



Courts and Legal Services Act 1990

1990 CHAPTER 41

PART II

LEGAL SERVICES

Modifications etc. (not altering text)

- C1** Pt. 2: transfer of functions (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), arts. 4, 5, **Sch. 1** (with arts. 6, 8)

Introductory

17 The statutory objective and the general principle.

F1

Textual Amendments

- F1** S. 17 repealed (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 208, 210, 211, Sch. 21 para. 84(a), **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(h)(i)(viii)(aa)** (with art. 9)

18 The statutory duty.

F2

Textual Amendments

- F2** S. 18 repealed (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 208, 210, 211, Sch. 21 para. 84(b), **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(h)(i)(viii)(aa)** (with art. 9)

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Changes to legislation: Courts and Legal Services Act 1990, Part II is up to date with all changes known to be in force on or before 09 May 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

[^{F3} The Legal Services Consultative Panel

Textual Amendments

F3 S. 18A and crossheading preceding it inserted (1.1.2000) by 1999 c. 22, s. 35(2) (with Sch. 14 para. 7(2)); S.I. 1999/3344, art. 2(a)

18A The Consultative Panel.

^{F4}

Textual Amendments

F4 S. 18A repealed (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 208, 210, 211, Sch. 21 para. 84(c), Sch. 23 (with ss. 29, 192, 193); S.I. 2009/3250, art. 2(h)(i)(viii)(aa) (with art. 9)

^{F5} ...

Textual Amendments

F5 S. 19 and crossheading preceding it repealed (1.1.2000) by 1999 c. 22, s. 106, Sch. 15 Pt. II (with Sch. 14 paras. 7(2), 36(9)); S.I. 1999/3344, art. 2(d), Sch. 1 para. 4

^{F6}**19**

Textual Amendments

F6 S. 19 repealed (1.1.2000) by 1999 c. 22, s. 106, Sch. 15 Pt. II (with Sch. 14 paras. 7(2), 36(9)); S.I. 1999/3344, art. 2(d), Sch. 1 para. 4

^{F7}**20**

Textual Amendments

F7 S. 20 repealed (1.1.2000) by 1999 c. 22, s. 106, Sch. 15 Pt. II (with Sch. 14 paras. 7(2), 36(9)); S.I. 1999/3344, art. 2(d), Sch. 1 para. 4

The Legal Services Ombudsman

21 The Legal Services Ombudsman.

- (1) The [^{F8}Secretary of State] shall appoint a person for the purpose of conducting investigations under this Act.
- (2) The person appointed shall be known as “the Legal Services Ombudsman”.

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- (3) The Legal Services Ombudsman—
 - (a) shall be appointed for a period of not more than three years; and
 - (b) shall hold and vacate office in accordance with the terms of his appointment.
- (4) At the end of his term of appointment the Legal Services Ombudsman shall be eligible for re-appointment.
- (5) The Legal Services Ombudsman shall not be an authorised advocate, authorised litigator, licensed conveyancer, authorised practitioner or notary.
- (6) Schedule 3 shall have effect with respect to the Legal Services Ombudsman.

Textual Amendments

- F8** Words in s. 21 substituted (19.8.2003) by [The Secretary of State for Constitutional Affairs Order 2003 \(S.I. 2003/1887\)](#), [art. 9](#), [Sch. 2 para. 8\(1\)\(a\)](#) (with arts. 6, 8)

Modifications etc. (not altering text)

- C2** Ss. 21-25 applied (with modifications) (25.10.2004) by [The Legal Services Ombudsman \(Extension of Remit\) Regulations 2004 \(S.I. 2004/2757\)](#), [regs. 3, 4](#)
- C3** S. 21 modified (temp.) (1.1.2010) by [The Legal Services Act 2007 \(Commencement No. 6, Transitory, Transitional and Saving Provisions\) Order 2009 \(S.I. 2009/3250\)](#), [arts. 1\(2\), 7\(2\)](#) (with art. 9)

22 Ombudsman's functions.

- (1) Subject to the provisions of this Act, the Legal Services Ombudsman may investigate any allegation which is properly made to him and which relates to the manner in which a complaint made to a professional body with respect to—
 - (a) a person who is or was an authorised advocate, authorised litigator, licensed conveyancer, registered foreign lawyer, recognised body or duly certificated notary public and a member of that professional body; or
 - (b) any employee of such a person,
has been dealt with by that professional body.
- (2) If the Ombudsman investigates an allegation he may investigate the matter to which the complaint relates.
- (3) If the Ombudsman begins to investigate an allegation he may at any time discontinue his investigation.
- (4) If the Ombudsman decides not to investigate an allegation which he would be entitled to investigate, or discontinues an investigation which he has begun, he shall notify the following of the reason for his decision—
 - (a) the person making the allegation;
 - (b) any person with respect to whom the complaint was made; and
 - (c) the professional body concerned.
- (5) The Ombudsman shall not investigate an allegation while—
 - (a) the complaint is being investigated by the professional body concerned;
 - (b) an appeal is pending against the determination of the complaint by that body;
or

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- (c) the time within which such an appeal may be brought by any person has not expired.
- (6) Subsection (5) does not apply if—
- (a) the allegation is that the professional body—
 - (i) has acted unreasonably in failing to start an investigation into the complaint; or
 - (ii) having started such an investigation, has failed to complete it within a reasonable time; or
 - (b) the Ombudsman is satisfied that, even though the complaint is being investigated by the professional body concerned, an investigation by him is justified.
- (7) The Ombudsman shall not investigate—
- (a) any issue which is being or has been determined by—
 - (i) a court;
 - (ii) the Solicitors Disciplinary Tribunal;
 - (iii) the Disciplinary Tribunal of the Council of the Inns of Court; or
 - (iv) any tribunal specified in an order made by the [F9Secretary of State] for the purposes of this subsection; or
 - (b) any allegation relating to a complaint against any person which concerns an aspect of his conduct in relation to which he has immunity from any action in negligence or contract.
- (8) The Ombudsman may—
- (a) if so requested by the Scottish ombudsman, investigate an allegation relating to a complaint made to a professional body in Scotland; and
 - (b) arrange for the Scottish ombudsman to investigate an allegation relating to a complaint made to a professional body in England and Wales.
- (9) For the purposes of this section, an allegation is properly made if it is made—
- (a) in writing; and
 - (b) by any person affected by what is alleged in relation to the complaint concerned or, where that person has died or is unable to act for himself, by his personal representative or by any relative or other representative of his.
- (10) The Ombudsman may investigate an allegation even though—
- (a) the complaint relates to a matter which arose before the passing of this Act; or
 - (b) the person making the complaint may be entitled to bring proceedings in any court with respect to the matter complained of.
- (11) In this section—
- “professional body” means any body which, or the holder of any office who—
- (a) has disciplinary powers in relation to any person mentioned in subsection (1) (a); and
 - (b) is specified in an order made by the [F9Secretary of State] for the purposes of this subsection;
- “recognised body” means any body recognised under section 9 of the M1Administration of Justice Act 1985 (incorporated practices) or under

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section 32 of that Act (incorporated bodies carrying on business of provision of conveyancing services); and

“the Scottish ombudsman” means any person appointed to carry out functions in relation to the provision of legal services in Scotland which are similar to those of the Ombudsman.

Textual Amendments

F9 Words in s. 22 substituted (19.8.2003) by [The Secretary of State for Constitutional Affairs Order 2003 \(S.I. 2003/1887\)](#), art. 9, **Sch. 2 para. 8(1)(a)** (with arts. 6, 8)

Modifications etc. (not altering text)

C4 Ss. 21-25 applied (with modifications) (25.10.2004) by [The Legal Services Ombudsman \(Extension of Remit\) Regulations 2004 \(S.I. 2004/2757\)](#), **regs. 3, 4**

C5 S. 22 modified (temp.) (1.1.2010) by [The Legal Services Act 2007 \(Commencement No. 6, Transitory, Transitional and Saving Provisions\) Order 2009 \(S.I. 2009/3250\)](#), arts. 1(2), **7(3)-(7)** (with art. 9)

Marginal Citations

M1 1985 c. 61.

23 [F10 Recommendations and orders.]

(1) Where the Legal Services Ombudsman has completed an investigation under this Act he shall send a written report of his conclusions to—

- (a) the person making the allegation;
- (b) the person with respect to whom the complaint was made;
- (c) any other person with respect to whom the Ombudsman makes a recommendation under subsection (2) [F11 or an order under subsection (2A)]; and
- (d) the professional body concerned.

