (7) the Council or the licensed conveyancer may appeal to the Discipline and Appeals Committee, and on any such appeal the Committee may make such order as they think fit.

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- (10) Where an order is made by the Discipline and Appeals Committee under subsections (8) or (9)—
- (a) the person against whom the order is made, and
 - (b) if not within paragraph (a), the Council,
- may appeal against the order to the High Court.
- (11) On an appeal under subsection (10) the High Court may make such order as it thinks fit.
- (12) The decision of the High Court on an appeal under subsection (10) shall be final.”

13 After section 24 insert—

“24A Determination of allegations by Investigating Committee

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

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Committee, and on any such appeal the Discipline and Appeals Committee may make such order as they think fit.

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

14 In section 25 (the Discipline and Appeals Committee), in subsection (1)(b) for “sections 27 to” substitute “ section 24A, 27, 28 or ”.

15 (1) Section 26 (proceedings in disciplinary cases) is amended as follows.

- (2) In subsection (1) after “allegation” insert “ referred to them under section 24(1A) (b) ”.
- (3) In subsection (2)—
- (a) in paragraph (e), for “£3,000” substitute “ such amount as may be prescribed by rules made by the Council for the purposes of this paragraph ”,
 - (b) for paragraph (f) substitute—
“(f) an order reprimanding the licensed conveyancer.”, and
 - (c) omit paragraph (g).
- (4) After subsection (2) insert—
- “(2A) In relation to proceedings before the Discipline and Appeals Committee under this section, the Committee may make such order as they consider fit as to the payment of costs by—
- (a) the Council;
 - (b) the licensed conveyancer against whom the proceedings were brought;
 - (c) if the person on whose allegation the proceedings were brought was heard (in person, or through a representative) by the Committee in the course of the proceedings, that person.
- (2B) In subsection (2A), for the purposes of paragraph (a) or (b) of that subsection, the reference to costs includes costs incurred in connection with a preliminary investigation of the allegation under section 24(1A).”
- (5) Omit subsections (5) and (6).
- (6) After subsection (7) insert—

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- “(7A) Where the Discipline and Appeals Committee make an order under subsection (2A), a person listed in paragraphs (a) to (c) of that subsection may appeal to the High Court, and on any such appeal the High Court may make such order as it thinks fit.”
- (7) In subsection (8), after “(7)” insert “ or (7A) ”.
- 16 In section 27 (removal of disqualification from holding a licence), after subsection (2) insert—
- “(3) In relation to proceedings on an application under subsection (1), the Discipline and Appeals Committee may make such order as they consider fit as to the payment of costs by—
- (a) the Council;
- (b) the applicant.”
- 17 In section 28 (revocation of licence on grounds of fraud or error), after subsection (4) insert—
- “(5) In relation to proceedings for the revocation of a licence under subsection (1), the Discipline and Appeals Committee may make such order as they consider fit as to the payment of costs by—
- (a) the Council;
- (b) the licensed conveyancer to whose licence the proceedings relate.
- (6) In relation to proceedings on an application under subsection (2), the Discipline and Appeals Committee may make such order as they consider fit as to the payment of costs by—
- (a) the Council;
- (b) the applicant.”
- 18 In section 29 (appeals from decisions of Council in relation to licences)—
- (a) in subsection (1), omit “or” at the end of paragraph (b),
- (b) in that subsection, at the end of paragraph (c) insert “or
- (d) refuses an application made by that person under section 17A,” and
- (c) in subsection (2), after paragraph (b) insert—
- “(ba) in the case of an appeal under subsection (1)(d), by order direct the Council to grant the application;”.
- 19 (1) Section 31 (application of Schedule 5) is amended as follows.
- (2) In subsection (2) omit—
- (a) “or complaint” (in each place), and
- (b) “or paragraph (b)”.
- (3) In subsection (3), for “and 12” substitute “ to 12A ”.
- (4) In subsection (4) omit “or complaint”.
- 20 (1) Section 32 (provision of conveyancing services by recognised bodies) is amended as follows.
- (2) In subsection (1)(a) for “by licensed” (in the first place) to the end substitute “ of conveyancing services bodies; ”.

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- (3) In subsection (1)(b) for “such services” substitute “ conveyancing services or other relevant legal services ”.
- (4) After subsection (1)(b) insert—
 - “(ba) prescribing the Council's arrangements for authorising recognised bodies, for the purposes of the Legal Services Act 2007, to carry on reserved instrument activities, or the administration of oaths, within the meaning of that Act;”.
- (5) In subsection (1)(c) for “conditions” substitute “ requirements ”.
- (6) In subsection (2) omit “corporate”.
- (7) In subsection (3)—
 - (a) in paragraph (a) after “section” insert “ , or for the renewal of such recognition, ”,
 - (b) after that paragraph insert—
 - “(aa) for the payment of fees in connection with other applications under the rules;”,
 - (c) for paragraph (c) substitute—
 - “(c) about the time when any recognition granted under this section, or renewal of such recognition, takes effect and the period for which it is (subject to the provisions of this Part) to remain in force;
 - (ca) for the suspension or revocation of any such recognition, on such grounds and in such circumstances as may be prescribed in the rules;
 - (cb) about the effect on the recognition of a partnership or other unincorporated body (“the existing body”) of any change in its membership, including provision for the existing body's recognition to be transferred where the existing body ceases to exist and another body succeeds to the whole or substantially the whole of its business;”,
 - (d) omit paragraph (d),
 - (e) in paragraph (e)—
 - (i) for “a list” substitute “ a register ”,
 - (ii) omit “corporate”, and
 - (iii) for “, and for the” to the end substitute “ and such other information relating to those bodies as may be specified in the rules; ”,
 - (f) after that paragraph insert—
 - “(ea) for information (or information of a specified description) on such a register to be made available to the public, and about the manner in which and times at which, information is to be made so available;”,
 - (g) after paragraph (f) insert—
 - “(fa) about the education and training requirements to be met by managers and employees of recognised bodies;
 - (fb) for rules made under any other provision of this Part to have effect in relation to managers and employees of recognised bodies with such additions, omissions or other

