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*Status: Point in time view as at 01/10/1997. This version of this schedule contains provisions that are not valid for this point in time.*  
*Changes to legislation: There are currently no known outstanding effects for the Administration of Justice Act 1985, SCHEDULE 2. (See end of Document for details)*

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## SCHEDULES

### SCHEDULE 2

Section 9.

#### INCORPORATED PRACTICES: SUPPLEMENTARY PROVISIONS

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##### Commencement Information

**II** Sch. 2 wholly in force at 1.1.1992 see s. 69(2) and S.I. 1991/2683, art. 2

##### *Interpretation*

- 1 (1) Subject to sub-paragraph (2), references in this Schedule to a recognised body are references to a body corporate for the time being recognised under section 9 of this Act.
- (2) References in this Schedule to a recognised body in relation to—
- (a) a complaint (other than such a complaint as is mentioned in paragraph 16(1)(a)); or
  - (b) any such application as is mentioned in paragraph 15(2),
- include references to a body corporate that was recognised under section 9 of this Act at the time when the conduct to which the complaint or application relates took place.
- (3) References in this Schedule to an officer of a recognised body include references to a director, manager or secretary of that body.
- (4) In section 87(1) of the 1974 Act the definitions of “client”, “contentious business” and “non-contentious business” shall apply for the purposes of—
- (a) this Schedule; and
  - (b) any provision of the 1974 Act in so far as it has effect in relation to a recognised body by virtue of this Schedule,
- as if for any reference to a solicitor there were substituted a reference to a recognised body; and for those purposes “controlled trust”, in relation to a recognised body, means a trust of which it is sole trustee or co-trustee only with one or more of its officers or employees.
- (5) Subject to sub-paragraphs (3) and (4), any expression used in this Schedule which is also used in the 1974 Act has the same meaning as in that Act.
- (6) In this Schedule “the 1974 Act” means the <sup>M1</sup>Solicitors Act 1974.

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##### Commencement Information

**I2** Sch. 2 para. 1 wholly in force at 1.1.1992 see s. 69(2) and S.I. 1991/2683, art. 2

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### Marginal Citations

**M1** 1974 c. 47.

### *Appeal against refusal of Council to grant recognition*

- 2 (1) Where the Council refuse an application by any body corporate for recognition under section 9 of this Act, that body may appeal to the Master of the Rolls against that refusal within one month of being notified of it.
- (2) On an appeal under this paragraph the Master of the Rolls may—
- (a) direct the Council to grant recognition of the body in question under section 9 of this Act; or
  - (b) affirm the refusal of the Council;
- and he may make such order as to the payment of costs by the Council or by that body as he thinks fit.
- (3) Rules made by the Council with the concurrence of the Master of the Rolls may make provision, as respects any application for recognition that is neither granted nor refused by the Council within such period as may be specified in the rules, for enabling an appeal to be brought under this paragraph in relation to the application as if it had been refused by the Council.
- (4) The Master of the Rolls may make regulations about the procedure for appeals to him under this paragraph.

### Commencement Information

**I3** Sch. 2 para. 2 wholly in force at 1.1.1992 see s. 69(2) and [S.I. 1991/2683, art. 2](#)

### *Accounts rules*

- 3 Where rules made under section 32(1) or (2) of the 1974 Act are applied to recognised bodies in accordance with section 9(2)(f) of this Act, the Council shall be at liberty to disclose a report on or information about a recognised body's accounts obtained in pursuance of any such rules to the Director of Public Prosecutions for use in investigating the possible commission of an offence by that body and, if the Director thinks fit, for use in connection with any prosecution of that body consequent on the investigation.

### Commencement Information

**I4** Sch. 2 para. 3 wholly in force at 1.1.1992 see s. 69(2) and [S.I. 1991/2683, art. 2](#)

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*Interest on clients' money*

- 4 (1) Where rules made under section 32 of the 1974 Act and containing any such provision as is referred to in section 33(1)(a) of that Act are applied to recognised bodies in accordance with section 9(2)(f) of this Act, then, except as provided by the rules and subject to sub-paragraph (2), a recognised body which in pursuance of the rules maintains an account in which it keeps money received or held for or on account of its clients generally shall not be liable to account to any person for interest received by it on money in that account.
- (2) Nothing in any such rules or in sub-paragraph (1) shall—
- (a) affect any arrangement in writing between a recognised body and any of its clients as to the application of the client's money or interest on it; <sup>F1</sup> . . .
  - (b) . . . . . <sup>F1</sup>

**Textual Amendments**

**F1** Sch. 2 para. 4(2)(b) and the word “or” immediately preceding it repealed (1.6.1992) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 125(7), Sch. 20; S.I. 1992/1221, art. 2, Sch.

**Commencement Information**

**I5** Sch. 2 para. 4 wholly in force at 1.1.1992 see s. 69(2) and S.I. 1991/2683, art. 2

VALID FROM 31/03/2009

[<sup>F2</sup>4ZA Where rules made under section 32 of the 1974 Act and containing any such provision as is referred to in section 33(1) of that Act are applied to managers or employees of recognised bodies in accordance with section 9(2)(fb), then, except as provided by the rules, a manager or employee to whom the rules are applied is not liable to account to any client, other person or trust for interest received by the manager or employee on money held at a bank or building society in an account which is for money received or held for, or on account of—

- (a) clients of the recognised body, other persons or trusts, generally, or
- (b) that client, person or trust, separately.]

**Textual Amendments**

**F2** Sch. 2 para. 4ZA inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, Sch. 16 para. 90 (with ss. 29, 192, 193); S.I. 2009/503, art. 2(b)(ii)

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VALID FROM 27/09/1999

*[<sup>F3</sup> Inspection of bank accounts]*

**Textual Amendments**

**F3** Sch. 2 para. 4A and cross-heading inserted (27.9.1999) by 1999 c. 22, s. 48, **Sch. 7 para.5** (with Sch. 14 para. 7(2)); S.I. 1999/2657, **art. 2(a)**

<sup>F4</sup>4A Where rules made under section 33A(1) of the 1974 Act are applied to recognised bodies in accordance with section 9(2)(f) of this Act, the Council shall be at liberty to disclose information about a recognised body's accounts obtained in pursuance of the rules for use in investigating the possible commission of an offence by that body and for use in connection with any prosecution of that body consequent on the investigation.]