(2) In reporting his conclusions, the Ombudsman may recommend—

- (a) that the complaint be reconsidered by the professional body concerned;
- (b) that the professional body concerned or any other relevant disciplinary body consider exercising its powers in relation to—
 - (i) the person with respect to whom the complaint was made; or
 - (ii) any person who, at the material time, was connected with him;
- (c) that—
 - (i) the person with respect to whom the complaint was made; or
 - (ii) any person who, at the material time, was connected with him,pay compensation of an amount specified by the Ombudsman to the complainant for loss suffered by him, or inconvenience or distress caused to him, as a result of the matter complained of;
- (d) that the professional body concerned pay compensation of an amount specified by the Ombudsman to the person making the complaint for loss suffered by him, or inconvenience or distress caused to him, as a result of the way in which the complaint was handled by that body;
- (e) that the person or professional body to [F12 pay compensation under paragraph (c) or (d)] make a separate payment to the person making

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the allegation of an amount specified by the Ombudsman by way of reimbursement of the cost, or part of the cost, of making the allegation.

- [^{F13}(2A) If after completing any investigation under this Act the Ombudsman considers that, rather than recommending the taking of any action by any person or professional body under paragraph (c), (d) or (e) of subsection (2), he should make an order requiring the taking of that action by the person or body—
- (a) he shall afford the person or body, and the person who made the allegation, a reasonable opportunity of appearing before him to make representations; and
 - (b) having considered any representations from them, he may, in reporting his conclusions, make the order.]
- (3) More than one such recommendation [^{F14}or order] may be included in a report under this section.
- (4) Where the Ombudsman includes any recommendation [^{F14}or order] in a report under this section, the report shall give his reasons for making the recommendation.
- (5) For the purposes of the law of defamation the publication of any report of the Ombudsman under this section and any publicity given under subsection (9) shall be absolutely privileged.
- (6) It shall be the duty of any person to whom a report is sent by the Ombudsman under [^{F15}subsection (1)(b), (c) or (d)] to have regard to the conclusions and recommendations set out in the report, so far as they concern that person.
- (7) Where—
- (a) a report is sent to any person under this section; and
 - (b) the report includes a recommendation directed at him,
- he shall, before the end of the period of three months beginning with the date on which the report was sent, notify the Ombudsman of the action which he has taken, or proposes to take, to comply with the recommendation.
- (8) Any person who fails to comply (whether wholly or in part) with a recommendation under subsection (2) shall publicise that failure, and the reasons for it, in such manner as the Ombudsman may specify.
- (9) Where a person is required by subsection (8) to publicise any failure, the Ombudsman may take such steps as he considers reasonable to publicise that failure if—
- (a) the period mentioned in subsection (7) has expired and that person has not complied with subsection (8); or
 - (b) the Ombudsman has reasonable cause for believing that that person will not comply with subsection (8) before the end of that period.
- (10) Any reasonable expenses incurred by the Ombudsman under subsection (9) may be recovered by him (as a civil debt) from the person whose failure he has publicised.
- (11) For the purposes of this section, the person with respect to whom a complaint is made (“the first person”) and another person (“the second person”) are connected if—
- (a) the second person—
 - (i) employs the first person; and
 - (ii) is an authorised advocate, authorised litigator, duly certificated notary public, licensed conveyancer or partnership;
 - (b) they are both partners in the same partnership; or

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- (c) the second person is a recognised body which employs the first person or of which the first person is an officer.

Textual Amendments

- F10** Sidenote in s. 23 substituted (27.9.1999) by 1999 c. 22, s. 49(1)(7) (with Sch. 14 para. 7(2)); S.I. 1999/2657, art. 2(a)
- F11** Words in s. 23(1)(c) inserted (27.9.1999) by 1999 c. 22, s. 49(1)(2) (with Sch. 14 para. 7(2)); S.I. 1999/2657, art. 2(a)
- F12** Words in s. 23(2)(e) substituted (27.9.1999) by 1999 c. 22, s. 49(1)(3) (with Sch. 14 para. 7(2)); S.I. 1999/2657, art. 2(a)
- F13** S. 23(2A) inserted (27.9.1999) by 1999 c. 22, s. 49(1)(4) (with Sch. 14 para. 7(2)); S.I. 1999/2657, art. 2(a)
- F14** Words in s. 23(3)(4) inserted (27.9.1999) by 1999 c. 22, s. 49(1)(5) (with Sch. 14 para. 7(2)); S.I. 1999/2657, art. 2(a)
- F15** Words in s. 23(6) substituted (27.9.1999) by 1999 c. 22, s. 49(1)(6) (with Sch. 14 para. 7(2)); S.I. 1999/2657, art. 2(a)

Modifications etc. (not altering text)

- C6** Ss. 21-25 applied (with modifications) (25.10.2004) by The Legal Services Ombudsman (Extension of Remit) Regulations 2004 (S.I. 2004/2757), regs. 3, 4
- C7** S. 23 modified (temp.) (1.1.2010) by The Legal Services Act 2007 (Commencement No. 6, Transitory, Transitional and Saving Provisions) Order 2009 (S.I. 2009/3250), arts. 1(2), 7(8)-(9) (with art. 9)

24 Advisory functions.

- (1) The Legal Services Ombudsman may make recommendations to any professional body about the arrangements which that body has in force for the investigation of complaints made with respect to persons who are subject to that body's control.
- (2) It shall be the duty of any professional body to whom a recommendation is made under this section to have regard to it.

^{F16}(3)

Textual Amendments

- F16** S. 24(3) repealed (1.1.2000) by 1999 c. 22, s. 106, Sch. 15 Pt. II (with Sch. 14 paras. 7(2), 36(9)); S.I. 1999/3344, art. 2(d), Sch. 1 para. 4

Modifications etc. (not altering text)

- C8** Ss. 21-25 applied (with modifications) (25.10.2004) by The Legal Services Ombudsman (Extension of Remit) Regulations 2004 (S.I. 2004/2757), regs. 3, 4
- C9** S. 24 modified (temp.) (1.1.2010) by The Legal Services Act 2007 (Commencement No. 6, Transitory, Transitional and Saving Provisions) Order 2009 (S.I. 2009/3250), arts. 1(2), 7(10)-(11) (with art. 9)
- C10** S. 24(1) restricted (1.11.2003) by 1999 c. 22, s. 52(8) (with Sch. 14 para. 7(2)); S.I. 2003/2571, art. 2

Commencement Information

- I1** S. 24 wholly in force; s. 24(1)(2) in force at 1. 1. 1991 by S.I. 1990/2484; s. 24(3) in force at 1. 4. 1991 see s. 124(3) and S.I. 1991/608, art. 2

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25 Procedure and offences.

- (1) Where the Legal Services Ombudsman is conducting an investigation under this Act he may require any person to furnish such information or produce such documents as he considers relevant to the investigation.
- (2) For the purposes of any such investigation, the Ombudsman shall have the same powers as the High Court in respect of the attendance and examination of witnesses (including the administration of oaths or affirmations and the examination of witnesses abroad) and in respect of the production of documents.
- (3) No person shall be compelled, by virtue of subsection (2), to give evidence or produce any document which he could not be compelled to give or produce in civil proceedings before the High Court.
- (4) If any person is in contempt of the Ombudsman in relation to any investigation conducted under section 22, the Ombudsman may certify that contempt to the High Court.
- (5) For the purposes of this section a person is in contempt of the Ombudsman if he acts, or fails to act, in any way which would constitute contempt if the investigation being conducted by the Ombudsman were civil proceedings in the High Court.
- (6) Where a person's contempt is certified under subsection (4), the High Court may enquire into the matter.
- (7) Where the High Court conducts an inquiry under subsection (6) it may, after—
 - (a) hearing any witness produced against, or on behalf of, the person concerned; and
 - (b) considering any statement offered in his defence,
 deal with him in any manner that would be available to it had he been in contempt of the High Court.

Modifications etc. (not altering text)

C11 Ss. 21-25 applied (with modifications) (25.10.2004) by [The Legal Services Ombudsman \(Extension of Remit\) Regulations 2004 \(S.I. 2004/2757\)](#), **regs. 3, 4**

26 Extension of Ombudsman's remit.

- (1) The [^{F17}Secretary of State] may by regulation extend the jurisdiction of the Legal Services Ombudsman by providing for the provisions of sections 21 to 25 to have effect, with such modifications (if any) as he thinks fit, in relation to the investigation by the Ombudsman of allegations—
 - (a) which relate to complaints of a prescribed kind concerned with the provision of probate services; and
 - (b) which he would not otherwise be entitled to investigate.
- (2) Without prejudice to the generality of the power given to the [^{F17}Secretary of State] by subsection (1), the regulations may make provision for the investigation only of allegations relating to complaints—
 - (a) made to prescribed bodies; or
 - (b) with respect to prescribed categories of person.

