



# Administration of Justice Act 1985

## 1985 CHAPTER 61

### PART II

#### LICENSED CONVEYANCING

##### *Training and licensing of persons seeking to practise as licensed conveyancers*

#### **13 Training rules.**

- (1) The Council shall make rules relating to the education and training of those seeking to practise as licensed conveyancers, and those rules shall, in particular, include provisions prescribing—
  - (a) the examinations to be taken by such persons; and
  - (b) requirements as to practical training and experience.
- (2) Rules made by the Council under this section may—
  - (a) prescribe minimum standards of general education that must have been attained by persons who seek to practise as licensed conveyancers;
  - (b) provide for the recognition by the Council of courses of study provided by educational institutions or other bodies as being adequate for the purpose of preparing candidates for any examinations held in pursuance of subsection (1)(a);
  - (c) prescribe any education or training to be undergone by persons who are licensed conveyancers, and, in connection therewith, provide for the approval by the Council of courses of study provided by educational institutions or other bodies;
  - (d) include provision for the charging of fees by the Council;
  - (e) make different provision in relation to different classes of persons.
- (3) Rules under subsection (1)(b) may provide—
  - (a) for the manner in which a person may satisfy the Council that he has complied with any requirement of the rules as to practical experience;

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- (b) for attendance by a person at a training course approved by the Council for the purposes of the rules to count as practical training for those purposes.
- (4) Without prejudice to the generality of subsection (2)(e), rules under this section may provide for persons who—
  - (a) hold such qualifications as may be specified in the rules; or
  - (b) have acquired such experience in relation to the provision of conveyancing services as may be so specified; or
  - (c) satisfy such other conditions as may be so specified, to be exempt from any of the requirements of the rules.
- (5) The Council may—
  - (a) appoint, or approve the appointment of, persons as examiners or moderators in connection with examinations held in pursuance of subsection (1)(a); and
  - (b) remunerate any person appointed by it under paragraph (a) of this subsection.

#### **14 Applications for licences.**

- (1) An application for a licence under this Part 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 section.
- (2) Any such rules—
  - (a) may prescribe the forms to be used in connection with applications for licences under this Part;
  - (b) may provide for applications of any description specified in the rules to be exempt from any of the requirements of the rules.

#### **15 Issue of licences by Council.**

- (1) If, on an application for a licence under this Part made in accordance with section 14, the Council is satisfied—
  - (a) that the applicant has complied with such rules under section 13 (if any) as are applicable in his case; and
  - (b) that he has made adequate arrangements for the purpose of complying with any rules made under or for the purposes of section 21(1); and
  - (c) that he is a fit and proper person to practise as a licensed conveyancer or, in the case of an applicant in relation to whom section 16 has effect, that he is a fit and proper person to practise as such a conveyancer subject to his complying with any particular conditions that may be imposed under that section,
 the Council shall issue the applicant either with a licence free of conditions or with a licence subject to such conditions as aforesaid, as the case may require.
- (2) If the Council is for any reason not so satisfied it shall refuse the application, and shall notify the applicant of the refusal of the application and of the grounds on which it has been refused.
- (3) Where—
  - (a) an application for a licence has been made in accordance with section 14; and
  - (b) the Council has within the period of 21 days beginning with the date when the application was received by the Council neither issued a licence in pursuance of the application nor refused the application under subsection (2),

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then, for the purposes of this Part, the application shall be deemed to have been so refused by the Council, and the applicant shall be deemed to have been notified of the refusal at the end of the said period.

(4) Subject to the provisions of this Part, the period for which a licence shall be in force under this Part shall be the period of twelve months beginning with the date of its issue.

(5) Where—

- (a) an application for a licence is made in accordance with section 14 by a person who, at the date of the application, already holds a licence under this Part; and
- (b) no new licence is issued to him in pursuance of the application before the time when his existing licence would, apart from this subsection, expire in accordance with subsection (4),

his existing licence shall not expire at that time but shall continue in force until a new licence is issued to him in pursuance of the application or, if the application is refused by the Council—

- (i) until the end of the period within which an appeal may be brought against the refusal under section 29(1)(a); or
- (ii) if such an appeal is brought, until the appeal is determined or abandoned.

(6) Where an applicant for a licence under this Part has held such a licence at any time within the period of twelve months ending with the date of his application, any licence granted to him in pursuance of the application shall, unless the Council directs otherwise, be deemed to have been issued on the day following the date when his previous licence expired in accordance with subsection (4) (or would have so expired but for subsection (5)) and accordingly to have been held by him as from that day.