**Textual Amendments**

**F4** Sch. 2 para. 4A and cross-heading inserted (27.9.1999) by 1999 c. 22, s. 48, **Sch. 7 para.5** (with Sch. 14 para. 7(2)); S.I. 1999/2657, **art. 2(a)**

*Accountants' reports*

- 5 (1) In section 34 of the 1974 Act—
- (a) subsections (1) and (2); and
  - (b) subject to any rules made under that section and applied to recognised bodies in accordance with section 9(2)(f) of this Act, subsection (3),
- shall apply to a recognised body as they apply to a solicitor.
- (2) A certificate under the hand of the Secretary of the Society shall, unless the contrary is proved, be evidence that a recognised body has or, as the case may be, has not delivered to the Society an accountant's report or supplied any evidence required under section 34 of the 1974 Act or under any such rules as are referred to in subparagraph (1)(b).

**Commencement Information**

**I6** Sch. 2 para. 5 wholly in force at 1.1.1992 see s. 69(2) and S.I. 1991/2683, **art. 2**

VALID FROM 31/03/2009

<sup>F5</sup>5A Where rules made under section 34 of the 1974 Act are applied to managers or employees of recognised bodies in accordance with section 9(2)(fb),

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section 34(9) and (10) of that Act apply in relation to a manager or employee to which the rules are applied as they apply in relation to a solicitor.]

#### Textual Amendments

- F5** Sch. 2 para. 5A inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, Sch. 16 para. 93 (with ss. 29, 192, 193); S.I. 2009/503, art. 2(b)(ii)

### Compensation Fund

- 6 [F6(1) On an application under section 9 of this Act a body corporate shall pay to the Society, with any fee required to be paid by virtue of subsection (2)(a) of that section, a contribution to the Compensation Fund of such amount as the Council may from time to time determine.
- (1A) On being required to do so by the Society, every recognised body shall pay a further contribution to the Compensation Fund of such amount as the Council may from time to time determine.
- (1B) The Society may only require a contribution under sub-paragraph (1A) if—
- (a) the recognised body has held or received clients' money at any time within the twelve-month period; and
  - (b) no such contribution has been required from that body within that period.
- (1C) In sub-paragraph (1B) “the twelve-month period”, in relation to any requirement for payment of a further contribution, means the period of twelve months ending immediately before the day on which the requirement is imposed.
- (1D) Schedule 2 to the 1974 Act shall apply to amounts paid to the Society in pursuance of sub-paragraph (1) or (1A) of this paragraph as if they were annual contributions or special levies paid in pursuance of paragraph (a) or (b) of paragraph 2(1) of that Schedule.]
- (2) Where the Council are satisfied—
- (a) that a person has suffered or is likely to suffer loss in consequence of dishonesty on the part of an officer or employee of a recognised body in connection with that body's business (or purported business) as a recognised body or in connection with any trust of which it is or formerly was a trustee; or
  - (b) that a person has suffered or is likely to suffer hardship in consequence of failure on the part of a recognised body to account for money which has come into its possession in connection with that body's business (or purported business) as a recognised body or in connection with any trust of which it is or formerly was a trustee; or
  - (c) that a member of a recognised body has suffered or is likely to suffer loss or hardship by reason of his liability to any of that body's clients in consequence of some act or default of any officer or employee of that body in circumstances where, but for the liability of that member, a grant might have been made out of the Compensation Fund to some other person,

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the Council may make a grant out of the Compensation Fund for the purpose of relieving that loss or hardship.

(3) Subsections (3) to (7) of section 36 of the 1974 Act shall apply in relation to grants under sub-paragraph (2) as they apply in relation to grants under subsection (2) of that section; and accordingly the reference in subsection (3) of that section to a grant under subsection (2)(c) shall be construed as including a reference to a grant under sub-paragraph (2)(c).

**Textual Amendments**

**F6** Sch. 2 para. 6(1)(1A)(1B)(1C)(1D) substituted by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 90

**Commencement Information**

**I7** Sch. 2 para. 6 wholly in force at 1.1.1992 see s. 69(2) and S.I. 1991/2683, art. 2

*Solicitor who is justice of the peace not to act in certain proceedings*

7 In section 38 of the 1974 Act references to any partner of a solicitor shall be construed, in relation to a solicitor who is an officer of a recognised body, as references to any other solicitor who is an officer of that body.

**Commencement Information**

**I8** Sch. 2 para. 7 wholly in force at 1.1.1992 see s. 69(2) and S.I. 1991/2683, art. 2

PROSPECTIVE

8 ..... F7

**Textual Amendments**

**F7** Sch. 2 para. 8 repealed by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 125(7), Sch. 20

*Restriction on employment of person struck off roll or suspended*

9 Section 41 of the 1974 Act (except subsection (4)) shall apply to a recognised body and its business as such as it applies to a solicitor and his practice as such.

**Commencement Information**

**I9** Sch. 2 para. 9 wholly in force at 1.1.1992 see s. 69(2) and S.I. 1991/2683, art. 2

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*Failure to disclose fact of having been struck off or suspended*

- 10 [F8 Section 42(1) and (1A)] of the 1974 Act shall apply in relation to employment by a recognised body in connection with its business as it applies in relation to employment by a solicitor in connection with his practice.