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- modifications as appear to the Council to be necessary or expedient;”, and
- (h) in paragraph (g) after “recognised bodies” insert “ or managers or employees of such bodies ”.
- (8) After subsection (3) insert—
- “(3A) Rules made by the Council may provide for the Council to grant a body recognition under this section subject to one or more conditions.
- (3B) At any time while a body is recognised under this section, the Council may, in such circumstances as may be prescribed, direct that the body's recognition is to have effect subject to such conditions as the Council may think fit.
- “Prescribed” means prescribed by rules made by the Council.
- (3C) The conditions which may be imposed under subsection (3A) or (3B) include—
- (a) conditions restricting the kinds of conveyancing services that may be provided by the body;
 - (b) conditions imposed by reference to criteria of general application;
 - (c) conditions requiring the body to take any specified steps that will, in the opinion of the Council, be conducive to the body carrying on an efficient business;
- and conditions may be imposed despite the fact that they may result in expenditure being incurred by the body.
- (3D) On an application made by a recognised body, the Council may, in such circumstances as may be prescribed, direct—
- (a) the removal of a condition subject to which the body's recognition has effect;
 - (b) the variation of such a condition in the manner described in the application.
- (3E) For the purposes of subsection (3D)—
- (a) section 14 applies in relation to an application under that subsection as it applies in relation to an application for a licence under this Part of this Act, and
 - (b) “prescribed” means prescribed by rules made by the Council.
- (3F) Rules under subsection (3A) or (3B) may make provision about when conditions imposed take effect (including provision conferring power on the Council to direct that a condition is not to have effect until the conclusion of any appeal in relation to it).
- (3G) Rules under this section may contain such incidental, supplemental, transitional or transitory provisions or savings as the Council considers necessary or expedient.”
- (9) Omit subsections (4) and (5).
- (10) In subsection (6)—
- (a) in paragraph (a) omit “corporate”, and
 - (b) for paragraph (b) substitute—

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“(b) that a body's recognition under this section does not have effect subject to any conditions or has effect subject to any particular conditions.”.

(11) After subsection (7) insert—

“(8) In this section “conveyancing services body” and “relevant legal services” have the meaning given by section 32A.

(9) The Council is capable of being designated as a licensing authority for the purposes of, and subject to, Part 5 of the Legal Services Act 2007 (alternative business structures).”

Commencement Information

I4 Sch. 17 para. 20 wholly in force at 31.3.2009 see s. 211 and [S.I. 2009/503, art. 2\(c\)\(i\)](#) (subject to [art. 4](#))

21 After section 32 (provision of conveyancing by recognised bodies) insert—

“32A Conveyancing services bodies

(1) For the purposes of section 32 a “conveyancing services body” means a body (corporate or unincorporate) in respect of which—

- (a) the management and control condition, and
- (b) the services condition,

are satisfied.

(2) The management and control condition is satisfied in the case of a partnership if at least one of the partners is a licensed conveyancer.

(3) The management and control condition is satisfied in the case of an unincorporated body (other than a partnership), or a body corporate which is managed by its members, if at least one of those members is a licensed conveyancer.

(4) The management and control condition is satisfied in the case of any other body corporate if at least one director of the body is a licensed conveyancer.

(5) The services condition is satisfied in respect of a body if the body is carrying on a business consisting of the provision of—

- (a) conveyancing services, or
- (b) conveyancing services and other relevant legal services.

(6) For the purposes of this section—

“authorised person” means an authorised person in relation to an activity which is a reserved legal activity (within the meaning of the Legal Services Act 2007);

“relevant legal services”, in relation to a body, means—

- (a) conveyancing services, and
- (b) where authorised persons are managers or employees of, or have an interest in, the body, services such as are provided by individuals practising as such authorised persons (whether or

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not those services involve the carrying on of reserved legal activities within the meaning of the Legal Services Act 2007); and a person has an interest in a body if the person has an interest in the body within the meaning of Part 5 of the Legal Services Act 2007 (see sections 72 and 109 of that Act).”

22 For section 33 (legal professional privilege), substitute—

“33 Legal professional privilege

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

23 After that section insert—

“33A Administration of oaths by licensed conveyancers

The Council may make rules prescribing its arrangements for authorising licensed conveyancers, for the purposes of the Legal Services Act 2007, to carry on activities which consist of the administration of oaths.”

24 In section 34 (modification of existing enactments relating to conveyancing etc), omit subsection (2)(c) to (e).

25 In section 35 (penalty for pretending to be a licensed conveyancer or recognised body), in subsection (2) omit “corporate”.

26 In section 36 (offences by bodies corporate)—

- (a) the existing section becomes subsection (1) of that section and in that subsection for “director” to “capacity” substitute “ officer of the body corporate ”, and
- (b) after that subsection insert—

“(2) Where the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in connection with the member's functions of management as it applies to an officer of the body corporate.

(3) Proceedings for an offence under this section alleged to have been committed by an unincorporated body are to be brought in the name of that body (and not in that of any of its members) and, for the purposes of any such proceedings, any rules of court relating to the service of documents have effect as if that body were a corporation.

(4) A fine imposed on an unincorporated body on its conviction of an offence under this section is to be paid out of the funds of that body.

(5) If an unincorporated body is charged with an offence under this section, section 33 of the Criminal Justice Act 1925 and Schedule 3

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to the Magistrates' Courts Act 1980 (procedure on charge of an offence against a corporation) have effect in like manner as in the case of a corporation so charged.

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

- 27 In section 38 (rules)—
- (a) omit subsection (1), and
 - (b) in subsection (2) for “such rules” substitute “ rules made by the Council under this Part ”.
- 28 In section 39(1) (interpretation of Part 2)—
- (a) in the definition of “client”, in paragraph (a) omit “or his firm”,
 - (b) omit the definitions of “director” and “officer”,
 - (c) at the appropriate place insert—
““manager”, in relation to a body, has the same meaning as in the Legal Services Act 2007 (see section 207 of that Act);”, and
 - (d) in the definition of “recognised body” omit “corporate”.
- 29 (1) Schedule 3 (Council for Licensed Conveyancers: supplementary provisions) is amended as follows.
- (2) In paragraph 2(1), for “elected or nominated” substitute “ appointed ”.
 - (3) In paragraph 2(2), for “elect” substitute “ appoint ”.
 - (4) Omit paragraph 2(3).
 - (5) Omit paragraph 3.
 - (6) In paragraph 4(1)—
 - (a) for “election or nomination” (in both places) substitute “ appointment ”,
 - (b) for “election of” substitute “ appointment of ”, and
 - (c) for “elected or nominated” substitute “ appointed ”.
 - (7) In paragraph 4(2), for “elected or nominated” (in each place) substitute “ appointed ”.