[<sup>F1</sup>(7) A licence issued under this Part may be endorsed by the Council as—

- (a) a full licence, if the Council is satisfied that the person to whom it is issued has complied, or will comply, with the requirements made under this Part with respect to professional indemnity and compensation; or
- (b) as a limited licence, if the Council is not so satisfied.

(8) Rules made under section 21 may make provision for the making, or removal, of endorsements while a licence is in force and for the recording of any such endorsement, or of its removal, in the register maintained under section 19.]

#### Textual Amendments

**F1** S. 15(7)(8) added (*prosp.*) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 53, **Sch. 8 para. 23**

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

**C1** S. 15(3)–(6) applied with modifications (*prosp.*) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 53, **Sch. 8 para. 4(3)**

## 16 Conditional licences.

(1) Subject to subsection (4), this section has effect in any case where a person applies for a licence under this Part—

- (a) for the first time;

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- (b) when each licence previously held by him under this Part has been subject to conditions under this section;
  - (c) when, on the first day of the period to which the licence would (if granted) relate, a period of twelve months or more will have elapsed since he held a licence in force under this Part;
  - (d) after the Discipline and Appeals Committee established under section 25 have made any order in his case under section 26;
  - (e) after he has been invited by the Council to give an explanation in respect of any matter relating to his conduct and has failed to give an explanation in respect of that matter which the Council regards as satisfactory, and has been notified in writing by the Council that he has so failed;
  - (f) while he is an undischarged bankrupt . . . <sup>F2</sup>;
  - (g) after having been adjudged bankrupt [<sup>F3</sup>and discharged] or after having entered into a composition with his creditors or a deed of arrangement for the benefit of his creditors;
  - (h) while he is a person as to whom powers have been exercised under section 98 of the <sup>M1</sup>Mental Health Act 1983 (judge's powers in cases of emergency);
  - [<sup>F4</sup>(i) after having been committed to prison in civil or criminal proceedings; or]
  - [<sup>F4</sup>(i) after having been committed to prison in civil proceedings;
  - (ia) after having been convicted of an offence involving dishonesty or deception or a serious arrestable offence (as defined by section 116 of the Police and Criminal Evidence Act 1984); or]
  - (j) after having had given against him any judgment which involves the payment of money, not being a judgment—
    - (i) limited to the payment of costs; or
    - (ii) as to whose whole effect upon him he is entitled to indemnity or relief from some other person; or
    - (iii) evidence of whose satisfaction has been produced to the Council.
- (2) In any case where this section has effect the Council may, on issuing a licence to the applicant under section 15, issue it subject to such conditions as the Council thinks fit; and the Council's decision in any such case to impose any particular conditions under this subsection may be made by reference to such criteria of general application as may have been determined by the Council.
- (3) Without prejudice to the generality of subsection (2), conditions may be imposed under that subsection—
- (a) for restricting the kinds of conveyancing services that may be provided by the applicant as a licensed conveyancer; 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;
- and conditions may be imposed under that subsection (whether for the purpose mentioned in paragraph (b) or otherwise) notwithstanding that they may result in expenditure being incurred by the applicant.
- (4) Where a licence free of conditions is issued by the Council under section 15 to an applicant in relation to whom this section has effect by reason of any such circumstances as are mentioned in paragraph (d), (e), (f), (g), (h), (i) or (j) of subsection (1), then, except in the case of any circumstances of whose existence the

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Council is unaware at the time the licence is issued, this section shall not thereafter have effect in relation to that person by reason of those circumstances.

- (5) Where the Council decides to issue an applicant with a licence subject to conditions, it may, if it thinks fit, direct that the conditions shall not have effect—
- (a) pending the hearing and determination of any appeal brought by the applicant under section 29(1)(b); or
  - (b) if this section has effect in relation to the applicant by reason only of any such circumstances as are mentioned in paragraph (f), (i) or (j) of subsection (1) and an appeal has been made to the appropriate court against the order or judgment in question, pending the hearing and determination of that appeal.

#### Textual Amendments

- F2** Words repealed by [Insolvency Act 1985 \(c. 65, SIF 66\)](#), s. 235(3), **Sch. 10 Pt. III** (with saving in [Insolvency Act 1986 \(c. 45, SIF 66\)](#), s. 437, **Sch. 11 para. 10**)
- F3** Words substituted by [Insolvency Act 1985 \(c. 65, SIF 66\)](#), s. 235(1), **Sch. 8 para. 40** (with saving in [Insolvency Act 1986 \(c. 45, SIF 66\)](#), s. 437, **Sch. 11 para. 10**)
- F4** [S. 16\(1\)\(i\)\(ia\)](#) substituted (*prosp.*) for s. 16(1)(i) by [Courts and Legal Services Act 1990 \(c. 41, SIF 76:1\)](#), ss. 53, 124(3), **Sch. 8 para. 24**

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

- C2** [S. 16\(4\)\(5\)](#) extended with modifications (*prosp.*) by [Courts and Legal Services Act 1990 \(c. 41, SIF 76:1\)](#), s. 53, **Sch. 8, para. 5(7)**

#### Marginal Citations

- M1** 1983 c. 20.