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**Textual Amendments**

- F8** Words substituted by [Courts and Legal Services Act 1990 \(c. 41, SIF 37\)](#), sS. 124(2)(C), 125(3), Sch. 18 para. 55

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**Commencement Information**

- I10** [Sch. 2 para. 10](#) wholly in force at 1.1.1992 see [s. 69\(2\)](#) and [S.I. 1991/2683, art. 2](#)

*Control of employment of persons convicted of offences of dishonesty and certain other persons*

- 11 (1) Where a person who is or was employed by a recognised body but is not himself a solicitor—
- (a) has been convicted of a criminal offence which discloses such dishonesty that in the opinion of the Society it would be undesirable for him to be employed by a recognised body in connection with its business; or
  - (b) has, in the opinion of the Society, occasioned or been a party to, with or without the connivance of any director of the recognised body by which he is or was employed, an act or default in relation to that body's business which involved conduct on his part of such a nature that in the opinion of the Society it would be undesirable for him to be employed by a recognised body in connection with its business,
- an application may be made to the Tribunal with respect to that person by or on behalf of the Society.
- (2) Subsection (2) of section 43 of the 1974 Act shall apply in relation to an application under sub-paragraph (1) as it applies in relation to an application under subsection (1) of that section, but, in relation to an application under either of those provisions, any reference in subsection (2) of that section to a solicitor or to his practice as a solicitor shall be construed as including a reference to a recognised body or to its business as such a body.
- (3) Any reference in subsection (5) of that section to a solicitor shall be construed as including a reference to a recognised body.

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**Commencement Information**

- I11** [Sch. 2 para. 11](#) wholly in force at 1.1.1992 see [s. 69\(2\)](#) and [S.I. 1991/2683, art. 2](#)

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*Offences in connection with orders under section 43(2) of the 1974 Act*

- 12 In section 44 of the 1974 Act—
- (a) any reference in subsection (1) to a solicitor or to his practice shall be construed as including a reference to a recognised body or to its business; and
  - (b) subsection (3) shall apply in relation to proceedings under this Schedule as it applies in relation to proceedings under that section.

**Commencement Information**

**I12** Sch. 2 para. 12 wholly in force at 1.1.1992 see s. 69(2) and S.I. 1991/2683, art. 2

*Powers of Council in respect of inadequate professional services*

- 13 (1) In [F9 Schedule 1A of the Act of 1974 (except paragraphs 5(1) and 9)]—
- (a) any reference to a solicitor shall be construed as including a reference to a recognised body; and
  - (b) any reference to professional services provided by a solicitor in connection with any matter in which he or his firm had been instructed by a client shall be construed as including a reference to professional services provided by a recognised body in connection with any matter in which it had been instructed by a client.
- (2) The powers conferred on the Council by [F10 paragraph 2(1)(a) of Schedule 1A to the Act of 1974] shall be exercisable in relation to a body corporate in accordance with this paragraph notwithstanding that it is no longer a recognised body.
- (3) If a body corporate fails to comply with a direction given to it by the Council by virtue of this paragraph, any person may make a complaint in respect of that failure to the Tribunal; but no other proceedings whatever shall be brought in respect of it.

**Textual Amendments**

**F9** Words in Sch. 2 para. 13 substituted (*I. 4. 1991*) for limited purposes by *Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 125(3), Sch. 18 para. 56(a)*; S.I. 1991/608, art. 2, Sch.

**F10** Words in Sch. 2 para. 13 substituted (*I. 4. 1991*) for limited purposes by *Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 125(3), Sch. 18 para. 56(b)*; S.I. 1991/608, art. 2, Sch.

**Commencement Information**

**I13** Sch. 2 para. 13 wholly in force at 1.1.1992 see s. 69(2) and S.I. 1991/2683, art. 2

*Examination of files*

- 14 (1) Where the Council are satisfied that it is necessary to do so for the purpose of investigating—



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- (a) any such complaint as is mentioned in paragraph (b), (c) or (d) of paragraph 16(1) of this Schedule; or
- (b) any complaint made to the Society and relating to the quality of any professional services provided by a recognised body,

the Society may give notice to the recognised body to which the complaint relates requiring the production or delivery to any person appointed by the Society, at a time and a place to be fixed by the Society, of all documents in the body's possession in connection with the matters to which the complaint relates (whether or not they relate also to other matters).

(2) Sub-paragraphs (2) to (12) of paragraph 9 of Schedule 1 to the 1974 Act (intervention in solicitor's practice), together with paragraphs 12 to 16 of that Schedule, shall apply in relation to the powers conferred by sub-paragraph (1) of this paragraph as they apply in relation to the powers conferred by sub-paragraph (1) of paragraph 9, and accordingly in those provisions—

- (a) any reference to the solicitor shall be construed as including a reference to the body with respect to which the powers are exercisable by virtue of sub-paragraph (1) of this paragraph;
- (b) any reference to a person appointed, or to a requirement, under paragraph 9(1) shall be construed as including a reference to a person appointed, or to a requirement, under sub-paragraph (1) of this paragraph; and
- (c) any reference to any such documents as are mentioned in paragraph 9(1) shall be construed as including a reference to any such documents as are mentioned in sub-paragraph (1) of this paragraph.

#### Commencement Information

**I14** Sch. 2 para. 14 wholly in force at 1.1.1992 see s. 69(2) and S.I. 1991/2683, art. 2

VALID FROM 27/09/1999

#### *[<sup>F11</sup> Payment of costs of investigations]*

#### Textual Amendments

**F11** Sch. 2 para. 14A and cross-heading inserted (27.9.1999) by 1999 c. 22, s. 48, Sch. 7 para.14 (with Sch. 14 para. 7(2)); S.I. 1999/2657, art. 2(a)

- <sup>F12</sup>14A Where the Society investigates a failure or apprehended failure by a recognised body to comply with any requirement imposed by or by virtue of this Act or any rules applicable to it by virtue of section 9 of this Act, the Council may direct the body to pay to the Council an amount which—
- (a) is calculated by the Council as the cost to the Society of the investigation; or
  - (b) in the opinion of the Council represents a reasonable contribution towards that cost.]