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- (8) In paragraph 4(3), for the words from “Secretary of State” (in the first place) to the end substitute “ Legal Services Board. ”
- (9) In paragraph 4(4)—
- (a) for “Secretary of State” (in both places) substitute “ Legal Services Board ”,
 - (b) for “him” substitute “ it ”, and
 - (c) for “he” (in both places) substitute “ it ”.
- (10) In paragraph 9, for “election or nomination” substitute “ appointment ”.
- (11) In paragraph 10 for “Secretary of State” (in both places) substitute “ Lord Chancellor ”.
- (12) In paragraph 11(3) for “Secretary of State” substitute “ Lord Chancellor ”.
- 30 (1) Schedule 4 (the Discipline and Appeals Committee: supplementary provisions) is amended as follows.
- (2) In paragraph 1 (rules of procedure)—
- (a) omit sub-paragraphs (3) and (4), and
 - (b) in sub-paragraph (5), for “paragraphs 2 and 3” substitute “ paragraph 2 ”.
- (3) Omit paragraph 3.

Commencement Information

I5 Sch. 17 para. 30 wholly in force at 1.1.2010; Sch. 17 para. 30 not in force at Royal Assent see s. 211; Sch. 17 para. 30(1)(2)(b)(3) in force at 31.3.2009 by [S.I. 2009/503](#), [art. 2\(c\)\(i\)](#); Sch. 17 para. 30 in force otherwise at 1.1.2010 by [S.I. 2009/3250](#), [art. 2\(f\)\(iii\)](#) (with [art. 9](#))

- 31 (1) Schedule 5 (intervention in licensed conveyancer's practice) is amended as follows.
- (2) In paragraph 1 (grounds for intervention)—
- (a) in sub-paragraph (1)(a) after “practice” insert “ or former practice or in connection with any trust of which that licensed conveyancer is or was a trustee ”,
 - (b) after that sub-paragraph insert—
 - “(aa) the Council has reason to suspect dishonesty on the part of a licensed conveyancer (“L”) in connection with—
 - (i) the business of any person of whom L is or was an employee, or of any body of which L is or was a manager, or
 - (ii) any business which is or was carried on by L as a sole trader;”
 - (c) in sub-paragraph (1)(b) after “practice” insert “ or in connection with any trust ”,
 - (d) in sub-paragraph (1)(c), after “section” insert “ 20, 21(3)(c), ”,
 - (e) after sub-paragraph (1)(e) insert—
 - “(ea) the Council is satisfied that a licensed conveyancer has abandoned his practice;

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- (eb) the Council is satisfied that a licensed conveyancer has been practising in breach of any conditions subject to which his licence has effect;”,
- (f) in sub-paragraph (1)(f), after “illness” insert “ , injury ”,
- (g) for sub-paragraph (1)(g) substitute—
 - “(g) a licensed conveyancer lacks capacity (within the meaning of the Mental Capacity Act 2005) to act as a licensed conveyancer and powers under section 15 to 20 or section 48 of that Act are exercisable in relation to the licensed conveyancer;”,
- (h) after sub-paragraph (1)(h) insert—
 - “(i) the Council is satisfied that it is necessary to exercise the powers conferred by Part 2 of this Schedule (or any of them) in relation to a licensed conveyancer to protect—
 - (i) the interests of clients (or former or potential clients) of the licensed conveyancer or his firm, or
 - (ii) the interests of the beneficiaries of any trust of which the licensed conveyancer is or was a trustee.”, and
 - (i) omit sub-paragraph (2).
- (3) In paragraph 3 (intervention following an undue delay)—
 - (a) for “10(3)” substitute “ 10(9) ”,
 - (b) in paragraph (a) for “a complaint is made to the Council” substitute “ the Council is satisfied ”,
 - (c) in that paragraph for “was instructed” substitute “ is or was acting ”, and
 - (d) in that paragraph after “client” insert “ or in connection with any trust ”.
- (4) In paragraph 4(2) (continuation of powers after death etc of licensed conveyancer)—
 - (a) after “and (3)” insert “ , 6A ”,
 - (b) for “and (5)” substitute “ , (5) and (6) ”, and
 - (c) for “10(1)” substitute “ 10(2) and (7) ”.
- (5) In paragraph 6 (vesting of sums in Council)—
 - (a) in sub-paragraph (1) after “thereto” insert “ and to rules under paragraph 6B ”, and
 - (b) in sub-paragraph (2)(a) after “practice” insert “ or former practice or with any trust of which he is or was a trustee ”.
- (6) After paragraph 6 insert—
 - “6A (1) Without prejudice to paragraph 5, if the Council passes a resolution to the effect that any rights to which this paragraph applies shall vest in the Council, those rights shall vest accordingly.
 - (2) This paragraph applies to any right to recover or receive debts due to the licensed conveyancer or his firm in connection with his practice or former practice.
 - (3) Any sums recovered by the Council by virtue of the exercise of rights vested under sub-paragraph (1) shall vest in the Council and shall be held by it on trust to exercise in relation to them the powers conferred by this Part of this

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Schedule and, subject to those powers and to rules under paragraph 6B, upon trust for the persons beneficially entitled to them.