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Textual Amendments

F17 Words in s. 26 substituted (19.8.2003) by [The Secretary of State for Constitutional Affairs Order 2003 \(S.I. 2003/1887\)](#), [art. 9](#), [Sch. 2 para. 8\(1\)\(a\)](#) (with arts. 6, 8)

Rights of audience and rights to conduct litigation

27 Rights of audience.

F18

Textual Amendments

F18 [S. 27](#) repealed (1.1.2010) by [Legal Services Act 2007 \(c. 29\)](#), ss. 208, 210, 211, [Sch. 21 para. 84\(d\)](#), [Sch. 23](#) (with ss. 29, 192, 193); [S.I. 2009/3250](#), [art. 2\(i\)\(viii\)\(bb\)](#) (subject to [art. 6](#), with [art. 9](#))

28 Rights to conduct litigation.

F19

Textual Amendments

F19 [S. 28](#) repealed (1.1.2010) by [Legal Services Act 2007 \(c. 29\)](#), ss. 208, 210, 211, [Sch. 21 para. 84\(e\)](#), [Sch. 23](#) (with ss. 29, 192, 193); [S.I. 2009/3250](#), [art. 2\(i\)\(viii\)\(bb\)](#) (subject to [art. 6](#), with [art. 9](#))

29 Authorised bodies.

F20

Textual Amendments

F20 [S. 29](#) repealed (1.1.2010) by [Legal Services Act 2007 \(c. 29\)](#), ss. 208, 210, 211, [Sch. 21 para. 84\(f\)](#), [Sch. 23](#) (with ss. 29, 192, 193); [S.I. 2009/3250](#), [art. 2\(i\)\(viii\)\(bb\)](#) (subject to [art. 6](#), with [art. 9](#))

31 Barristers and solicitors.

F22

Textual Amendments

F22 [S. 31](#) repealed (1.1.2010) by [Legal Services Act 2007 \(c. 29\)](#), ss. 208, 210, 211, [Sch. 21 para. 84\(g\)](#), [Sch. 23](#) (with ss. 29, 192, 193); [S.I. 2009/3250](#), [art. 2\(i\)\(viii\)\(cc\)](#) (with [art. 9](#))

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31A Employed advocates.

F23

Textual Amendments

F23 S. 31A repealed (1.1.2010) by [Legal Services Act 2007 \(c. 29\)](#), ss. 208, 210, 211, Sch. 21 para. 84(h), [Sch. 23](#) (with ss. 29, 192, 193); S.I. 2009/3250, [art. 2\(i\)\(viii\)\(cc\)](#) (with art. 9)

[^{F24}31B Advocates and litigators employed by Legal Services Commission.

[^{F25}(1) This section applies where a person—

- (a) is authorised by a relevant approved regulator (“the regulator”) to carry on an activity which constitutes the exercise of a right of audience or the conduct of litigation, and
- (b) is employed by the Legal Services Commission, or by any body established and maintained by that Commission.

(1A) Any rules of the regulator which fall within subsection (2) shall not have effect in relation to that person.]

(2) Rules of a [^{F26}regulator] fall within this subsection if they are—

- (a) [^{F27}conduct rules] prohibiting or limiting the exercise of the right on behalf of members of the public by members of the [^{F26}regulator] who are employees; or
 - (b) rules of any other description prohibiting or limiting the provision of legal services to members of the public by such members of the [^{F26}regulator],
- and either of the conditions specified in subsection (3) is satisfied.

(3) Those conditions are—

- (a) that the prohibition or limitation is on the exercise of the right, or the provision of the services, otherwise than on the instructions of solicitors (or other persons acting for the members of the public); and
- (b) that the rules do not impose the same prohibition or limitation on members of the [^{F28}regulator] who have the right but are not employees.

[For the purposes of this section “relevant approved regulator” is to be construed in ^{F29}(4) accordance with section 20(3) of the Legal Services Act 2007.]]

Textual Amendments

F24 S. 31B inserted (31.7.2000) by 1999 c.22, s. 38 (with Sch. 14 para. 7(2)); S.I. 2000/1920, [art. 2\(a\)](#)

F25 S. 31B(1)(1A) substituted (1.1.2010) for s. 31B(1) by [Legal Services Act 2007 \(c. 29\)](#), ss. 208, 211, [Sch. 21 para. 85\(a\)](#) (with ss. 29, 192, 193); S.I. 2009/3250, [art. 2\(h\)](#) (with art. 9)

F26 Words in s. 31B(2) substituted (1.1.2010) by [Legal Services Act 2007 \(c. 29\)](#), ss. 208, 211, [Sch. 21 para. 85\(b\)\(i\)](#) (with ss. 29, 192, 193); S.I. 2009/3250, [art. 2\(h\)](#) (with art. 9)

F27 Words in s. 31B(2) substituted (1.1.2010) by [Legal Services Act 2007 \(c. 29\)](#), ss. 208, 211, [Sch. 21 para. 85\(b\)\(ii\)](#) (with ss. 29, 192, 193); S.I. 2009/3250, [art. 2\(h\)](#) (with art. 9)

F28 Word in s. 31B(3) substituted (1.1.2010) by [Legal Services Act 2007 \(c. 29\)](#), ss. 208, 211, [Sch. 21 para. 85\(c\)](#) (with ss. 29, 192, 193); S.I. 2009/3250, [art. 2\(h\)](#) (with art. 9)

F29 S. 31B(4) inserted (1.1.2010) by [Legal Services Act 2007 \(c. 29\)](#), ss. 208, 211, [Sch. 21 para. 85\(d\)](#) (with ss. 29, 192, 193); S.I. 2009/3250, [art. 2\(h\)](#) (with art. 9)

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[^{F30}**31C Change of authorised body.**

[^{F31}(1) Where a person—

- (a) has at any time been authorised by a relevant approved regulator to exercise a right of audience before a court in relation to proceedings of a particular description, and
 - (b) becomes authorised by another relevant approved regulator to exercise a right of audience before that court in relation to that description of proceedings, any qualification regulations of the relevant approved regulator mentioned in paragraph (b) which relate to that right are not to have effect in relation to the person.]
- (2) Subsection (1) does not apply in relation to any qualification regulations to the extent that they impose requirements relating to continuing education or training which have effect in relation to the exercise of the right by all members of [^{F32}the relevant approved regulator] who have the right.
- (3) Subsection (1) does not apply to a person if he has been banned from exercising the right of audience by the [^{F33}relevant approved regulator] mentioned in paragraph (a) of that subsection as a result of disciplinary proceedings and that [^{F33}relevant approved regulator] has not lifted the ban.

[In this section “relevant approved regulator” is to be construed in accordance with ^{F34}(4) section 20(3) of the Legal Services Act 2007.]

Textual Amendments

- F30** S. 31C inserted (31.7.2000) by 1999 c.22, s. 39 (with Sch. 7(2)); S.I. 2000/1920, art. 2(a)
- F31** S. 31C(1) substituted (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 208, 211, Sch. 21 para. 86(a) (with ss. 29, 192, 193); S.I. 2009/3250, art. 2(h) (with art. 9)
- F32** Words in s. 31C(2) substituted (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 208, 211, Sch. 21 para. 86(b) (with ss. 29, 192, 193); S.I. 2009/3250, art. 2(h) (with art. 9)
- F33** Words in s. 31C(3) substituted (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 208, 211, Sch. 21 para. 86(c) (with ss. 29, 192, 193); S.I. 2009/3250, art. 2(h) (with art. 9)
- F34** S. 31C(4) inserted (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 208, 211, Sch. 21 para. 86(d) (with ss. 29, 192, 193); S.I. 2009/3250, art. 2(h) (with art. 9)

Extension of conveyancing services

34 The Authorised Conveyancing Practitioners Board.

^{F37}

Textual Amendments

- F37** Ss. 34-52 repealed (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 208, 210, 211, Sch. 21 para. 87, Sch. 23 (with ss. 29, 192, 193); S.I. 2009/503, {art. 2(d)(f)((vi)(aa)}

Status: Point in time view as at 01/01/2010. This version of this part contains provisions that are prospective.