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### Textual Amendments

- F12** Sch. 2 para. 14A and cross-heading inserted (27.9.1999) by 1999 c. 22, s. 48, **Sch. 7 para.14** (with Sch. 14 para. 7(2)); S.I. 1999/2657, **art. 2(a)**

VALID FROM 31/03/2009

### *<sup>F13</sup>Disciplinary powers of the Society*

### Textual Amendments

- F13** Sch. 2 paras. 14B, 14C and preceding cross-heading inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, **Sch. 16 para. 103** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(b)(ii)** (subject to art. 4)

- 14B (1) This paragraph applies where the Society is satisfied that a recognised body, or a manager or employee of a recognised body, has failed to comply with a requirement imposed by or by virtue of this Act or any rules applicable to that person by virtue of section 9 of this Act.
- (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 £2,000.
- (3) The Society may publish details of any action it has taken under sub-paragraph (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 sub-paragraph (2)(b), or decides to publish under sub-paragraph (3) details of such action under sub-paragraph (2)(a) or (b), it must notify the person in writing that it has done so.
- (5) A penalty imposed under sub-paragraph (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 paragraph 14C, or
  - (b) if such an appeal is made, such time as it is determined or withdrawn.
- (6) The Society may not publish under sub-paragraph (3) details of any action under sub-paragraph (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 sub-paragraph (2)(b), the amount of the penalty, or
    - (iii) the decision to publish the details,
 may be made under paragraph 14C, or
  - (b) if such an appeal has been made, until such time as it is determined or withdrawn.
- (7) The Society must make rules—

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- (a) prescribing the circumstances in which the Society may decide to take action under sub-paragraph (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 sub-paragraph (3) of details of action taken under sub-paragraph (2)(a) or (b);
- and the Society may make such other rules in connection with the exercise of its powers under this paragraph as it considers appropriate.
- (8) Before making rules under sub-paragraph (7), the Society must consult the Tribunal.
  - (9) A penalty under this paragraph 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 sub-paragraph (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 sub-paragraph (10), the Lord Chancellor must consult the Society.
  - (12) An order under sub-paragraph (10) is to be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
  - (13) This paragraph is without prejudice to any power conferred on the Society, or any other person, to make an application or complaint to the Tribunal.
- 14C (1) A person may appeal against—
- (a) a decision by the Society to rebuke that person under paragraph 14B(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 paragraph 14B(2)(b) or the amount of that penalty;
  - (c) a decision by the Society to publish under paragraph 14B(3) details of any action taken against that person under paragraph 14B(2)(a) or (b).
- (2) Subsections (9)(b), (10)(a) and (b), (11) and (12) of section 46 of the 1974 Act (Tribunal rules about procedure for hearings etc) apply in relation to appeals under this paragraph 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) of the 1974 Act may, in particular, make provision about the period during which an appeal under this paragraph may be made.
  - (4) On an appeal under this paragraph, the Tribunal has power to make an order which—
    - (a) affirms the decision of the Society;
    - (b) revokes the decision of the Society;
    - (c) in the case of a penalty imposed under paragraph 14B(2)(b), varies the amount of the penalty;
    - (d) in the case of a recognised body, contains provision for any of the matters mentioned in paragraph 18(2);
    - (e) in the case of a manager or employee of a recognised body, contains provision for any of the matters mentioned in paragraph 18A(2);

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

- (5) Where, by virtue of sub-paragraph (4)(e), an order contains provision for any of the matters mentioned in sub-paragraph (2)(c) of paragraph 18A, sub-paragraphs (5) and (6) of that paragraph apply as if the order had been made under sub-paragraph (2)(c) of that paragraph.
- (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 paragraph as it may think fit.
- (8) Any decision of the High Court on an appeal under this section shall be final.
- (9) This paragraph is without prejudice to any power conferred on the Tribunal in connection with an application or complaint made to it.]

#### *Lay observers*

15

F14

#### **Textual Amendments**

**F14** Sch. 2 para. 15 repealed by [Courts and Legal Services Act 1990 \(c. 41, SIF 76:1\)](#), s. 125(7), **Sch. 20**

#### *Complaints to Tribunal with respect to recognised bodies*

- 16 (1) The Tribunal shall have jurisdiction to hear and determine any of the following complaints made to it under this paragraph with respect to a recognised body, namely—
- (a) a complaint that the body has (while a recognised body) been convicted by any court in the United Kingdom of a criminal offence which renders it unsuitable to be recognised under section 9 of this Act;
  - (b) a complaint that the body has failed to comply with section 34 of the 1974 Act or with any rules applicable to it by virtue of section 9 of this Act;
  - (c) a complaint that the body has acted in contravention of section 39 or 41 of the 1974 Act or of any conditions subject to which a permission has been granted under section 41 of that Act; or
  - (d) a complaint that the body has knowingly acted in contravention of any such order as is mentioned in section 44(2) of the 1974 Act or of any conditions subject to which a permission has been granted under such an order.
- (2) A complaint may be made to the Tribunal under this paragraph by any person.

#### **Commencement Information**

**I15** Sch. 2 para. 16 wholly in force at 1.1.1992 see s. 69(2) and [S.I. 1991/2683](#), **art. 2**

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### *Procedure on applications and complaints*

- 17 In subsections (7) to (11) of section 46 of the 1974 Act—
- (a) any reference to an application or complaint shall be construed as including a reference to any such application as is mentioned in paragraph 11(1), 15(2) or 21(1) or any such complaint as is mentioned in paragraph 13(3) or 16(1);
  - (b) any reference to an application or complaint made under that Act shall be construed as including a reference to any such application or complaint as aforesaid made under this Schedule; and
  - (c) in the case of subsection (10)(c), any reference to a solicitor shall be construed as including a reference to a recognised body.

