

SCHEDULES

SCHEDULE 8

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 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;

“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.

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).

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.

Status: This is the original version (as it was originally enacted).

- (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.

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.

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;
 - (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.

Status: This is the original version (as it was originally enacted).

- (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.

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.

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.

Status: This is the original version (as it was originally enacted).

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.

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—
- (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.

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.

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.