Changes to legislation: Courts and Legal Services Act 1990, Part II is up to date with all changes known to be in force on or before 09 May 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

35 Functions of the Board and financial provisions.

F38

Textual Amendments

F38 Ss. 34-52 repealed (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 208, 210, 211, Sch. 21 para. 87, [Sch. 23](#) (with ss. 29, 192, 193); S.I. 2009/503, {art. 2(d)(f)((vi)(aa))}

36 Provision of conveyancing services by authorised practitioners.

F39

Textual Amendments

F39 Ss. 34-52 repealed (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 208, 210, 211, Sch. 21 para. 87, [Sch. 23](#) (with ss. 29, 192, 193); S.I. 2009/503, {art. 2(d)(f)((vi)(aa))}

37 Authorisation of practitioners.

F40

Textual Amendments

F40 Ss. 34-52 repealed (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 208, 210, 211, Sch. 21 para. 87, [Sch. 23](#) (with ss. 29, 192, 193); S.I. 2009/503, {art. 2(d)(f)((vi)(aa))}

38 Refusal of approval and imposition of conditions.

F41

Textual Amendments

F41 Ss. 34-52 repealed (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 208, 210, 211, Sch. 21 para. 87, [Sch. 23](#) (with ss. 29, 192, 193); S.I. 2009/503, {art. 2(d)(f)((vi)(aa))}

39 Revocation and suspension of authorisation.

F42

Textual Amendments

F42 Ss. 34-52 repealed (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 208, 210, 211, Sch. 21 para. 87, [Sch. 23](#) (with ss. 29, 192, 193); S.I. 2009/503, {art. 2(d)(f)((vi)(aa))}

40 Regulations about competence and conduct etc. of authorised practitioners.

F43

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Changes to legislation: Courts and Legal Services Act 1990, Part II is up to date with all changes known to be in force on or before 09 May 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

F43 Ss. 34-52 repealed (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 208, 210, 211, Sch. 21 para. 87, [Sch. 23](#) (with ss. 29, 192, 193); S.I. 2009/503, {art. 2(d)(f)((vi)(aa))}

41 The Conveyancing Appeal Tribunals.

F44

Textual Amendments

F44 Ss. 34-52 repealed (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 208, 210, 211, Sch. 21 para. 87, [Sch. 23](#) (with ss. 29, 192, 193); S.I. 2009/503, {art. 2(d)(f)((vi)(aa))}

42 Appeals from Tribunals on points of law.

F45

Textual Amendments

F45 Ss. 34-52 repealed (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 208, 210, 211, Sch. 21 para. 87, [Sch. 23](#) (with ss. 29, 192, 193); S.I. 2009/503, {art. 2(d)(f)((vi)(aa))}

43 The Conveyancing Ombudsman Scheme.

F46

Textual Amendments

F46 Ss. 34-52 repealed (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 208, 210, 211, Sch. 21 para. 87, [Sch. 23](#) (with ss. 29, 192, 193); S.I. 2009/503, {art. 2(d)(f)((vi)(aa))}

44 Compensation scheme.

F47

Textual Amendments

F47 Ss. 34-52 repealed (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 208, 210, 211, Sch. 21 para. 87, [Sch. 23](#) (with ss. 29, 192, 193); S.I. 2009/503, {art. 2(d)(f)((vi)(aa))}

45 Advisory and supervisory functions of [^{F48}Office of Fair Trading] .

F49

*Status: Point in time view as at 01/01/2010. This version of this part contains provisions that are prospective.
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Textual Amendments

- F48** Words in s. 45 sidenote substituted (1.4.2003) by 2002 c. 40, ss. 278, 279, Sch. 25, para. 23(2)(g); S.I. 2003/766, **art. 2**, Sch. (with art. 3)
- F49** Ss. 34-52 repealed (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 208, 210, 211, Sch. 21 para. 87, **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/503, {art. 2(d)(f)((vi)(aa))}

46 Investigatory powers of [^{F50}OFT].

^{F51}

Textual Amendments

- F50** Words in s. 46 sidenote substituted (1.4.2003) by 2002 c. 40, ss. 278, 279, Sch. 25, para. 23(3)(b); S.I. 2003/766, **art. 2**, Sch. (with art. 3)
- F51** Ss. 34-52 repealed (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 208, 210, 211, Sch. 21 para. 87, **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/503, {art. 2(d)(f)((vi)(aa))}

46A Enforcement of notices under section 46

^{F52}

Textual Amendments

- F52** Ss. 34-52 repealed (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 208, 210, 211, Sch. 21 para. 87, **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/503, {art. 2(d)(f)((vi)(aa))}

46B Altering, etc. documents required to be produced under section 46

^{F53}

Textual Amendments

- F53** Ss. 34-52 repealed (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 208, 210, 211, Sch. 21 para. 87, **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/503, {art. 2(d)(f)((vi)(aa))}

47 Power to obtain information and require production of documents.

^{F54}

Textual Amendments

- F54** Ss. 34-52 repealed (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 208, 210, 211, Sch. 21 para. 87, **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/503, {art. 2(d)(f)((vi)(aa))}

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48 Investigations on behalf of the Board.

F55

Textual Amendments

F55 Ss. 34-52 repealed (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 208, 210, 211, Sch. 21 para. 87, [Sch. 23](#) (with ss. 29, 192, 193); S.I. 2009/503, {art. 2(d)(f)((vi)(aa))}

49 Restrictions on disclosure of information.

F56

Textual Amendments

F56 Ss. 34-52 repealed (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 208, 210, 211, Sch. 21 para. 87, [Sch. 23](#) (with ss. 29, 192, 193); S.I. 2009/503, {art. 2(d)(f)((vi)(aa))}

50 Exceptions from restrictions on disclosure.

F57

Textual Amendments

F57 Ss. 34-52 repealed (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 208, 210, 211, Sch. 21 para. 87, [Sch. 23](#) (with ss. 29, 192, 193); S.I. 2009/503, {art. 2(d)(f)((vi)(aa))}

51 Board's intervention powers.

F58

Textual Amendments

F58 Ss. 34-52 repealed (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 208, 210, 211, Sch. 21 para. 87, [Sch. 23](#) (with ss. 29, 192, 193); S.I. 2009/503, {art. 2(d)(f)((vi)(aa))}

52 Board's intervention powers: supplemental provisions.

F59

Textual Amendments

F59 Ss. 34-52 repealed (31.3.2009) by [Legal Services Act 2007 \(c. 29\)](#), ss. 208, 210, 211, Sch. 21 para. 87, [Sch. 23](#) (with ss. 29, 192, 193); S.I. 2009/503, {art. 2(d)(f)((vi)(aa))}

Status: Point in time view as at 01/01/2010. This version of this part contains provisions that are prospective.

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Licensed conveyancers

53 The Council for Licensed Conveyancers.

[^{F60}(1) The Council for Licensed Conveyancers has the powers necessary to enable it to become designated as an approved regulator in relation to one or more of the reserved legal activities within subsection (1A).

(1A) The reserved legal activities to which this subsection applies are—

- (a) the exercise of a right of audience;
- (b) the conduct of litigation;
- (c) probate activities.

(2) If the Council becomes an approved regulator in relation to one or more of those activities, it may, in that capacity, authorise a person to carry on a relevant activity only if the person is a licensed conveyancer.

(3) Where the Council authorises a licensed conveyancer to carry on a relevant activity, it is to do so by issuing a licence to the licensed conveyancer.]

(4) Any such licence may be granted as a separate licence or as part of a composite licence comprising the licensed conveyancer's licence issued under Part II of the Administration of Justice Act 1985 and any other licence which the Council may grant to the licensed conveyancer concerned.

(5) ^{F61}

[^{F62}(6) Where the Council exercises any of its powers in connection with—

- (a) an application for designation as an approved regulator in relation to a reserved legal activity within subsection (1A), or
- (b) the authorising of a person to carry on a relevant activity,

it is to do so subject to any requirements to which it is subject in accordance with the provisions of the Legal Services Act 2007.]

(7) Schedule 8 makes further provision in connection with the powers given to the Council by this section and the provision made by the Act of 1985 in relation to licensed conveyancers, including amendments of Part II of that Act.

(8) The [^{F63}Lord Chancellor] may by order make such—

- (a) amendments of, or modifications to, the provisions of Part II of the Act of 1985; or
- (b) transitional or consequential provision,

as he considers necessary or expedient in connection with the provision made by this section and Schedule 8.

(9) Subject to any provision made by this section, Schedule 8 or any order made by the [^{F64}Lord Chancellor] under subsection (8), the provisions of Part II of the Act of 1985 shall, with the necessary modifications, apply with respect to—

- (a) any application for an advocacy, litigation or probate licence;
- (b) any such licence;
- (c) the practice of any licensed conveyancer which is carried on by virtue of any such licence;
- (d) rules made by the Council under Schedule 8;

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- (e) ^{F65}
 - (f) any other matter dealt with by this section or Schedule 8,
- as they apply with respect to the corresponding matters dealt with by Part II of that Act.

[^{F66}(10) For the purposes of this section—

- (a) “right of audience”, “conduct of litigation”, “probate activities” and “reserved legal activity” have the same meaning as in the Legal Services Act 2007;
- (b) references to designation as an approved regulator are to designation as an approved regulator—
 - (i) by Part 1 of Schedule 4 to the Legal Services Act 2007, by virtue of an order under paragraph 5 of Schedule 22 to that Act, or
 - (ii) under Part 2 of Schedule 4 to that Act;
- (c) “relevant activity” means an activity which is a reserved legal activity—
 - (i) which is within subsection (1A), and
 - (ii) in relation to which the Council is designated as an approved regulator by Part 1 of Schedule 4 to that Act (by virtue of an order under paragraph 5 of Schedule 22 to that Act) or under Part 2 of that Schedule.]

