Solicitors Act 1974

1974 CHAPTER 47

PART II

PROFESSIONAL PRACTICE, CONDUCT AND DISCIPLINE OF SOLICITORS AND CLERKS

[F1 Disciplinary powers of the Society

Textual Amendments

F1 Ss. 44D, 44E and cross-heading inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 46** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(i)** (subject to art. 4)

44D Disciplinary powers of the Society

(1) This section applies where the Society is satisfied—

(a) that a solicitor or an employee of a solicitor has failed to comply with a requirement imposed by or by virtue of this Act or any rules made by the Society, or

(b) that there has been professional misconduct by a solicitor.

(2) The Society may do one or both of the following—

(a) give the person a written rebuke;

(b) direct the person to pay a penalty not exceeding **[**F2£25,000**]**.

(3) The Society may publish details of any action it has taken under subsection (2)(a) or (b), if it considers it to be in the public interest to do so.

(4) Where the Society takes action against a person under subsection (2)(b), or decides to publish under subsection (3) details of any action taken under subsection (2)(a) or (b), it must notify the person in writing that it has done so.

(5) A penalty imposed under subsection (2)(b) does not become payable until—

(a) the end of the period during which an appeal against the decision to impose the penalty, or the amount of the penalty, may be made under section 44E, or

(b) if such an appeal is made, such time as it is determined or withdrawn.

(6) The Society may not publish under subsection (3) details of any action under subsection (2)(a) or (b)—

(a) during the period within which an appeal against—

(i) the decision to take the action,

(ii) in the case of action under subsection (2)(b), the amount of the penalty, or

(iii) the decision to publish the details,

may be made under section 44E, or

(b) if such an appeal has been made, until such time as it is determined or withdrawn.

(7) The Society must make rules—

(a) prescribing the circumstances in which the Society may decide to take action under subsection (2)(a) or (b);

(b) about the practice and procedure to be followed by the Society in relation to such action;

(c) governing the publication under subsection (3) of details of action taken under subsection (2)(a) or (b);

and the Society may make such other rules in connection with the exercise of its powers under this section as it considers appropriate.

(8) Before making rules under subsection (7), the Society must consult the Tribunal.

(9) A penalty payable under this section may be recovered as a debt due to the Society, and is to be forfeited to Her Majesty.

(10) The Lord Chancellor may, by order, amend paragraph (b) of subsection (2) so as to substitute for the amount for the time being specified in that paragraph such other amount as may be specified in the order.

(11) Before making an order under subsection (10), the Lord Chancellor must consult the Society.

(12) An order under subsection (10) is to be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

(13) This section is without prejudice to any power conferred on the Society or any other person to make an application or complaint to the Tribunal.

Textual Amendments

F2 Sum in s. 44D(2)(b) substituted (20.7.2022) by The Solicitors Act 1974 and Administration of Justice Act 1985 (Amendment) Order 2022 (S.I. 2022/701), arts. 1(1), **2**

Modifications etc. (not altering text)

C1 S. 44D extended (with modifications) (1.7.2009) by The Registered Foreign Lawyers Order 2009 (S.I. 2009/1589), **art. 3(2)(k)**, Sch.

C2 S. 44D extended (with modifications) (1.7.2009) by S.I. 2000/1119, Sch. 4 para. 7(2)Table (as amended by The Legal Services Act 2007 (Registered European Lawyers) Order 2009 (S.I. 2009/1587), **art. 3(7)(c)**)

44E Appeals against disciplinary action under section 44D

(1) A person may appeal against—

(a) a decision by the Society to rebuke that person under section 44D(2)(a) if a decision is also made to publish details of the rebuke;

(b) a decision by the Society to impose a penalty on that person under section 44D(2)(b) or the amount of that penalty;

(c) a decision by the Society to publish under section 44D(3) details of any action taken against that person under section 44D(2)(a) or (b).

(2) Subsections (9)(b), (10)(a) and (b), (11) and (12) of section 46 (Tribunal rules about procedure for hearings etc) apply in relation to appeals under this section as they apply in relation to applications or complaints, except that subsection (11) of that section is to be read as if for "the applicant" to "application)" there were substituted any party to the appeal.

(3) Rules under section 46(9)(b) may, in particular, make provision about the period during which an appeal under this section may be made.

(4) On an appeal under this section, the Tribunal has power to make such order as it thinks fit, and such an order may in particular—

(a) affirm the decision of the Society;

(b) revoke the decision of the Society;

(c) in the case of a penalty imposed under section 44D(2)(b), vary the amount of the penalty;

(d) in the case of a solicitor, contain provision for any of the matters mentioned in paragraphs (a) to (d) of section 47(2);

(e) in the case of an employee of a solicitor, contain provision for any of the matters mentioned in section 47(2E);

(f) make such provision as the Tribunal thinks fit as to payment of costs.

(5) Where by virtue of subsection (4)(e) an order contains provision for any of the matters mentioned in section 47(2E)(c), section 47(2F) and (2G) apply as if the order had been made under section 47(2E)(c).

(6) An appeal from the Tribunal shall lie to the High Court, at the instance of the Society or the person in respect of whom the order of the Tribunal was made.

(7) The High Court shall have power to make such order on an appeal under this section as it may think fit.

(8) Any decision of the High Court on an appeal under this section shall be final.

(9) This section is without prejudice to any power conferred on the Tribunal in connection with an application or complaint made to it.**]**

Modifications etc. (not altering text)

C3 S. 44E extended (with modifications) (1.7.2009) by S.I. 2000/1119, Sch. 4 para. 7(2)Table (as amended by The Legal Services Act 2007 (Registered European Lawyers) Order 2009 (S.I. 2009/1587), **art. 3(7)(c)**)

S. 44E extended in part (with modifications) (1.7.2009) by The Registered Foreign Lawyers Order 2009 (S.I. 2009/1589), **art. 3(2)(l)**, Sch.

Changes to legislation:
There are currently no known outstanding effects for the Solicitors Act 1974, Cross Heading: Disciplinary powers of the Society.