- (4) The Council shall serve on the licensed conveyancer or his firm, and any person who owes a debt to which the order applies a certified copy of the Council's resolution.
- 6B (1) The Council may make rules governing its treatment of sums vested in it under paragraph 6 or 6A(3).
- (2) The rules may, in particular, make provision in respect of cases where the Council, having taken such steps to do so as are reasonable in all the circumstances of the case, is unable to trace the person or persons beneficially entitled to any sum vested in the Council under paragraph 6 or 6A(3) (including provision which requires amounts to be paid into or out of a fund maintained under section 21)."
- (7) In paragraph 7(1) (holding of sums vested in Council) after "thereto" insert " and to rules under paragraph 6B "
- (8) In paragraph 8 for "holds money" to the end substitute—
- "(a) holds money on behalf of the licensed conveyancer or his firm, or
 - (b) has information which is relevant to identifying any money held by or on behalf of the licensed conveyancer or his firm,

the court may require that person to give the Council information as to any such money and the accounts in which it is held. "

- (9) In paragraph 9 (documents)—
- (a) in sub-paragraph (1)(a)—
 - (i) after "possession" insert " or under the control ", and
 - (ii) after "practice" insert " or former practice or with any trust of which the licensed conveyancer is or was a trustee ",
 - (b) in sub-paragraph (1)(b)—
 - (i) after "possession" insert " or under the control ", and
 - (ii) for "to which the complaint relates" substitute " of which the Council is satisfied ",
 - (c) in sub-paragraph (3) after "possession" insert " or control ",
 - (d) in sub-paragraph (5) after "possession" insert " or are under the control ",
 - (e) after that sub-paragraph insert—
 - "(5A) In the case of a document which consists of information which is stored in electronic form, the requirement imposed by a notice under sub-paragraph (1) or an order under sub-paragraph (4) or (5), is a requirement to produce or deliver the information in a form in which it is legible or from which it can readily be produced in a legible form."
 - (f) in sub-paragraph (6) after "possession of" insert " (a) ",
 - (g) at the end of that sub-paragraph insert—
 - "(b) any property—
 - (i) in the possession or under the control of the licensed conveyancer or his firm, or

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- (ii) in the case of an order under sub-paragraph (5), which was in the possession or under the control of such a person and has come into the possession or under the control of the person in respect of whom the order is made,

which the Council reasonably requires for the purpose of accessing information contained in such documents,

and to use property obtained under paragraph (b) for that purpose.”,

- (h) in sub-paragraph (7) after “documents” insert “ or other property ”,
- (i) in sub-paragraph (8) after “documents” insert “ or other property ”, and
- (j) in sub-paragraph (10) after “documents” insert “ or other property ”.

(10) For paragraph 10 (mail) substitute—

“Redirection of communications

- 10 (1) The High Court, on the application of the Council, may from time to time make a communications redirection order.
- (2) A communications redirection order is an order that specified communications to the licensed conveyancer or his firm are to be directed, in accordance with the order, to the Council, or any person appointed by the Council.
- (3) For the purposes of this paragraph—
- (a) “specified communications” means communications of such description as are specified in the order;
 - (b) the descriptions of communications which may be so specified include—
 - (i) communications in the form of a postal packet;
 - (ii) electronic communications;
 - (iii) communications by telephone.
- (4) A communications redirection order has effect for such time not exceeding 18 months as is specified in the order.
- (5) Where a communications redirection order has effect, the Council or the person appointed by the Council may take possession or receipt of the communications redirected in accordance with the order.
- (6) Where a communications redirection order is made the Council must pay to—
- (a) in the case of an order relating to postal packets, the postal operator concerned, and
 - (b) in any other case, the person specified in the order,
- the like charges (if any) as would have been payable for the redirection of the communications to which the order relates if the addressee had permanently ceased to occupy or use the premises or other destination of the communications and had applied to the postal operator or the specified person (as the case may be) to redirect the communications to him as mentioned in the order.

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- (7) The High Court may, on the application of the Council, authorise the Council, or a person appointed by it, to take such steps as may be specified in the order in relation to any website purporting to be or have been maintained by or on behalf of the licensed conveyancer or his firm if the High Court is satisfied that the taking of those steps is necessary to protect the public interest or the interests of clients (or potential or former clients) of the licensed conveyancer or his firm.
- (8) In this paragraph “postal operator” and “postal packet” have the meaning given by section 125(1) of the Postal Services Act 2000.
- (9) This paragraph does not apply where the powers conferred by this Part of this Schedule are exercisable by virtue of paragraph 3.”
- (11) After paragraph 10 insert—

“Trusts

- 10A(1) If the licensed conveyancer or his personal representative is a trustee of a trust, the Council may apply to the High Court for an order for the appointment of a new trustee in substitution for him.
- (2) The Trustee Act 1925 has effect in relation to an appointment of a new trustee under this paragraph as it has effect in relation to an appointment under section 41 of that Act.”
- (12) In paragraph 11 (liens) for “and documents” substitute “ , documents and other property ”.
- (13) After paragraph 12 (costs) insert—
 - “12A(1) The High Court, on the application of the Council, may order a former partner of the licensed conveyancer to pay a specified proportion of the costs mentioned in paragraph 12.
 - (2) The High Court may make an order under this paragraph only if it is satisfied that the conduct (or any part of the conduct) by reason of which the powers conferred by this Part were exercisable in relation to the licensed conveyancer was conduct carried on with the consent or connivance of, or was attributable to any neglect on the part of, the former partner.
 - (3) In this paragraph “specified” means specified in the order made by the High Court.”

Commencement Information

16 Sch. 17 para. 31 wholly in force at 31.3.2009 see s. 211 and S.I. 2009/503, art. 2(c)(i) (subject to art. 4)

- 32 (1) Schedule 6 (bodies recognised under section 32: supplementary provisions) is amended as follows.
- (2) In paragraph 1—
 - (a) omit “corporate” (in both places), and
 - (b) in sub-paragraph (2) omit—
 - (i) “or complaint” (in both places), and

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(ii) “or (b)”.

(3) In paragraph 2 (disciplinary control of recognised bodies) after “24” insert “, 24A”.