Textual Amendments

- F60** S. 53(1)(1A)(2)(3) substituted (1.1.2010) for s. 53(1)-(3) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 34(2)** (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(f)(iii)** (with art. 9)
- F61** S. 53(5) repealed (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 182, 210, 211, Sch. 17 para. 34(3), **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/3250, **arts. 2(f)(iii)(i)(viii)(dd)** (with art. 9)
- F62** S. 53(6) substituted (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 34(4)** (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(f)(iii)** (with art. 9)
- F63** Words in s. 53(8) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 34(5)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(ii)**
- F64** Words in s. 53(9) substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 34(6)(a)** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(ii)**
- F65** S. 53(9)(e) repealed (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 210, 211, Sch. 17 para. 34(6)(b), **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/503, **art. 2(c)(ii)(i)(vi)(aa)**
- F66** S. 53(10) inserted (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 182, 211, **Sch. 17 para. 34(7)** (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(f)(iii)** (with art. 9)

Commencement Information

- I5** S. 53 wholly in force at 7.12.2004; s. 53 in force at 1.4.1991 (except in so far as it relates to certain exemptions under section 55) see s. 124(3) and S.I. 1991/608, art. 2, Sch.; s. 53 otherwise in force at 7.12.2004 by S.I. 2004/2950, **art. 2**

Probate services

54 Preparation of papers for probate etc.

^{F67}

Status: Point in time view as at 01/01/2010. This version of this part contains provisions that are prospective.

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Textual Amendments

F67 S. 54 repealed (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 208, 210, 211, Sch. 21 para. 88, Sch. 23 (with ss. 29, 192, 193); S.I. 2009/3250, art. 2(h)(i)(viii)(dd) (subject to art. 6, with art. 9)

55 Preparation of probate papers etc: exemption from section 23(1) of Solicitors Act 1974.

F68

Textual Amendments

F68 S. 55 repealed (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 208, 210, 211, Sch. 21 para. 88, Sch. 23 (with ss. 29, 192, 193); S.I. 2009/3250, art. 2(h)(i)(viii)(dd) (subject to art. 6, with art. 9)

56 Administration of oaths etc. by justices in certain probate business.

- (1) Every justice shall have power to administer any oath or take any affidavit which is required for the purposes of an application for a grant of probate or letters of administration made in any non-contentious or common form probate business.
- (2) A justice before whom any oath or affidavit is taken or made under this section shall state in the jurat or attestation at what place and on what date the oath or affidavit is taken or made.
- (3) No justice shall exercise the powers conferred by this section in any proceedings in which he is interested.
- (4) A document purporting to be signed by a justice administering an oath or taking an affidavit shall be admitted in evidence without proof of the signature and without proof that he is a justice.
- (5) In this section—

“affidavit” has the same meaning as in the ^{M2}Commissioners for Oaths Act 1889;

“justice” means a justice of the peace;

“letters of administration” includes all letters of administration of the effects of deceased persons, whether with or without a will annexed, and whether granted for general, special or limited purposes; and

“non-contentious or common form probate business” has the same meaning as in section 128 of the ^{M3}[^{F69}Senior Courts Act 1981].

Textual Amendments

F69 S. 56: for the words "Supreme Court Act 1981" wherever they occur there is substituted (1.10.2009) the words "Senior Courts Act 1981" by virtue of Constitutional Reform Act 2005 (c. 4), ss. 59, 148(1), Sch. 11 para. 1(2); S.I. 2009/1604, art. 2(d)

Commencement Information

I6 S. 56 wholly in force at 1.7.1991 see s. 124(3) and S.I. 1991/1364, art. 2, sch.

Status: Point in time view as at 01/01/2010. This version of this part contains provisions that are prospective.
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Marginal Citations

- M2** 1889 c. 10.
M3 1981 c. 54.

57 Notaries

- (1) Public notaries shall no longer be appointed to practise only within particular districts in England, or particular districts in Wales.
- (2) It shall no longer be necessary to serve a period of apprenticeship before being admitted as a public notary.
- (3) Accordingly, the following enactments relating to public notaries shall cease to have effect—
 - (a) section 2 of the ^{M4}Public Notaries Act 1801 (which provides that no person shall be admitted as a public notary unless he has served as an apprentice for seven years);
 - (b) section 1 of the ^{M5}Public Notaries Act 1833 (which restricts the requirement to serve an apprenticeship to London and an area of ten miles from the Royal Exchange);
 - (c) section 2 of the Public Notaries Act 1833 (appointment of public notaries to practise within particular districts in England);
 - (d) section 3 of the ^{M6}Public Notaries Act 1843 (which reduced the period of apprenticeship to five years);
 - (e) section 37 of the ^{M7}Welsh Church Act 1914 (appointment of public notaries to practise within particular districts in Wales); and
 - (f) section 29 of the ^{M8}Administration of Justice Act 1969 (which reduced the period of apprenticeship for public notaries in London).
- (4) The Master may by rules make provision—
 - (a) as to the educational and training qualifications which must be satisfied before a person may be granted a faculty to practise as a public notary;
 - (b) as to further training which public notaries are to be required to undergo;
 - (c) for regulating the practice, conduct and discipline of public notaries;
 - (d) supplementing the provision made by subsections (8) and (9);
 - (e) as to the keeping by public notaries of records and accounts;
 - (f) as to the handling by public notaries of clients' money;
 - (g) as to the indemnification of public notaries against losses arising from claims in respect of civil liability incurred by them;
 - (h) as to compensation payable for losses suffered by persons in respect of dishonesty on the part of public notaries or their employees; and
 - (i) requiring the payment, in such circumstances as may be prescribed, of such reasonable fees as may be prescribed, including in particular fees for—
 - (i) the grant of a faculty;
 - (ii) the issue of a practising certificate by the Court of Faculties of the Archbishop of Canterbury; or
 - (iii) the entering in that court of a practising certificate issued under the ^{M9}Solicitors Act 1974.

Status: Point in time view as at 01/01/2010. This version of this part contains provisions that are prospective.

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- (5) The repeal of section 2 of the Act of 1833 and section 37 of the Act of 1914 by this Act shall not affect any appointment made under either of those sections; but the Master may by rules make such provision as he considers necessary or expedient in consequence of either, or both, of those repeals.
- (6) Rules made under subsection (5) may, in particular, provide for the grant by the Master of a new faculty for any person to whom the Notary Public (Welsh Districts) Rules 1924 applied immediately before the commencement of this section, in place of the faculty granted to him by the Clerk of the Crown in Chancery.
- (7) Subsections (4) to (6) shall not be taken to prejudice—
- (a) any other power of the Master to make rules; or
 - (b) any rules made by him under any such power.
- (8) With effect from the operative date, any restriction placed on a qualifying district notary, in terms of the district within which he may practise as a public notary, shall cease to apply.
- (9) In this section—
- “Master” means the Master of the Faculties;
- “the operative date” means the date on which subsection (1) comes into force or, if on that date the notary concerned is not a qualifying district notary (having held his faculty for less than five years)—
- (a) the date on which he becomes a qualifying district notary; or
 - (b) such earlier date, after the commencement of subsection (1), as the Master may by rules prescribe for the purpose of this subsection;
- “prescribed” means prescribed by rules made under this section; and
- “qualifying district notary” means a person who—
- (a) holds a faculty as a notary appointed under section 2 of the Act of 1833 or section 37 of the Act of 1914; and
 - (b) has held it for a continuous period of at least five years.
- (10) Section 5 of the^{M10}Ecclesiastical Licences Act 1533 (which amongst other things now has the effect of requiring faculties to be registered by the Clerk of the Crown in Chancery) shall not apply in relation to any faculty granted to a public notary.

^{F70}(11)

Textual Amendments

F70 S. 57(11) repealed (1.11.1999) by 1999 c.22, s. 106, **Sch. 15 Pt. II** (with Sch. 14 paras. 7(2), 36(9)); S.I. 1999/2657, art. 3(b), **Sch. 2 Pt. II para. 3(a)**

Commencement Information

I7 S. 57 wholly in force at 1.7.1991 see s. 124(3) and S.I. 1991/1364, art. 2, **Sch.**

Marginal Citations

M4 1801 c. 79.
M5 1833 c. 70.
M6 1843 c. 90.
M7 1914 c. 91.
M8 1969 c. 58.

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M9 1974 c. 47.

M10 1533 c. 21.

