



# Solicitors Act 1974

## 1974 CHAPTER 47

### PART II

#### PROFESSIONAL PRACTICE, CONDUCT AND DISCIPLINE OF SOLICITORS AND CLERKS

##### *Disciplinary proceedings before Solicitors Disciplinary Tribunal*

#### **46 Solicitors Disciplinary Tribunal.**

- (1) Applications and complaints made by virtue of any provision of this Act shall be made, except so far as other provision is made by this Act or by any regulations under it, to the tribunal known as the “Solicitors Disciplinary Tribunal”.
- (2) The Master of the Rolls shall appoint the members of the Tribunal.
- (3) The Tribunal shall consist—
  - (a) of practising solicitors of not less than ten years’ standing (in this section referred to as “solicitor members”); and
  - (b) of persons who are neither solicitors nor barristers (in this section referred to as “lay members”).
- (4) A member of the Tribunal shall hold and vacate his office in accordance with the terms of his appointment and shall, on ceasing to hold office, be eligible for re-appointment.

[<sup>F1</sup>(5) The Tribunal may pay its members such remuneration, fees or allowances as it may determine with the approval of the Legal Services Board.]

[<sup>F2</sup>(5A) The Tribunal may do anything calculated to facilitate, or incidental or conducive to, the carrying out of any of its functions.]

- (6) <sup>F3</sup> .....
- (7) <sup>F3</sup> .....
- (8) <sup>F3</sup> .....

*Changes to legislation: There are currently no known outstanding effects for the Solicitors Act 1974, Section 46. (See end of Document for details)*

- (9) <sup>F4</sup>[<sup>F5</sup>The] Tribunal . . . may make rules—
- (a) empowering the Tribunal to elect a solicitor member to be its president; and
  - (b) about the procedure and practice to be followed in relation to the making, hearing and determination of applications and complaints [<sup>F6</sup>(including provision about the composition of the Tribunal)].
- (10) Without prejudice to the generality of subsection (9)(b), rules made by virtue of that paragraph may in particular—
- (a) empower the president of the Tribunal to appoint a chairman for the hearing and determination of any application or complaint;
  - (b) provide that, if the president does not appoint a chairman, a solicitor member shall act as chairman; and
  - (c) provide, in relation to any application or complaint relating to a solicitor, that, where in the opinion of the Tribunal no prima facie case in favour of the applicant or complainant is shown in the application or complaint, the Tribunal may make an order refusing the application or dismissing the complaint without requiring the solicitor to whom it relates to answer the allegations and without hearing the applicant or complainant.
- (11) For the purposes of any application or complaint made to the Tribunal under this Act, the Tribunal may administer oaths, and the applicant or complainant and any person with respect to whom the application or complaint is made (or, in the case of an application under section 47(1)(b), any of the parties to the application) may issue writs of subpoena ad testificandum and duces tecum, but no person shall be compelled under any such writ to produce any document which he could not be compelled to produce on the trial of an action.
- (12) The power to make rules conferred by subsection (9) shall be exercisable by statutory instrument, and the <sup>M1</sup>Statutory Instruments Act 1946 shall apply to a statutory instrument containing such rules in like manner as if the rules had been made by a Minister of the Crown.

#### Textual Amendments

- F1** S. 46(5) substituted (30.6.2008) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 211, [Sch. 16 para. 47\(2\)](#) (with ss. 29, 192, 193); S.I. 2008/1436, [art. 2\(d\)\(i\)](#) (subject to art. 4)
- F2** S. 46(5A) inserted (30.6.2008) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 211, [Sch. 16 para. 47\(3\)](#) (with ss. 29, 192, 193); S.I. 2008/1436, [art. 2\(d\)\(i\)](#) (subject to art. 4)
- F3** S. 46(6)-(8) repealed (30.6.2008) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 210, 211, [Sch. 16 para. 47\(4\)](#), [Sch. 23](#) (with ss. 29, 192, 193); S.I. 2008/1436, [art. 2\(d\)\(i\)\(g\)](#) (subject to art. 4)
- F4** Words in s. 46(9) repealed (30.6.2008) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 210, 211, [Sch. 16 para. 47\(5\)\(b\)](#), [Sch. 23](#) (with ss. 29, 192, 193); S.I. 2008/1436, [art. 2\(d\)\(i\)](#) (subject to art. 4)
- F5** Words in s. 46(9) substituted (30.6.2008) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 211, [Sch. 16 para. 47\(5\)\(a\)](#) (with ss. 29, 192, 193); S.I. 2008/1436, [art. 2\(d\)\(i\)](#) (subject to art. 4)
- F6** Words in s. 46(9)(b) inserted (30.6.2008) by [Legal Services Act 2007 \(c. 29\)](#), ss. 177, 211, [Sch. 16 para. 47\(5\)\(c\)](#) (with ss. 29, 192, 193); S.I. 2008/1436, [art. 2\(d\)\(i\)](#) (subject to art. 4)

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

- C1** S. 46 applied (with modifications) (14.10.1991) by [Courts and Legal Services Act 1990 \(c. 41\)](#), SIF 76:1, s. 89, [Sch. 14 Pt. II para. 15\(1\)](#); S.I. 1991/1883, [art. 3](#), Sch.
- C2** S. 46(7)-(10) extended by [Administration of Justice Act 1985 \(c. 61\)](#), SIF 34, ss. 43(2), 69(5), [Sch. 9 para. 9](#) and (1.1.1992) by s. 9, Sch. 2 para. 17(a) of that Act; S.I. 1991/2683, [art. 2](#)

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- C3** S. 46(9)(b) applied (30.11.2011) by The Legal Services Act 2007 (Appeals from Licensing Authority Decisions) (No.2) Order 2011 (S.I. 2011/2863), arts. 2(1), **4(3)**
- C4** S. 46(10)(a)(b) applied (30.11.2011) by The Legal Services Act 2007 (Appeals from Licensing Authority Decisions) (No.2) Order 2011 (S.I. 2011/2863), arts. 2(1), **4(3)**
- C5** S. 46(10)(c) extended (1.1.1992) by Administration of Justice Act 1985 (c. 61, SIF 34), s. 9, **Sch. 2 para. 17(c)**; S.I. 1991/2683, **art. 2**  
S. 46(10)(c) extended (22.5.2000) by S.I. 2000/1119, regs. 1, 37(3), Sch. 4 para. 10 (as amended (1.7.2009) by The Legal Services Act 2007 (Registered European Lawyers) Order 2009 (S.I. 2009/1587), **art. 3(10)**)
- C6** S. 46(11) extended by Administration of Justice Act 1985 (c. 61, SIF 34), ss. 43(2), 69(5), **Sch. 9 para. 9** and (1.1.1992) by s. 9, Sch. 2 para. 17(a) of that Act; S.I. 1991/2683, **art. 2**
- C7** S. 46(11) applied (with modifications) (with effect in accordance with art. 2(2) of the commencing S.I.) by The Legal Services Act 2007 (Appeals from Licensing Authority Decisions) (No.2) Order 2011 (S.I. 2011/2863), arts. 2(1), **4(4)**
- C8** S. 46(12) applied (14.10.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 89, **Sch. 14 Pt.II para. 16(3)**; S.I. 1991/1883, **art. 3**, Sch.
- C9** S. 46(12) applied (30.11.2011) by The Legal Services Act 2007 (Appeals from Licensing Authority Decisions) (No.2) Order 2011 (S.I. 2011/2863), arts. 2(1), **4(3)**

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#### **Marginal Citations**

- M1** 1946 c. 36.

**Changes to legislation:**

There are currently no known outstanding effects for the Solicitors Act 1974, Section 46.