(4) In paragraph 3—

(a) in sub-paragraph (1), in paragraph (a)(i) omit “by any court in the United Kingdom”,

(b) after paragraph (a) of that sub-paragraph insert—

“(aa) it is alleged that a manager or employee of a recognised body who is not a licensed conveyancer has failed to comply with any rules applicable to him by virtue of section 32;

(ab) it is alleged that a recognised body (while a recognised body) has failed to comply with a condition subject to which its recognition has effect.”,

(c) in that sub-paragraph omit—

(i) paragraph (b), and

(ii) from “with a view” to the end, and

(d) after sub-paragraph (1) insert—

“(1A) After making such an investigation, the Investigating Committee may—

(a) hear and determine the allegation, or

(b) refer the allegation to the Discipline and Appeals Committee for hearing and determination by that Committee under paragraph 4.

(1B) The Council shall make rules as to the cases in which the Investigating Committee may hear and determine an allegation, and the cases in which they must refer an allegation to the Discipline and Appeals Committee.”

(5) After paragraph 3 insert—

“3A (1) Where, on hearing an allegation by virtue of paragraph 3(1A)(a), the Investigating Committee are satisfied—

(a) in a case within paragraph 3(1)(a), that a recognised body has failed to comply with any such rules as are mentioned in sub-paragraph (ii) of that paragraph, or

(b) in a case within paragraph 3(1)(aa), that a manager or employee has failed to comply with any such rules as are mentioned in that paragraph, or

(c) in a case within paragraph 3(1)(ab), that a recognised body has failed to comply with any condition mentioned in that paragraph,

the Committee may make an order directing the payment by the recognised body, manager or employee of a penalty to be forfeited to Her Majesty.

(2) In relation to proceedings before the Investigating Committee by virtue of paragraph 3(1A)(a), the Committee may make such order as they consider fit as to the payment of costs by—

(a) the Council;

(b) the recognised body, manager or employee against whom the proceedings were brought;

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- (c) if the person on whose allegation the proceedings were brought was heard (in person, or through a representative) by the Committee in the course of the proceedings, that person.
- (3) In sub-paragraph (2), for the purposes of paragraph (a) or (b) of that sub-paragraph, the reference to costs includes costs incurred in connection with a preliminary investigation of the allegation under paragraph 3.
- (4) The amount of any penalty required to be paid under sub-paragraph (1) may not exceed such amount as is prescribed by rules made by the Council for the purposes of this sub-paragraph.
- (5) Paragraphs 1, 2(1) and (3) and 4 of Schedule 4 have effect in relation to—
 - (a) proceedings for the hearing and determination of an allegation by the Investigating Committee, as they have effect in relation to proceedings before the Discipline and Appeals Committee under section 26, and
 - (b) orders of the Investigating Committee, as they have effect in relation to orders of the Discipline and Appeals Committee.
- (6) A person against whom an order is made by the Investigating Committee by virtue of sub-paragraph (1) may appeal to the Discipline and Appeals Committee, and on any such appeal the Discipline and Appeals Committee may make such order as they think fit.
- (7) If an order is made by the Investigating Committee by virtue of sub-paragraph (2), a person listed in paragraphs (a) to (c) of that sub-paragraph may appeal to the Discipline and Appeals Committee, and on any such appeal the Discipline and Appeals Committee may make such order as they think fit.
- (8) Where an order is made by the Discipline and Appeals Committee under sub-paragraph (6) or (7)—
 - (a) a party to the appeal, or
 - (b) if not within paragraph (a), the Council,
 may appeal against the order to the High Court.
- (9) On an appeal under sub-paragraph (8) the High Court may make such order as it thinks fit.
- (10) The decision of the High Court on an appeal under sub-paragraph (8) shall be final.”
- (6) In paragraph 4—
 - (a) in sub-paragraph (1) after “allegation” insert “ within paragraph 3(1)(a) or (ab) ”,
 - (b) in that sub-paragraph, after paragraph (b) insert “, or
 - (c) has failed to comply with any such condition as is mentioned in paragraph 3(1)(ab),”,
 - (c) in sub-paragraph (2), in paragraph (b), for “£3,000” substitute “ such amount as may be prescribed by rules made by the Council for the purposes of this sub-paragraph ”,
 - (d) after paragraph (b) of that sub-paragraph insert—
 - “(ba) an order reprimanding that body;

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- (bb) an order that the recognition of that body under section 32 is to have effect subject to such conditions as may be specified in the order;”,
 - (e) omit paragraph (c) of that sub-paragraph,
 - (f) after that sub-paragraph insert—
 - “(2A) Where on the hearing of any allegation within paragraph 3(1)(aa) the Discipline and Appeals Committee are satisfied that a manager or employee has failed to comply with any such rules as are mentioned in sub-paragraph (ii) of that paragraph, the Committee may, if they think fit, make one or more of the orders referred to in sub-paragraph (2B).
 - (2B) Those orders are—
 - (a) an order directing the payment by the manager or employee of a penalty not exceeding such amount as may be prescribed by rules made by the Council for the purposes of this sub-paragraph;
 - (b) an order requiring the Council to consider taking such steps as the Committee may specify in relation to the manager or employee;
 - (c) an order requiring the Council to refer to an appropriate regulator any matter relating to the conduct of the manager or employee.
 - (2C) For the purposes of sub-paragraph (2B)(c) an “appropriate regulator” in relation to a manager or employee means—
 - (a) if the person is an authorised person in relation to a reserved legal activity for the purposes of the Legal Services Act 2007, any relevant approved regulator (within the meaning of that Act) in relation to that person, and
 - (b) if the person carries on activities which are not reserved legal activities, any person who exercises regulatory functions in relation to the carrying on of such activities by the person.
 - (2D) In relation to proceedings under this paragraph, the Committee may make such order as they consider fit as to the payment of costs by—
 - (a) the Council;
 - (b) the recognised body or manager or employee against whom the proceedings were brought;
 - (c) if the person on whose allegation the proceedings were brought was heard (in person, or through a representative) by the Committee in the course of the proceedings, that person.
 - (2E) In sub-paragraph (2D), for the purposes of paragraph (a) or (b) of that sub-paragraph, the reference to costs includes costs incurred in connection with a preliminary investigation of the allegation under paragraph 3.”, and
 - (g) omit sub-paragraphs (3), (3A) and (4).
- (7) In paragraph 5—