#### **Commencement Information**

**I16** Sch. 2 para. 17 wholly in force at 1.1.1992 see s. 69(2) and [S.I. 1991/2683, art. 2](#)

### *Powers of Tribunal with respect to recognised bodies*

- 18 (1) Where on the hearing of any complaint made to it under this Schedule the Tribunal is satisfied that a recognised body—
- (a) has been convicted as mentioned in paragraph (a) of paragraph 16(1); or
  - (b) has failed to comply with section 34 of the 1974 Act or with any such rules as are mentioned in paragraph (b) of paragraph 16(1); or
  - (c) has acted as mentioned in paragraph (c) or (d) of that provision; or
  - (d) has failed to comply with any direction given to it by the Council by virtue of paragraph 13,
- the Tribunal may, if it thinks fit, make one or more of the orders referred to in subparagraph (2).
- (2) Those orders are—
- (a) an order revoking the recognition under section 9 of this Act of the body to which the complaint relates;
  - (b) an order directing the payment by that body of a penalty not exceeding £3,000, to be forfeited to Her Majesty;
  - (c) an order requiring that body to pay the costs incurred in bringing against it the proceedings before the Tribunal or a contribution towards those costs, being a contribution of such amount as the Tribunal considers reasonable.
- [<sup>F15</sup>(2A) Where, on the hearing of any application or complaint made to it under this Schedule, the Tribunal is satisfied that more than one allegation is proved against the recognised body to whom the application or complaint relates, it may impose a separate penalty (by virtue of subparagraph (2)(b) ) with respect of each such allegation.]
- (3) On the hearing of a complaint under paragraph 13(3) relating to a direction given by the Council, the Tribunal may, if it thinks fit (whether or not it makes any order on the hearing under this paragraph), direct that the Council's direction shall be treated, for the purpose of enforcement, as if it were contained in an order made by the High Court.

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**Changes to legislation:** There are currently no known outstanding effects for the Administration of Justice Act 1985, SCHEDULE 2. (See end of Document for details)

- (4) Subsections (4) and (5) of section 47 of the 1974 Act (power to increase maximum amount of penalty) shall have effect in relation to the sum specified in sub-paragraph (2)(b) of this paragraph as they have effect in relation to the sum specified in subsection (2)(c) of that section.

#### Textual Amendments

**F15** Sch. 2 para. 18(2A) inserted (1.1.1991) by [Courts and Legal Services Act 1990 \(c. 41, SIF 37\)](#), ss. 124(2)(c), 125(3), [Sch. 18 para. 57](#)

#### Commencement Information

**I17** Sch. 2 para. 18 wholly in force at 1.1.1992 see s. 69(2) and [S.I. 1991/2683, art. 2](#)

VALID FROM 31/03/2009

[<sup>F16</sup>18A(1) Where, on the hearing of any complaint made to it under paragraph 16(1A) of this Schedule, the Tribunal is satisfied that a manager or employee of a recognised body—

- (a) has been convicted as mentioned in paragraph (a) of paragraph 16(1A),
- (b) has failed to comply with any requirement imposed by or by virtue of this Act or any rules applicable to the relevant person by virtue of section 9 of this Act, or
- (c) has acted as mentioned in paragraph (c) or (d) of paragraph 16(1A),

the Tribunal may, if it thinks fit, make one or more of the orders referred to in sub-paragraph (2).

(2) Those orders are—

- (a) an order directing the payment by the relevant person of a penalty to be forfeited to Her Majesty;
- (b) an order requiring the Society to consider taking such steps as the Tribunal may specify in relation to the relevant person;
- (c) if the person is not a solicitor, an order which states one or more of the matters mentioned in sub-paragraph (3);
- (d) an order requiring the Society to refer to an appropriate regulator any matter relating to the conduct of the relevant person.

(3) The matters referred to in sub-paragraph (2)(c) are—

- (a) that as from the specified date—
  - (i) no solicitor or employee of a solicitor shall employ or remunerate, in connection with the practice carried on by that solicitor, the person with respect to whom the order is made, and
  - (ii) no recognised body, or manager or employee of such a body, shall employ or remunerate that person, in connection with the business of the recognised body,

except in accordance with a Society permission;

- (b) that as from the specified date no recognised body or manager or employee of such a body shall, except in accordance with a Society permission, permit the person with respect to whom the order is made to be a manager of the body;

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- (c) that as from the specified date no recognised body or manager or employee of such a body shall, except in accordance with a Society permission, permit the person with respect to whom the order is made to have an interest in the body.
- (4) For this purpose a person has an interest in a body if the person has an interest in the body within the meaning of Part 5 the Legal Services Act 2007 (see sections 72 and 109 of that Act).
- (5) Subsections (1) to (1C), (3) and (4) of section 44 of the 1974 Act (offences in connection with orders under section 43(2) of that Act) apply in relation to an order under sub-paragraph (2)(c) as they apply in relation to an order under section 43(2) of that Act, except that references in those subsections to provision within section 43(2)(a), (b) or (c) of that Act are to be read as references to provision within sub-paragraph (3)(a), (b) or (c).
- (6) Section 44(2) of the 1974 Act, paragraph 16(1)(d) and (1A)(d) of this Schedule and paragraph 15(3A) of Schedule 14 to the Courts and Legal Services Act 1990 apply in relation to an order under sub-paragraph (2)(c) as they apply in relation to an order under section 43(2) of the 1974 Act.
- (7) For the purposes of sub-paragraph (2)(d) an “appropriate regulator” in relation to the relevant person 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 body which regulates the carrying on of such activities by the person.]

#### Textual Amendments

- F16** Sch. 2 para. 18A inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, Sch. 16 para. 107 (with ss. 29, 192, 193); S.I. 2009/503, art. 2(b)(ii) (subject to art. 4)

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

- C1** Sch. 2 para. 18A(2) applied (with modification) by S.I. 2000/1119, Sch. 4 para. 24(2) (as substituted (1.7.2009) by The Legal Services Act 2007 (Registered European Lawyers) Order 2009 (S.I. 2009/1587), arts. 1(1), 3(17))
- C2** Sch. 2 para. 18A(3) applied (with modification) by S.I. 2000/1119, Sch. 4 para. 24(2) (as substituted (1.7.2009) by The Legal Services Act 2007 (Registered European Lawyers) Order 2009 (S.I. 2009/1587), arts. 1(1), 3(17))

### *Powers of Tribunal in respect of inadequate professional services*

19

F17

#### Textual Amendments

- F17** Sch. 2 para. 19 repealed ( 1. 4. 1991 ) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 125(6) (7), Sch. 20 (with Sch. 19 para. 14(c)); S.I.1991/608, art. 2, Sch.