Miscellaneous

[^{F71}58] **Conditional fee agreements.**

- (1) A conditional fee agreement which satisfies all of the conditions applicable to it by virtue of this section shall not be unenforceable by reason only of its being a conditional fee agreement; but (subject to subsection (5)) any other conditional fee agreement shall be unenforceable.
- (2) For the purposes of this section and section 58A—
 - (a) a conditional fee agreement is an agreement with a person providing advocacy or litigation services which provides for his fees and expenses, or any part of them, to be payable only in specified circumstances; and
 - (b) a conditional fee agreement provides for a success fee if it provides for the amount of any fees to which it applies to be increased, in specified circumstances, above the amount which would be payable if it were not payable only in specified circumstances.
- (3) The following conditions are applicable to every conditional fee agreement—
 - (a) it must be in writing;
 - (b) it must not relate to proceedings which cannot be the subject of an enforceable conditional fee agreement; and
 - (c) it must comply with such requirements (if any) as may be prescribed by the [^{F72}Lord Chancellor].
- (4) The following further conditions are applicable to a conditional fee agreement which provides for a success fee—
 - (a) it must relate to proceedings of a description specified by order made by the [^{F72}Lord Chancellor];
 - (b) it must state the percentage by which the amount of the fees which would be payable if it were not a conditional fee agreement is to be increased; and
 - (c) that percentage must not exceed the percentage specified in relation to the description of proceedings to which the agreement relates by order made by the [^{F72}Lord Chancellor].
- (5) If a conditional fee agreement is an agreement to which section 57 of the ^{M11}Solicitors Act 1974 (non-contentious business agreements between solicitor and client) applies, subsection (1) shall not make it unenforceable.]

Textual Amendments

F71 Ss. 58, 58A substituted (1.4.2000) for s. 58 by 1999 c. 22, s. 27(1) (with Sch. 14 para. 7(2)); S.I. 2000/774, art. 2(b) (with arts. 3-5)

F72 Words in s. 58 substituted (12.1.2006) by The Transfer of Functions (Lord Chancellor and Secretary of State) Order 2005 (S.I. 2005/3429), art. 8, Sch. para. 2

Status: Point in time view as at 01/01/2010. This version of this part contains provisions that are prospective.

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Modifications etc. (not altering text)

- C12** S. 58: transfer of functions (12.1.2006) by [The Transfer of Functions \(Lord Chancellor and Secretary of State\) Order 2005 \(S.I. 2005/3429\)](#), [art. 3](#) (with arts. 4, 5)
- C13** S. 58(3)(c) extended (27.9.1999) by [1999 c. 22](#), ss. 105, 108(3), [Sch. 14 Pt. III para. 11](#) (with [Sch. 14 para. 7\(2\)](#))
- C14** S. 58(4) extended (27.9.1999) by [1999 c.22](#), ss. 105, 108(3), [Sch. 14 Pt. III para. 10](#) (with [Sch. 14 para. 7\(2\)](#))

Marginal Citations

- M11** [1974 c.47](#).

^{F73}**58A Conditional fee agreements: supplementary.**

- (1) The proceedings which cannot be the subject of an enforceable conditional fee agreement are—
- (a) criminal proceedings, a part from proceedings under section 82 of the ^{M12}Environmental Protection Act 1990; and
 - (b) family proceedings.
- (2) In subsection (1) “family proceedings” means proceedings under any one or more of the following—
- (a) the ^{M13}Matrimonial Causes Act 1973;
 - ^{F74}(b) the Adoption and Children Act 2002;]
 - (c) the ^{M14}Domestic Proceedings and Magistrates’ Courts Act 1978;
 - (d) Part III of the ^{M15}Matrimonial and Family Proceedings Act 1984;
 - (e) Parts I, II and IV of the ^{M16}Children Act 1989;
 - (f) [^{F75}Parts 4 and 4A]of the ^{M17}Family Law Act 1996; ^{F76} . . .
 - ^{F77}(fa) Chapter 2 of Part 2 of the Civil Partnership Act 2004 (proceedings for dissolution etc. of civil partnership);
 - (fb) Schedule 5 to the 2004 Act (financial relief in the High Court or a county court etc.);
 - (fc) Schedule 6 to the 2004 Act (financial relief in magistrates' courts etc.);
 - (fd) Schedule 7 to the 2004 Act (financial relief in England and Wales after overseas dissolution etc. of a civil partnership); and]
 - (g) the inherent jurisdiction of the High Court in relation to children.
- (3) The requirements which the [^{F78}Lord Chancellor] may prescribe under section 58(3)(c)—
- (a) include requirements for the person providing advocacy or litigation services to have provided prescribed information before the agreement is made; and
 - (b) may be different for different descriptions of conditional fee agreements (and, in particular, may be different for those which provide for a success fee and those which do not).
- (4) In section 58 and this section (and in the definitions of “advocacy services” and “litigation services” as they apply for their purposes) “proceedings” includes any sort of proceedings for resolving disputes (and not just proceedings in a court), whether commenced or contemplated.
- (5) Before making an order under section 58(4), the [^{F78}Lord Chancellor] shall consult—

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- (a) the designated judges;
 - (b) the General Council of the Bar;
 - (c) the Law Society; and
 - (d) such other bodies as he considers appropriate.
- (6) A costs order made in any proceedings may, subject in the case of court proceedings to rules of court, include provision requiring the payment of any fees payable under a conditional fee agreement which provides for a success fee.
- (7) Rules of court may make provision with respect to the assessment of any costs which include fees payable under a conditional fee agreement (including one which provides for a success fee).

Textual Amendments

- F73** Ss. 58, 58A substituted (1.4.2000) for s. 58 by 1999 c.22, **s. 27(1)** (with Sch. 14 para. 7(2)); S.I. 2000/774, **art. 2(b)** (with arts. 3-5)
- F74** S. 58A(2)(b) substituted (30.12.2005) by 2002 c. 38, ss. 139, 148(1), Sch. 3 para. 80 (with savings in Sch. 4 paras. 6-8, 22); S.I. 2005/2213, **art. 2**
- F75** Words in s. 58A(2)(f) substituted (25.11.2008) by Forced Marriage (Civil Protection) Act 2007 (c. 20), ss. 3(1), 4(2), **Sch. 2 para. 2**; S.I. 2008/2779, **art. 2(b)(c)**
- F76** Word in s. 58A(2)(f) repealed (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 261(1)(4), 263, Sch. 27 para. 138, **Sch. 30**; S.I. 2005/3175, **art. 2**, Sch. 1
- F77** S. 58A(2)(fa)-(fd) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 261(1), 263, Sch. 27 para. 138; S.I. 2005/3175, **art. 2**, Sch. 1
- F78** Words in s. 58A substituted (12.1.2006) by The Transfer of Functions (Lord Chancellor and Secretary of State) Order 2005 (S.I. 2005/3429), art. 8, **Sch. para. 2**

Modifications etc. (not altering text)

- C15** S. 58A: transfer of functions (12.1.2006) by The Transfer of Functions (Lord Chancellor and Secretary of State) Order 2005 (S.I. 2005/3429), **art. 3** (with arts. 4, 5)
- C16** S. 58A(6)(7) excluded (1.4.2000) by S.I. 2000/900, **art. 2(1)(a)(b)**

Marginal Citations

- M12** 1990 c.43.
M13 1973 c.18.
M14 1978 c.22.
M15 1984 c.42.
M16 1989 c.41.
M17 1996 c.27.

[^{F79} 58A] Damages-based agreements relating to employment matters

- (1) A damages-based agreement which relates to an employment matter and satisfies the conditions in subsection (4) is not unenforceable by reason only of its being a damages-based agreement.
- (2) But a damages-based agreement which relates to an employment matter and does not satisfy those conditions is unenforceable.
- (3) For the purposes of this section—

Status: Point in time view as at 01/01/2010. This version of this part contains provisions that are prospective.

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- (a) a damages-based agreement is an agreement between a person providing advocacy services, litigation services or claims management services and the recipient of those services which provides that—
 - (i) the recipient is to make a payment to the person providing the services if the recipient obtains a specified financial benefit in connection with the matter in relation to which the services are provided, and
 - (ii) the amount of that payment is to be determined by reference to the amount of the financial benefit obtained;
 - (b) a damages-based agreement relates to an employment matter if the matter in relation to which the services are provided is a matter that is, or could become, the subject of proceedings before an employment tribunal.
- (4) The agreement—
- (a) must be in writing;
 - (b) must not provide for a payment above a prescribed amount or for a payment above an amount calculated in a prescribed manner;
 - (c) must comply with such other requirements as to its terms and conditions as are prescribed; and
 - (d) must be made only after the person providing services under the agreement has provided prescribed information.
- (5) Regulations under subsection (4) are to be made by the Lord Chancellor and may make different provision in relation to different descriptions of agreements.
- (6) Before making regulations under subsection (4) the Lord Chancellor must consult—
- (a) the designated judges,
 - (b) the General Council of the Bar,
 - (c) the Law Society, and
 - (d) such other bodies as the Lord Chancellor considers appropriate.
- (7) In this section—
- “payment” includes a transfer of assets and any other transfer of money's worth (and the reference in subsection (4)(b) to a payment above a prescribed amount, or above an amount calculated in a prescribed manner, is to be construed accordingly);
- “claims management services” has the same meaning as in Part 2 of the Compensation Act 2006 (see section 4(2) of that Act).
- (8) Nothing in this section applies to an agreement entered into before the coming into force of the first regulations made under subsection (4).]