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- (a) in sub-paragraph (1)—
 - (i) after “26” insert “ or paragraph 4 ”, and
 - (ii) for “director” (in each place) substitute “ manager ”,
 - (b) in sub-paragraph (3) for “director” (in both places) substitute “ manager ”, and
 - (c) after sub-paragraph (3) insert—
 - “(4) In relation to proceedings for the revocation of a recognition under sub-paragraph (1), the Discipline and Appeals Committee may make such order as they consider fit as to the payment of costs by—
 - (a) the Council;
 - (b) the body to whose recognition the proceedings relate.”
- (8) In paragraph 6 (appeals against orders of the Committee)—
- (a) in sub-paragraph (1)—
 - (i) for “body corporate” substitute “ person ”,
 - (ii) after “4(1)” insert “ or (2A) ”, and
 - (iii) for “5” substitute “ 5(1) ”, and
 - (b) after that sub-paragraph insert—
 - “(1A) Where an order is made by the Committee under paragraph 4(2D) or 5(4) a person listed in that paragraph may appeal to the High Court, and on any such appeal the High Court may make such order as it thinks fit.”
- (9) After paragraph 7 (revocation of recognition on grounds of fraud or error)—
- (a) in sub-paragraph (1) and (2) omit “corporate”, and
 - (b) after sub-paragraph (2) insert—
 - “(3) In relation to proceedings for the revocation of a recognition under sub-paragraph (1), the Discipline and Appeals Committee may make such order as they consider fit as to the payment of costs by—
 - (a) the Council;
 - (b) the body to whose recognition the proceedings relate.
 - (4) In relation to proceedings on an application under sub-paragraph (2), the Discipline and Appeals Committee may make such order as they consider fit as to the payment of costs by—
 - (a) the Council;
 - (b) the applicant.”
- (10) In paragraph 8 (appeal against decision of Council in relation to grant of recognition)
- (a) in sub-paragraph (1) omit “corporate”,
 - (b) in paragraph (b) of that sub-paragraph for “restrictions” substitute “ conditions ”,
 - (c) after that paragraph insert “, or
 - (c) decides to give a direction in relation to that body under section 32(3B), or
 - (d) refuses an application by that body under section 32(3D),”,

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- (d) in sub-paragraph (2) for “this paragraph” substitute “ sub-paragraph (1)(a) or (b) ”,
- (e) in paragraph (a) of that sub-paragraph—
 - (i) for “restrictions” (in the first place) substitute “ conditions ”, and
 - (ii) for “restrictions falling within subsection (3)(d) of that section” substitute “ conditions ”, and
- (f) after that sub-paragraph insert—
 - “(2A) On an appeal under sub-paragraph (1)(c), the Discipline and Appeals Committee may—
 - (a) revoke the direction of the Council under section 32(3B),
 - (b) direct that the body's recognition is to have effect subject to such conditions as may be specified by the Council in the direction, or
 - (c) affirm the decision of the Council,and the Committee may make such order as to the payment of costs by the Council or by that body as they think fit.
 - (2B) On an appeal under sub-paragraph (1)(d), the Discipline and Appeals Committee may—
 - (a) direct the Council to grant the application, or
 - (b) affirm the decision of the Council,and the Committee may make such order as to the payment of costs by the Council or by that body as they think fit.”
- (11) In paragraph 9 (rules of procedure etc) in sub-paragraph (1)—
 - (a) for “, 2 and 3” substitute “ and 2 ”, and
 - (b) for “paragraph 4 or 5” substitute “ paragraph 3A, 4 or 5 ”.
- (12) In paragraph 10 (intervention by Council)—
 - (a) in sub-paragraph (1), in paragraph (a) after “recognised body” insert “ or a manager of such a body ”,
 - (b) after that paragraph insert—
 - “(aa) the Council is satisfied that a recognised body has been carrying on business in breach of any condition subject to which the body's recognition under section 32 of this Act has effect; or”,
 - (c) for paragraph (c) of that sub-paragraph substitute—
 - “(c) a relevant insolvency event occurs in relation to a recognised body; or”,
 - (d) in paragraph (d) of that sub-paragraph for “officer” substitute “ manager ”,
 - (e) in that paragraph for “that body's” to the end of the paragraph substitute—
 - “(i) that body's business,
 - (ii) any trust of which that body is or was a trustee,
 - (iii) any trust of which the manager or employee is or was a trustee in his capacity as such a manager or employee, or
 - (iv) the business of another body in which the manager or employee is or was a manager or employee or

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- the practice (or former practice) of the manager or employee;”,
- (f) after that paragraph insert “or
- (e) the Council is satisfied that it is necessary to exercise the powers conferred by Part 2 of Schedule 5 (or any of them) in relation to a recognised body to protect—
- (i) the interests of clients (or former or potential clients) of the recognised body,
- (ii) the interests of the beneficiaries of any trust of which the recognised body is or was a trustee, or
- (iii) the interests of the beneficiaries of any trust of which a person who is or was a manager or employee of the recognised body is or was a trustee in that person's capacity as such a manager or employee;”,
- (g) after sub-paragraph (1) insert—
- “(1A) For the purposes of this paragraph a relevant insolvency event occurs in relation to a recognised body if—
- (a) a resolution for a voluntary winding-up of the body is passed without a declaration of solvency under section 89 of the Insolvency Act 1986;
- (b) the body enters administration within the meaning of paragraph 1(2)(b) of Schedule B1 to that Act;
- (c) an administrative receiver within the meaning of section 251 of that Act is appointed;
- (d) a meeting of creditors is held in relation to the body under section 95 of that Act (creditors' meeting which has the effect of converting a members' voluntary winding up into a creditors' voluntary winding up);
- (e) an order for the winding up of the body is made.”, and
- (h) omit sub-paragraph (2).
- (13) For paragraph 11(a) substitute—
- “(a) the Council is satisfied that there has been undue delay on the part of—
- (i) a recognised body in connection with any matter in which it is or was acting on behalf of a client or with any trust of which it is or was a trustee, or
- (ii) a person who is or was a manager or employee of a recognised body in connection with any trust of which he is or was a trustee in his capacity as such a manager or employee; and”.
- (14) In paragraph 12(1) omit “corporate” (in both places).
- (15) In paragraph 13—
- (a) in paragraph (a) omit “corporate”, and
- (b) omit “and” at the end of paragraph (b) and after paragraph (c) insert—
- “(d) paragraph 6(2)(a) of that Schedule is to be construed as including a reference to sums of money held by or on behalf