*Status: Point in time view as at 01/10/1997. This version of this schedule contains provisions that are not valid for this point in time.*  
**Changes to legislation:** There are currently no known outstanding effects for the Administration of Justice Act 1985, SCHEDULE 2. (See end of Document for details)

*Powers of Tribunal in respect of legal aid complaints*

- 20 (1) Where the Tribunal makes any such order as is referred to in subsection (2A) of section 47 of the 1974 Act in the case of a solicitor who is an officer or employee of a recognised body, the Tribunal may, if it thinks fit, order that any solicitor who is for the time being a director of that body shall be excluded (either permanently or for a specified period) from legal aid work.
- (2) The reference in sub-paragraph (1) to a person being excluded from legal aid work shall be construed in accordance with section 47(6) of the 1974 Act.

**Commencement Information**

**I18** Sch. 2 para. 20 wholly in force at 1.1.1992 see s. 69(2) and S.I. 1991/2683, art. 2

*Revocation of recognition by reason of default by director*

- 21 (1) Where—
- (a) any order is made by the Tribunal under section 47 of the 1974 Act in the case of a director of a recognised body; or
  - (b) an order is made by the High Court or the Court of Appeal that the name of a director of a recognised body be struck off the roll or that such a director be suspended from practice as a solicitor; or
  - (c) any such order as is mentioned in paragraph (a) or (b) is made in the case of a person employed by a recognised body and the act or omission constituting the ground on which the order was made was instigated or connived at by a director of the recognised body or, if the act or omission was a continuing act or omission, a director of the body had or reasonably ought to have had knowledge of its continuance,
- the Tribunal may, on an application made with respect to the recognised body by or on behalf of the Society, by order revoke its recognition under section 9 of this Act.
- (2) The Tribunal shall not take a case into consideration during any period within which proceedings by way of appeal may be brought which may result in sub-paragraph (1) being rendered inapplicable in that case, or while any such proceedings are pending.
- (3) Any reference to a director of a recognised body in any of paragraphs (a) to (c) of sub-paragraph (1) includes a reference to a person who was a director of the body at the time of the conduct leading to the making of the order referred to in that paragraph.

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

- C3** Sch. 2 para. 21(1)(b) extended (22.5.2000) by S.I. 2000/1119, reg. 37(3), **Sch. 4 para. 24** (as amended (6.4.2001) by S.I. 2001/644, **reg. 2(2)**)
- C4** Sch. 2 para. 21(1)(b) applied (16.9.2004) by S.I. 2000/1119, Sch. 4 para. 24(b) (as substituted by The European Communities (Lawyer's Practice) (Amendment) Regulations 2004 (S.I. 2004/1628), **reg. 7(2)**)

**Commencement Information**

**I19** Sch. 2 para. 21 wholly in force at 1.1.1992 see s. 69(2) and S.I. 1991/2683, art. 2



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*Costs: general modification of provisions of Part III of 1974 Act*

- 22 (1) In the provisions to which this paragraph applies—
- (a) any reference to a solicitor or to a client of a solicitor shall be construed as including a reference to a recognised body or to a client of such a body; and
  - (b) any reference to a client’s solicitor shall be construed as including a reference to any recognised body acting for a client.
- (2) This paragraph applies to the following provisions of the 1974 Act (which relate to the remuneration of solicitors in respect of contentious and non-contentious business), namely—
- section 56 (except subsections (1)(e) and (5));
  - sections 57 to 59;
  - section 60 (except subsection (5));
  - sections 61 and 62;
  - sections 64 and 65;
  - section 67;
  - section 69(1); and
  - sections 70 to 74.

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**Commencement Information**

**I20** Sch. 2 para. 22 wholly in force at 1.1.1992 see s. 69(2) and S.I. 1991/2683, art. 2

*Orders as to remuneration for non-contentious business*

- 23 In relation to an order under section 56 of the 1974 Act regulating (in accordance with paragraph 22) the remuneration of recognised bodies in respect of non-contentious business, subsection (5) of that section shall have effect as if—
- (a) in paragraph (a), for “the solicitor” there were substituted “the recognised body”; and
  - (b) in paragraph (d), for “the solicitor” there were substituted “any solicitor, being an officer or employee of the recognised body,”.

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**Commencement Information**

**I21** Sch. 2 para. 23 wholly in force at 1.1.1992 see s. 69(2) and S.I. 1991/2683, art. 2

*Effect of contentious business agreements*

- 24 A provision in a contentious business agreement made between a recognised body and a client that the body shall not be liable for the negligence of any of its officers or employees, or that it shall be relieved from any responsibility to which it would otherwise be subject in the course of carrying on its business as a recognised body, shall be void.

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**Commencement Information**

**I22** Sch. 2 para. 24 wholly in force at 1.1.1992 see s. 69(2) and S.I. 1991/2683, art. 2

*Effect on contentious business agreement of supervening incapacity of recognised body to act for client*

- 25 (1) If, after some business has been done under a contentious business agreement made between a recognised body and a client but before the body has wholly performed it, the body ceases to be capable of wholly performing it by reason of one of the following events, namely—
- (a) the body ceases (for any reason) to be a recognised body;
  - (b) a winding-up order is made with respect to the body or a resolution for voluntary winding-up is passed with respect to the body (other than a resolution passed solely for the purposes of its reconstruction or of its amalgamation with another body corporate); or
  - (c) the client terminates the retainer or employment of the body in favour of another recognised body or a solicitor (as, notwithstanding the agreement, he shall be entitled to do),
- any party to, or the representative of any party to, the agreement may apply to the court, and the court shall have the same jurisdiction as to enforcing the agreement so far as it has been performed, or setting it aside, as the court would have had if the recognised body were still capable of wholly performing it.
- (2) The court, notwithstanding that it is of the opinion that the agreement is in all respects fair and reasonable, may order the amount due in respect of business under the agreement to be ascertained by taxation, and in that case—
- (a) the taxing officer, in ascertaining that amount, shall have regard so far as may be to the terms of the agreement; and
  - (b) payment of the amount found by him to be due may be enforced in the same manner as if the agreement had been wholly performed.
- (3) If in such a case as is mentioned in sub-paragraph (1)(c) an order is made for the taxation of the amount due to the recognised body in respect of the business done under the agreement, the court shall direct the taxing officer to have regard to the circumstances under which the termination of the body's retainer or employment has taken place, and the taxing officer, unless he is of the opinion that there has been no default, negligence, improper delay or other conduct on the part of any officer or employee of the body affording the client reasonable ground for terminating its retainer or employment, shall not allow to the body the full amount of the remuneration agreed to be paid to it.