Textual Amendments

F79 S. 58AA inserted (12.11.2009) by [Coroners and Justice Act 2009 \(c. 25\)](#), **ss. 154(2)**, 182(1)(e) (with s. 180, Sch. 22)

Status: Point in time view as at 01/01/2010. This version of this part contains provisions that are prospective.
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PROSPECTIVE

[^{F80}58B Litigation funding agreements.

- (1) A litigation funding agreement which satisfies all of the conditions applicable to it by virtue of this section shall not be unenforceable by reason only of its being a litigation funding agreement.
- (2) For the purposes of this section a litigation funding agreement is an agreement under which—
 - (a) a person (“the funder”) agrees to fund (in whole or in part) the provision of advocacy or litigation services (by someone other than the funder) to another person (“the litigant”); and
 - (b) the litigant agrees to pay a sum to the funder in specified circumstances.
- (3) The following conditions are applicable to a litigation funding agreement—
 - (a) the funder must be a person, or person of a description, prescribed by the Secretary of State;
 - (b) the agreement must be in writing;
 - (c) the agreement must not relate to proceedings which by virtue of section 58A(1) and (2) cannot be the subject of an enforceable conditional fee agreement or to proceedings of any such description as may be prescribed by the Secretary of State;
 - (d) the agreement must comply with such requirements (if any) as may be so prescribed;
 - (e) the sum to be paid by the litigant must consist of any costs payable to him in respect of the proceedings to which the agreement relates together with an amount calculated by reference to the funder’s anticipated expenditure in funding the provision of the services; and
 - (f) that amount must not exceed such percentage of that anticipated expenditure as may be prescribed by the Secretary of State in relation to proceedings of the description to which the agreement relates.
- (4) Regulations under subsection (3)(a) may require a person to be approved by the Secretary of State or by a prescribed person.
- (5) The requirements which the Secretary of State may prescribe under subsection (3)(d)—
 - (a) include requirements for the funder to have provided prescribed information to the litigant before the agreement is made; and
 - (b) may be different for different descriptions of litigation funding agreements.
- (6) In this section (and in the definitions of “advocacy services” and “litigation services” as they apply for its purposes) “proceedings” includes any sort of proceedings for resolving disputes (and not just proceedings in a court), whether commenced or contemplated.
- (7) Before making regulations under this section, the Secretary of State shall consult—
 - (a) the designated judges;
 - (b) the General Council of the Bar;
 - (c) the Law Society; and

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- (d) such other bodies as he considers appropriate.
- (8) A costs order made in any proceedings may, subject in the case of court proceedings to rules of court, include provision requiring the payment of any amount payable under a litigation funding agreement.
- (9) Rules of court may make provision with respect to the assessment of any costs which include fees payable under a litigation funding agreement.]

Textual Amendments

F80 S. 58B inserted (prosp.) by 1999 c. 22, ss. 28, 108(1) (with Sch. 14 para. 7(2))

Modifications etc. (not altering text)

C17 S. 58B: transfer of functions (12.1.2006) by [The Transfer of Functions \(Lord Chancellor and Secretary of State\) Order 2005 \(S.I. 2005/3429\)](#), **art. 3** (with arts. 4, 5)

^{F81}59

Textual Amendments

F81 S. 59 repealed (2.4.2001) by 1999 c.22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2001/916, **art. 3(b)**

60 Regulation of right of Scottish and Northern Ireland lawyers to practise in England and Wales.

- (1) The [^{F82}Lord Chancellor] may by regulations prescribe circumstances in which, and conditions subject to which, a practitioner who is qualified to practise in Scotland or Northern Ireland may, in such capacity as may be prescribed, exercise in England and Wales—
- prescribed rights of audience; or
 - prescribed rights to conduct litigation,
- without being entitled to do so apart from the regulations.

- (2) The [^{F83}Lord Chancellor] may by regulations make provision for the purpose of enabling practitioners who are qualified to practise in Scotland or Northern Ireland to become qualified to practise in England and Wales on terms, and subject to conditions, corresponding or similar to those on which practitioners who are qualified to practise in member States may become qualified to practise in that jurisdiction.

[^{F84}(2A) Regulations may be made under this section only if—

- the Legal Services Board has made a recommendation under section 60A,
- draft regulations were annexed to the recommendation, and
- the regulations are in the same form as, or a form not materially different from, the draft regulations.]

- (3) Regulations made under subsection (1) may, in particular—

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- (a) prescribe any right of audience which may not be exercised by a person in England and Wales unless he is instructed to act together with a person who has that right of audience there;
 - (b) prescribe legal services which may not be provided by any person practising by virtue of the regulations;
 - (c) prescribe the title or description which must be used by any person practising by virtue of the regulations;
 - (d) provide for the means by which the qualification of any person claiming to be entitled to practise by virtue of the regulations is to be verified;
 - (e) provide for such professional or other body as may be prescribed to have power to investigate and deal with any complaint made against a person practising by virtue of the regulations.
- (4) Regulations made under subsection (1) or (2) may modify any rule of law or practice which the [^{F85}Lord Chancellor] considers should be modified in order to give effect to the regulations.
- (5) In this section “practitioner” means—
- (a) a member of the Bar of Northern Ireland or a [^{F86}solicitor of the Court of Judicature of Northern Ireland] or an advocate or solicitor in Scotland; and
 - (b) any person falling within such category as may be prescribed.

Textual Amendments

- F82** Words in s. 60(1) substituted (1.1.2010) by [Legal Services Act 2007 \(c. 29\)](#), ss. 208, 211, [Sch. 21 para. 89\(a\)](#) (with ss. 29, 192, 193); S.I. 2009/3250, [art. 2\(h\)](#) (with art. 9)
- F83** Words in s. 60(2) substituted (1.1.2010) by [Legal Services Act 2007 \(c. 29\)](#), ss. 208, 211, [Sch. 21 para. 89\(b\)](#) (with ss. 29, 192, 193); S.I. 2009/3250, [art. 2\(h\)](#) (with art. 9)
- F84** S. 60(2A) inserted (1.1.2010) by [Legal Services Act 2007 \(c. 29\)](#), ss. 208, 211, [Sch. 21 para. 89\(c\)](#) (with ss. 29, 192, 193); S.I. 2009/3250, [art. 2\(h\)](#) (with art. 9); S.I. 2009/3250, [art. 2\(h\)](#) (with art. 9)
- F85** Words in s. 60(4) substituted (1.1.2010) by [Legal Services Act 2007 \(c. 29\)](#), ss. 208, 211, [Sch. 21 para. 89\(d\)](#) (with ss. 29, 192, 193); S.I. 2009/3250, [art. 2\(h\)](#) (with art. 9)
- F86** S. 60: for the words “solicitor of the Supreme Court of Northern Ireland” wherever they occur there is substituted (1.10.2009) the words “solicitor of the Court of Judicature of Northern Ireland” by virtue of [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 59, 148(1), [Sch. 11 para. 5](#); S.I. 2009/1604, [art. 2\(d\)](#)

[^{F87}60A Procedural requirements relating to recommendations for the purposes of section 60

- (1) Before making a recommendation under this section, the Legal Services Board must publish a draft of—
 - (a) the proposed recommendation, and
 - (b) the proposed draft regulations.
- (2) The draft must be accompanied by a notice which states that representations about the proposals may be made to the Board within a specified period.
- (3) Before making the recommendation, the Board must have regard to any representations duly made.
- (4) If the draft regulations to be annexed to the recommendation differ from the draft regulations published under subsection (1)(b) in a way which is, in the opinion of the

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Board, material, the Board must, before making the recommendation, publish the draft recommendations along with a statement detailing the changes made and the reasons for the changes.]

Textual Amendments

F87 S. 60A inserted (1.1.2010) by [Legal Services Act 2007 \(c. 29\)](#), ss. 208, 211, **Sch. 21 para. 90** (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(h)** (with art. 9)

61 Right of barrister to enter into contract for the provision of his services.

- (1) Any rule of law which prevents a barrister from entering into a contract for the provision of his services as a barrister is hereby abolished.
- (2) Nothing in subsection (1) prevents the General Council of the Bar from making rules (however described) which prohibit barristers from entering into contracts or restrict their right to do so.