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of the recognised body in connection with any trust of which a person who is or was manager or employee of that body is or was a trustee in his capacity as such a manager or employee;

- (e) paragraph 9 of that Schedule is to be construed—
 - (i) as if sub-paragraph (1) included a reference to documents in the possession or under the control of the recognised body in connection with any trust of which a person who is or was a manager or employee of that body is or was a trustee in his capacity as such a manager or employee, and
 - (ii) as applying to a person who is or was a manager or employee of the recognised body and documents and property in his possession or under his control in connection with such a trust as it applies to a recognised body and documents and property in the possession or under the control of that body;
- (f) paragraph 10A(1) of that Schedule is to be construed as including power for the Council to apply to the High Court for an order for the appointment of a new trustee to a trust in substitution for a person who is a trustee in his capacity as a manager or employee of the recognised body; and
- (g) paragraph 12A of that Schedule is to be read as if the references to a former partner were references—
 - (i) in the case of a recognised body which is a partnership, to a former partner in the partnership, and
 - (ii) in any other case to a manager or former manager of the recognised body.”

(16) In paragraph 14 (examination of files)—

- (a) for sub-paragraph (1) substitute—

“(1) Where the Investigating Committee are satisfied that it is necessary to do so for the purpose of investigating any such allegation as is mentioned in paragraph 3(1)(a)(ii), (aa) or (ab), the Committee may give an information notice to a relevant person.

(1A) An information notice is a notice requiring the production or delivery to any person appointed by the Committee, at a time and a place to be fixed by the Committee, of all documents in the possession or under the control of the relevant person in connection with the matters to which the allegation relates (whether or not they relate also to other matters).

(1B) In this section “relevant person” means—

- (a) in the case of an allegation against a recognised body, the recognised body or any of its managers or employees, and
- (b) in the case of an allegation against a manager or employee of a recognised body, the manager or employee, the recognised body or any other manager or employee of the recognised body.”, and

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- (b) in sub-paragraph (2)—
 - (i) for “and 12” substitute “ to 12A ”,
 - (ii) for “sub-paragraph (1) of this paragraph” (except where it appears in paragraph (d)) substitute “ sub-paragraphs (1) and (1A) of this paragraph ”,
 - (iii) in paragraph (b) after “body” insert “ , manager or employee ”, and
 - (iv) in paragraph (d) for “sub-paragraph (1)” substitute “ sub-paragraph (1A) ”.
- (17) Omit paragraph 15 (application of rules relating to accounts etc).
- (18) In paragraph 16 (interest on client's money)—
 - (a) in sub-paragraph (1)—
 - (i) after “recognised bodies” insert “ or managers or employees of such bodies, ”,
 - (ii) after “recognised body” insert “ , manager or employee ”,
 - (iii) for “it keeps” substitute “ it or he keeps ”,
 - (iv) for “its clients” substitute “ clients of the recognised body ”, and
 - (v) after “received by it” insert “ or him ”, and
 - (b) in sub-paragraph (2), for “and any of its clients” substitute “ , or any manager or employee of such a body, and any of the clients of the recognised body ”.

Commencement Information

- I7** Sch. 17 para. 32 partly in force: Sch. 17 para. 32 not in force at Royal Assent see s. 211; Sch. 17 para. 32(1)-(6)(f) in force and Sch. 17 para. 32(6)(f) in force for certain purposes at 31.3.2009 by [S.I. 2009/503](#), [art. 2\(c\)\(i\)](#) (subject to [art. 4](#))

PART 2

COURTS AND LEGAL SERVICES ACT 1990 (C. 41)

33 The Courts and Legal Services Act 1990 is amended in accordance with this Part.

34 (1) Section 53 (the Council for Licensed Conveyancers) is amended as follows.

(2) For subsections (1) to (3) substitute—

“(1) The Council for Licensed Conveyancers has the powers necessary to enable it to become designated as an approved regulator in relation to one or more of the reserved legal activities within subsection (1A).

(1A) The reserved legal activities to which this subsection applies are—

- (a) the exercise of a right of audience;
- (b) the conduct of litigation;
- (c) probate activities.

(2) If the Council becomes an approved regulator in relation to one or more of those activities, it may, in that capacity, authorise a person to carry on a relevant activity only if the person is a licensed conveyancer.

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- (3) Where the Council authorises a licensed conveyancer to carry on a relevant activity, it is to do so by issuing a licence to the licensed conveyancer.”
- (3) Omit subsection (5).
- (4) For subsection (6) substitute—
- “(6) Where the Council exercises any of its powers in connection with—
- (a) an application for designation as an approved regulator in relation to a reserved legal activity within subsection (1A), or
- (b) the authorising of a person to carry on a relevant activity,
- it is to do so subject to any requirements to which it is subject in accordance with the provisions of the Legal Services Act 2007.”
- (5) In subsection (8), for “Secretary of State” substitute “ Lord Chancellor ”.
- (6) In subsection (9)—
- (a) for “Secretary of State” substitute “ Lord Chancellor ”, and
- (b) omit paragraph (e).
- (7) After that subsection insert—
- “(10) For the purposes of this section—
- (a) “right of audience”, “conduct of litigation”, “probate activities” and “reserved legal activity” have the same meaning as in the Legal Services Act 2007;
- (b) references to designation as an approved regulator are to designation as an approved regulator—
- (i) by Part 1 of Schedule 4 to the Legal Services Act 2007, by virtue of an order under paragraph 5 of Schedule 22 to that Act, or
- (ii) under Part 2 of Schedule 4 to that Act;
- (c) “relevant activity” means an activity which is a reserved legal activity—
- (i) which is within subsection (1A), and
- (ii) in relation to which the Council is designated as an approved regulator by Part 1 of Schedule 4 to that Act (by virtue of an order under paragraph 5 of Schedule 22 to that Act) or under Part 2 of that Schedule.”

