

Status: Point in time view as at 01/01/1992. This version of this cross heading 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, Cross Heading: Disciplinary powers of the Society. (See end of Document for details)

SCHEDULES

SCHEDULE 2

INCORPORATED PRACTICES: SUPPLEMENTARY PROVISIONS

Commencement Information

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

VALID FROM 31/03/2009

[^{F1}Disciplinary powers of the Society

Textual Amendments

- F1** 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—
- give the person a written rebuke;
 - 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—
- 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
 - if such an appeal is made, such time as it is determined or withdrawn.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)—
- during the period within which an appeal against—
 - the decision to take the action,

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- (b) if such an appeal has been made, until such time as it is determined or withdrawn.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

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- (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);
 - (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.]

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