**Commencement Information**

**I23** Sch. 2 para. 25 wholly in force at 1.1.1992 see s. 69(2) and S.I. 1991/2683, art. 2

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*Taxations with respect to contentious business*

- 26 Subject to the provisions of any rules of court, on every taxation of costs in respect of any contentious business done by a recognised body, the taxing officer may—
- (a) allow interest at such rate and from such time as he thinks just on money disbursed by the body for the client, and on money of the client in the possession of, and improperly retained by, the body; and
  - (b) in determining the remuneration of the body, have regard to the skill, labour and responsibility on the part of any solicitor, being an officer or employee of the body, which the business involved.

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**Commencement Information**

**I24** Sch. 2 para. 26 wholly in force at 1.1.1992 see s. 69(2) and [S.I. 1991/2683, art. 2](#)

*Power of court to order delivery of bill of costs, etc.*

- 27 Any jurisdiction—
- (a) of the High Court to make any such orders as are referred to in subsection (1) of section 68 of the 1974 Act in relation to a solicitor (whether or not business has been done by him in the High Court); or
  - (b) of the county court to make any such orders as are referred to in subsection (2) of that section in relation to a solicitor,
- shall be exercisable in like manner in relation to a recognised body.

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**Commencement Information**

**I25** Sch. 2 para. 27 wholly in force at 1.1.1992 see s. 69(2) and [S.I. 1991/2683, art. 2](#)

*Power of court to order recognised body to pay over clients' money*

- 28 Any jurisdiction of the High Court to make, in the case of a solicitor who is acting or has acted as such for a client, an order requiring the payment or delivery up of, or otherwise relating to, money or securities which the solicitor has in his possession or control on behalf of the client shall be exercisable in like manner in the case of a recognised body which is acting or has acted as such for a client.

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**Commencement Information**

**I26** Sch. 2 para. 28 wholly in force at 1.1.1992 see s. 69(2) and [S.I. 1991/2683, art. 2](#)

*Actions to recover costs*

- 29 Subsection (2) of section 69 of the 1974 Act shall have effect in relation to a bill of costs delivered by a recognised body as if—

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- (a) for the words from “by the solicitor” to “the firm” there were substituted “on behalf of the recognised body by any officer or employee of the body authorised by it to do so”; and
- (b) for “the solicitor” (where last occurring) there were substituted “the recognised body”.

**Commencement Information**

**I27** Sch. 2 para. 29 wholly in force at 1.1.1992 see s. 69(2) and S.I. 1991/2683, art. 2

*Power of Society to inspect files relating to certain proceedings*

30 Section 83 of the 1974 Act shall apply in relation to proceedings which have been brought with respect to a recognised body for any of the following purposes, namely—

- (a) for the winding-up of the body;
- (b) for the appointment of a receiver or manager of property of the body; or
- (c) for the making of an administration order under Part II of the <sup>M2</sup>Insolvency Act 1985,

as it applies in relation to proceedings in bankruptcy which have been taken against a solicitor.

**Commencement Information**

**I28** Sch. 2 para. 30 wholly in force at 1.1.1992 see s. 69(2) and S.I. 1991/2683, art. 2

**Marginal Citations**

**M2** 1985 c. 65.

*Bank accounts*

31 Where rules made under section 32(1) or (2) of the 1974 Act are applied to recognised bodies in accordance with section 9(2)(f) of this Act, section 85 of the 1974 Act shall apply in relation to a recognised body which keeps an account with a bank in pursuance of any such rules as it applies in relation to a solicitor who keeps such an account in pursuance of rules under section 32.

**Commencement Information**

**I29** Sch. 2 para. 31 wholly in force at 1.1.1992 see s. 69(2) and S.I. 1991/2683, art. 2

VALID FROM 31/03/2009

<sup>F18</sup>31A Where rules made under section 32(1) of the 1974 Act are applied to managers or employees in accordance with section 9(2)(fb) of this Act, section 85 of the

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1974 Act shall apply in relation to a manager or employee to whom the rules are applied who keeps an account with a bank or building society in pursuance of any such rules as it applies in relation to a solicitor who keeps such an account in pursuance of rules under section 32.]

#### Textual Amendments

**F18** Sch. 2 para. 31A inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 177, 211, Sch. 16 para. 118 (with ss. 29, 192, 193); S.I. 2009/503, art. 2(b)(ii)

### *Intervention by Society*

- 32 (1) Subject to sub-paragraph (2), where—
- (a) the Council are satisfied that a recognised body has failed to comply with any rules applicable to it by virtue of section 9 of this Act; or
  - (b) a person has been appointed receiver or manager of property of a recognised body; or
  - (c) a winding-up order, or an administration order under Part II of the <sup>M3</sup>Insolvency Act 1985, has been made with respect to a recognised body, or a resolution for voluntary winding-up has been passed with respect to a recognised body (other than a resolution passed solely for the purposes of its reconstruction or of its amalgamation with another body corporate); or
  - (d) the Council have reason to suspect dishonesty on the part of any officer or employee of a recognised body in connection with that body's business or in connection with any trust of which that body is or formerly was a trustee,
- the powers conferred by Part II of Schedule 1 to the 1975 Act shall be exercisable in relation to the recognised body and its business in like manner as they are exercisable in relation to a solicitor and his practice.
- (2) Those powers shall only be exercisable by virtue of sub-paragraph (1)(a) if the Society has given the recognised body notice in writing that the Council are satisfied that the body has failed to comply with the rules specified in the notice and also (at the same or any later time) notice that those powers are accordingly exercisable in its case by virtue of sub-paragraph (1)(a).