Commencement Information

18 Sch. 17 para. 34 wholly in force at 1.1.2010; Sch. 17 para. 34 not in force at Royal Assent see s. 211; Sch. 17 para. 34(1)(5)(6) in force at 31.3.2009 by S.I. 2009/503, art. 2(c)(ii); Sch. 17 para. 34 in force otherwise at 1.1.2010 by S.I. 2009/3250, art. 2(f)(iii) (with art. 9)

- 35 (1) Schedule 8 (licensed conveyancers) is amended as follows.
- (2) In paragraph 1 (definitions)—
- (a) in the definition of “advocacy licence” for “and constituting” to the end substitute “ by which the Council authorises the licensed conveyancer concerned to exercise a right of audience; ”,

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- (b) in the definition of “litigation licence” for “and constituting” to the end substitute “ by which the Council authorises the licensed conveyancer concerned to carry on activities which constitute the conduct of litigation; ”,
- (c) in the definition of “probate licence” for “and constituting” to the end substitute “ by which the Council authorises the licensed conveyancer concerned to carry on activities which constitute probate activities; ”, and
- (d) at the end insert—

““reserved legal activity” has the same meaning as in the Legal Services Act 2007 (see section 12 of and Schedule 2 to that Act).”

- (3) In paragraph 2 (qualification regulations and rules of conduct), in sub-paragraph (1)

- (a) for “rules of conduct” substitute “ conduct rules ”, and
- (b) for “granting of the rights or exemption” substitute “ carrying on of the reserved legal activities ”.

- (4) In paragraph 4 (issue of licences), in sub-paragraph (1)—

- (a) in paragraph (a) for “rules of conduct” substitute “ conduct rules ”, and
- (b) in paragraph (c) for “provide the advocacy, litigation or probate services” substitute “ carry on the reserved legal activities ”.

- (5) In paragraph 5 (conditional licences)—

- (a) for sub-paragraph (1)(d) substitute—
 - “(d) after the Investigating Committee have made any order in his case under section 24A(1) of the Act of 1985 or the Discipline and Appeals Committee have made any order in his case under section 26(1) of that Act.”,
- (b) in sub-paragraph (6)—
 - (i) in paragraph (a) for “service that may be provided” substitute “ activities that may be carried on ”, and
 - (ii) in paragraph (b) for “provides the additional services” substitute “ carries on the additional activities ”, and
- (c) after sub-paragraph (7) insert—

“(8) Where a person applies for an advocacy, litigation or probate licence at a time when this paragraph has effect in relation to that person by reason of the circumstances mentioned in section 16(1)(ea) of the Act of 1985, section 16A(2) of that Act has effect as it has effect in relation to an application for a licence under Part 2 of that Act.”

- (6) Omit paragraph 7 (code of conduct).

- (7) In paragraph 9 (removal of disqualification from holding a licence) after sub-paragraph (2) insert—

- “(3) In relation to proceedings on an application under sub-paragraph (1), the Discipline and Appeals Committee may make such order as they consider fit as to the payment of costs by—
 - (a) the Council;
 - (b) the applicant.”

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(8) In paragraph 10 (revocation on grounds of error or fraud), after sub-paragraph (4) insert—

“(5) In relation to proceedings for the revocation of a licence under sub-paragraph (1), the Discipline and Appeals Committee may make such order as they consider fit as to the payment of costs by—

- (a) the Council;
- (b) the licensed conveyancer to whose licence the proceedings relate.

(6) In relation to proceedings on an application under sub-paragraph (2), the Discipline and Appeals Committee may make such order as they consider fit as to the payment of costs by—

- (a) the Council;
- (b) the applicant.”

(9) Omit paragraph 11.

(10) In paragraph 12 (delegation of powers etc)—

- (a) in sub-paragraph (1) for “Subject” to “enactment, the” substitute “The ”,
- (b) in that sub-paragraph, for paragraph (b) substitute—

“(b) by a sub-committee of such a committee; or

(c) by an individual (whether or not a member of the Council's staff).”,

- (c) after that sub-paragraph insert—

“(1A) Where by virtue of sub-paragraph (1) any function may be discharged by a committee, the committee may arrange for the discharge of that function by—

- (a) a sub-committee of that committee; or
- (b) an individual, whether or not a member of the Council's staff.

(1B) Sub-paragraph (1A) is subject to any contrary direction given by the Council.

(1C) Arrangements made under sub-paragraph (1) or (1A) in respect of a function may provide that the function is to be exercised in accordance with the arrangements only (and not by the delegating body).

(1D) For this purpose “the delegating body” means—

- (a) in the case of arrangements under sub-paragraph (1), the Council, and
- (b) in the case of arrangements under sub-paragraph (1A), the committee.”,

- (d) for sub-paragraph (3) substitute—

“(3) Any power conferred by sub-paragraph (1), (1A) or (2) may be exercised so as to impose restrictions or conditions on the body or individual by whom the function is to be discharged.”,

- (e) for sub-paragraphs (6) and (7) substitute—

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“(6) A committee or sub-committee established under this paragraph may include or consist of individuals other than—

- (a) members of the Council;
- (b) licensed conveyancers.

(7) A sub-committee of a committee established under this paragraph may also include or consist of individuals other than members of the committee.

(7A) The Council may make arrangements for the appointment and removal of members of any committee to be made other than by the Council.

(7B) A committee or sub-committee may regulate its own procedure, including quorum.”, and

(f) after sub-paragraph (9) insert—

“(10) This paragraph is subject to any provision to the contrary made by or under any enactment.”

(11) Omit paragraph 13 (Council's intervention powers).

Commencement Information

19 Sch. 17 para. 35 wholly in force at 1.1.2010; Sch. 17 para. 35 not in force at Royal Assent see s. 211; Sch. 17 para. 35(1)(5)(7)-(11) in force at 31.3.2009 by S.I. 2009/503, art. 2(c)(ii); Sch. 17 para. 35(2)-(4)(6) in force at 1.1.2010 by S.I. 2009/3250, art. 2(f)(iii) (with art. 9)

Status:

Point in time view as at 01/01/2010.

Changes to legislation:

There are currently no known outstanding effects for the Legal Services Act 2007, SCHEDULE 17.