VALID FROM 31/03/2009

### **[<sup>F5</sup>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.]

#### Textual Amendments

- F5** [S. 16A](#) inserted (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 182, 211, **Sch. 17 para. 6** (with ss. 29, 192, 193); [S.I. 2009/503](#), **art. 2(c)(i)**

## **17 Imposition of conditions during currency of licence.**

- (1) Subject to the provisions of this section the Council may in the case of any licensed conveyancer direct that his licence shall have effect subject to such conditions as the Council thinks fit.

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- (2) The power to give a direction under this section in the case of any licensed conveyancer shall be exercisable by the Council at any time during the period for which his licence is in force if—
- (a) in the event of an application for a licence being made by him at that time, section 16 would have effect in relation to him by reason of any such circumstances as are mentioned in paragraph (d), (e), (i) or (j) of subsection (1) of that section; or
  - (b) ..... <sup>F6</sup>
  - (c) he has entered into a composition with his creditors or a deed of arrangement for the benefit of his creditors.
- (3) Subject to subsection (4), the conditions specified in a direction under this section shall have effect as from the time when the licensed conveyancer concerned is notified of the Council's decision to give the direction.
- (4) The Council may, if it thinks fit, provide in a direction given under this section in the case of any licensed conveyancer that the conditions specified in the direction shall not have effect—
- (a) pending the hearing and determination of any appeal brought by the licensed conveyancer under section 29(1)(c); or
  - (b) if an appeal has been made by the licensed conveyancer to the appropriate court against any order or judgment which, if successful, would result in subsection (2) no longer being applicable to him, pending the hearing and determination of that appeal.
- (5) Subsection (3) of section 16 shall apply for the purposes of subsection (1) of this section as it applies for the purposes of subsection (2) of that section.

#### Textual Amendments

**F6** S. 17(2)(b) repealed by [Insolvency Act 1985 \(c. 65, SIF 66\)](#), s. 235(3), [Sch. 10 Pt. III](#) (with saving in [Insolvency Act 1986 \(c. 45, SIF 66\)](#), s. 437, [Sch. 11 para. 10](#))

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#### [<sup>F7</sup>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;
  - (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.]

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#### Textual Amendments

- F7** S. 17A inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 8** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(i)**

### 18 Suspension or termination of licences.

- (1) Where an adjudication in bankruptcy is made against a licensed conveyancer, any such adjudication shall operate immediately to suspend the licence held by that person under this Part; and, subject to subsection (2), the suspension of the licence shall continue until the licence expires.
- (2) The suspension of a licence by virtue of subsection (1) shall terminate if the adjudication in question is annulled and an office copy of the order annulling the adjudication is served on the Council.
- (3) A licence held by a person under this Part shall terminate if that person becomes a patient within the meaning of Part VII of the <sup>M2</sup>Mental Health Act 1983.
- (4) For the purposes of this Part a licence shall be treated as not being in force at any time while it is suspended by virtue of any provision of this Part.

#### Marginal Citations

- M2** 1983 c. 20.

### 19 Register of licensed conveyancers.

- (1) The Council shall establish and maintain, in such form as the Council may determine, a register containing the names and places of business of all persons who for the time being hold licences in force under this Part.
- (2) The Council shall accordingly cause the appropriate entries and deletions to be made in the register on the issue and termination of licences under this Part; and where any licence held by a person is for the time being suspended by virtue of any provision of this Part the Council shall cause that fact to be noted in the register against that person's name.
- (3) Any change in a licensed conveyancer's place or places of business shall be notified by him to the Council within the period of fourteen days beginning with the date on which the change takes effect.
- (4) The Council shall provide facilities for making the information contained in the entries in the register available for inspection in visible and legible form by any person during office hours and without payment.
- (5) A certificate signed by an officer of the Council appointed for the purpose and stating—
  - (a) that any person does or does not, or did or did not at any time, hold a licence in force under this Part; or
  - (b) that any licence held by any person is or was at any time either free of conditions or subject to any particular conditions,

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shall, unless the contrary is proved, be evidence of the facts stated in the certificate; and a certificate purporting to be so signed shall be taken to have been so signed unless the contrary is proved.



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