#### Commencement Information

**I30** Sch. 2 para. 32 wholly in force at 1.1.1992 see s. 69(2) and S.I. 1991/2683, art. 2

#### Marginal Citations

**M3** 1985 c. 65.

- 33 The powers conferred by Part II of Schedule 1 to the 1974 Act shall also be exercisable as mentioned in paragraph 32(1) of this Schedule where—
- (a) a complaint is made to the Society that there has been undue delay on the part of a recognised body in connection with any matter in which it was instructed on behalf of a client or with any controlled trust; and

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- (b) the Society by notice in writing invites the body to give an explanation within such period following the giving of the notice as may be specified in it, being a period of not less than eight days; and
- (c) the body fails within that period to give an explanation which the Council regard as satisfactory; and
- (d) the Society gives notice of the failure to the body and (at the same or any later time) notice that the powers conferred by Part II of Schedule 1 to the 1974 Act are accordingly exercisable in its case by virtue of this paragraph.

**Commencement Information**

**I31** Sch. 2 para. 33 wholly in force at 1.1.1992 see s. 69(2) and S.I. 1991/2683, art. 2

- 34 (1) Where the recognition of a body corporate under section 9 of this Act—
- (a) has been revoked by an order of the Tribunal under this Schedule; or
  - (b) has expired and no further recognition of that body has been granted under that section,
- the powers conferred by Part II of Schedule 1 to the 1974 Act shall be exercisable in relation to the body corporate and its former business as a recognised body as they are exercisable in relation to a solicitor and his practice.
- (2) Where the powers conferred by Part II of Schedule 1 to the 1974 Act are exercisable in relation to a recognised body in accordance with paragraph 32 or 33 of this Schedule they shall continue to be so exercisable after that body's recognition under section 9 of this Act has been revoked or has otherwise ceased to be in force.

**Commencement Information**

**I32** Sch. 2 para. 34 wholly in force at 1.1.1992 see s. 69(2) and S.I. 1991/2683, art. 2

- 35 In connection with the application of Part II of Schedule 1 to the 1974 Act for the purposes of this Schedule, in that Part of that Schedule—
- (a) any reference to the solicitor or to his practice shall be construed as including a reference to the body corporate in relation to which the powers conferred by that Part of that Schedule are exercisable by virtue of paragraph 32, 33 or 34(1) of this Schedule or to its business (or former business) as a recognised body;
  - (b) any reference to paragraph 1 of that Schedule shall be construed as including a reference to paragraph 32 or 34(1) of this Schedule; and
  - (c) any reference to paragraph 3 of that Schedule shall be construed as including a reference to paragraph 33 of this Schedule.

**Commencement Information**

**I33** Sch. 2 para. 35 wholly in force at 1.1.1992 see s. 69(2) and S.I. 1991/2683, art. 2

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*Privilege from disclosure etc.*

- 36 (1) Any communication made to or by a recognised body in the course of its acting as such for a client shall in any legal proceedings be privileged from disclosure in like manner as if the body had at all material times been a solicitor acting for the client.
- (2) Any enactment or instrument making special provision in relation to a solicitor or other legal representative as to the disclosure of information, or as to the production, seizure or removal of documents, with respect to which a claim to professional privilege could be maintained shall, with any necessary modifications, have effect in relation to a recognised body as it has effect in relation to a solicitor.
- [<sup>F19</sup>(3) In sections 745(3) and 778(3) of, and paragraph 14(5) of Schedule 15 to, the Income and Corporation Taxes Act 1988] any reference to a solicitor’s client shall, in relation to a solicitor who is an officer or employee of a recognised body, be construed as a reference to a client of that body.

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**Textual Amendments**

**F19** Words substituted by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), s. 844, [Sch. 29 para. 30](#)

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**Commencement Information**

**I34** [Sch. 2 para. 36](#) wholly in force at 1.1.1992 see [s. 69\(2\)](#) and [S.I. 1991/2683, art. 2](#)

*Modification of enactments relating to conveyancing etc.*

- 37 In the following provisions, namely—
- (a) sections 10(2), 48 and 182 of the <sup>M4</sup>Law of Property Act 1925;
  - (b) sections 113 and 144(1)(vi) and (xxiv) of the <sup>M5</sup>Land Registration Act 1925;
  - (c) section 12 of the <sup>M6</sup>Land Charges Act 1972;
  - (d) section 13 of the <sup>M7</sup>Local Land Charges Act 1975; <sup>F20</sup> . . .
  - (e) . . . . . <sup>F20</sup>
- any reference to a solicitor shall be construed as including a reference to a recognised body, and any reference to a person’s solicitor shall be construed as including a reference to a recognised body acting for that person.

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**Textual Amendments**

**F20** [Sch. 2 para. 37\(e\)](#) and the word immediately preceding it repealed (1.10.1997) by [1996 c. 27, s. 66\(3\)](#), [Sch.10](#) (with [Sch. 9 para. 5](#)) ; [S.I. 1997/1892, art. 3\(1\)\(d\)\(iv\)](#)

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**Commencement Information**

**I35** [Sch. 2 para. 37](#) wholly in force at 1.1.1992 see [s. 69\(2\)](#) and [S.I. 1991/2683, art. 2](#)

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**Marginal Citations**

- M4** 1925 c. 20.  
**M5** 1925 c. 21.  
**M6** 1972 c. 61.

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schedule contains provisions that are not valid for this point in time.*

*Changes to legislation: There are currently no known outstanding effects for the  
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**M7** 1975 c. 76.



**Status:**

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**Changes to legislation:**

There are currently no known outstanding effects for the Administration of Justice Act 1985, SCHEDULE 2.