62 Immunity of advocates from actions in negligence and for breach of contract.

F88

Textual Amendments

F88 S. 62 repealed (22.7.2004) by [Statute Law \(Repeals\) Act 2004 \(c. 14\)](#), **s. 1(1)**, {Sch. 1 Pt. 1 Group. 4}

63 Legal professional privilege.

F89

Textual Amendments

F89 S. 63 repealed (1.1.2010) by [Legal Services Act 2007 \(c. 29\)](#), ss. 208, 210, 211, **Sch. 21 para. 91, Sch. 23** (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(h)(i)** (with art. 9)

64 Discrimination by, or in relation to, barristers.

- (1) The following shall be inserted in the ^{M18}Sex Discrimination Act 1975 after section 35—

“ Barristers

35A Discrimination by, or in relation to, barristers.

- (1) It is unlawful for a barrister or barrister’s clerk, in relation to any offer of a pupillage or tenancy, to discriminate against a woman—
 - (a) in the arrangements which are made for the purpose of determining to whom it should be offered;
 - (b) in respect of any terms on which it is offered; or

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- (c) by refusing, or deliberately omitting, to offer it to her.
 - (2) It is unlawful for a barrister or barrister’s clerk, in relation to a woman who is a pupil or tenant in the chambers in question, to discriminate against her—
 - (a) in respect of any terms applicable to her as a pupil or tenant;
 - (b) in the opportunities for training, or gaining experience, which are afforded or denied to her;
 - (c) in the benefits, facilities or services which are afforded or denied to her; or
 - (d) by terminating her pupillage or by subjecting her to any pressure to leave the chambers or other detriment.
 - (3) It is unlawful for any person, in relation to the giving, withholding or acceptance of instructions to a barrister, to discriminate against a woman.
 - (4) In this section—
 - “barrister’s clerk” includes any person carrying out any of the functions of a barrister’s clerk; and
 - “pupil”, “pupillage”, “tenancy” and “tenant” have the meanings commonly associated with their use in the context of a set of barristers’ chambers.
 - (5) Section 3 applies for the purposes of this section as it applies for the purposes of any provision of Part II.
 - (6) This section does not apply to Scotland.”
- (2) The following shall be inserted in the ^{M19}Race Relations Act 1976 after section 26—

“ Barristers

26A Discrimination by, or in relation to, barristers.

- (1) It is unlawful for a barrister or barrister’s clerk, in relation to any offer of a pupillage or tenancy, to discriminate against a person—
 - (a) in the arrangements which are made for the purpose of determining to whom it should be offered;
 - (b) in respect of any terms on which it is offered; or
 - (c) by refusing, or deliberately omitting, to offer it to him.
- (2) It is unlawful for a barrister or barrister’s clerk, in relation to a pupil or tenant in the chambers in question, to discriminate against him—
 - (a) in respect of any terms applicable to him as a pupil or tenant;
 - (b) in the opportunities for training, or gaining experience which are afforded or denied to him;
 - (c) in the benefits, facilities or services which are afforded or denied to him; or
 - (d) by terminating his pupillage or by subjecting him to any pressure to leave the chambers or other detriment.
- (3) It is unlawful for any person, in relation to the giving, withholding or acceptance of instructions to a barrister, to discriminate against any person.

Status: Point in time view as at 01/01/2010. This version of this part contains provisions that are prospective.

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(4) In this section—

“barrister’s clerk” includes any person carrying out any of the functions of a barrister’s clerk; and

“pupil”, “pupillage”, “tenancy” and “tenant” have the meanings commonly associated with their use in the context of a set of barristers’ chambers.

(5) This section does not apply to Scotland.”

Marginal Citations

M18 1975 c. 65.

M19 1976 c. 74.

65 Discrimination by, or in relation to, advocates.

(1) The following shall be inserted in the ^{M20}Sex Discrimination Act 1975 after section 35A (as inserted by this Act)—

“ *Advocates*

35B Discrimination by, or in relation to, advocates.

(1) It is unlawful for an advocate, in relation to taking any person as his pupil, to discriminate against a woman—

- (a) in the arrangements which he makes for the purpose of determining whom he will take as his pupil;
- (b) in respect of any terms on which he offers to take her as his pupil; or
- (c) by refusing, or deliberately omitting, to take her as his pupil.

(2) It is unlawful for an advocate, in relation to a woman who is a pupil, to discriminate against her—

- (a) in respect of any terms applicable to her as a pupil;
- (b) in the opportunities for training, or gaining experience, which are afforded or denied to her;
- (c) in the benefits, facilities or services which are afforded or denied to her; or
- (d) by terminating the relationship or by subjecting her to any pressure to terminate the relationship or other detriment.

(3) It is unlawful for any person, in relation to the giving, withholding or acceptance of instructions to an advocate, to discriminate against a woman.

(4) In this section—

“advocate” means a member of the Faculty of Advocates practising as such; and

“pupil” has the meaning commonly associated with its use in the context of a person training to be an advocate.

Status: Point in time view as at 01/01/2010. This version of this part contains provisions that are prospective.
Changes to legislation: Courts and Legal Services Act 1990, Part II is up to date with all changes known to be in force on or before 09 May 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (5) Section 3 applies for the purposes of this section as it applies for the purposes of any provision of Part II.
- (6) This section does not apply to England and Wales.”
- (2) The following shall be inserted in the ^{M21}Race Relations Act 1976 after section 26A (as inserted by this Act)—

“ *Advocates*

26B Discrimination by, or in relation to, advocates.

- (1) It is unlawful for an advocate, in relation to taking any person as his pupil, to discriminate against a person—
- (a) in the arrangements which he makes for the purpose of determining whom he will take as his pupil;
 - (b) in respect of any terms on which he offers to take any person as his pupil; or
 - (c) by refusing, or deliberately omitting, to take a person as his pupil.
- (2) It is unlawful for an advocate, in relation to a person who is a pupil, to discriminate against him—
- (a) in respect of any terms applicable to him as a pupil;
 - (b) in the opportunities for training, or gaining experience, which are afforded or denied to him;
 - (c) in the benefits, facilities or services which are afforded or denied to him; or
 - (d) by terminating the relationship or by subjecting him to any pressure to terminate the relationship or other detriment.
- (3) It is unlawful for any person, in relation to the giving, withholding or acceptance of instructions to an advocate, to discriminate against any person.
- (4) In this section—
- “advocate” means a member of the Faculty of Advocates practising as such; and
 - “pupil” has the meaning commonly associated with its use in the context of a person training to be an advocate.
- (5) This section does not apply to England and Wales.”

Marginal Citations

M20 1975 c. 65.

M21 1976 c. 74.

66 Multi-disciplinary and multi-national practices.

- (1) Section 39 of the ^{M22}Solicitors Act 1974 (which, in effect, prevents solicitors entering into partnership with persons who are not solicitors) shall cease to have effect.

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- (2) Nothing in subsection (1) prevents the Law Society making rules which prohibit solicitors from entering into any unincorporated association with persons who are not solicitors, or restrict the circumstances in which they may do so.
- (3) Section 10 of the ^{M23}Public Notaries Act 1801 (which, in effect, prevents notaries entering into partnership with persons who are not notaries) shall cease to have effect.
- (4) Nothing in subsection (3) prevents the Master of the Faculties making rules which prohibit notaries from entering into any unincorporated association with persons who are not notaries, or restrict the circumstances in which they may do so.
- (5) It is hereby declared that no rule of common law prevents barristers from entering into any unincorporated association with persons who are not barristers.
- (6) Nothing in subsection (5) prevents the General Council of the Bar from making rules which prohibit barristers from entering into any such unincorporated association, or restrict the circumstances in which they may do so.

Marginal Citations

M22 1974 c. 47.

M23 1801 c. 79.

^{F90}**67**

Textual Amendments

F90 S. 67 repealed (31.7.2000) by 1999 c.22, s. 106, **Sch. 15 Pt. II** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2000/1920, **art. 2(c)**

68 Preparation of documents etc. by registered patent agents and trade mark agents.

^{F91}

Textual Amendments

F91 S. 68 repealed (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 210, 211, **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(i)(viii)(ee)** (with art. 9)

69 Exemption from liability for damages etc.

^{F92}

Textual Amendments

F92 S. 69 repealed (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 208, 210, 211, Sch. 21 para. 92, **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(h)(i)(viii)(ee)** (with art. 9)

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Offences

70 Offences.

F93
.....

Textual Amendments

F93 S. 70 repealed (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 208, 210, 211, Sch. 21 para. 93, Sch. 23 (with ss. 29, 192, 193); S.I. 2009/3250, art. 2(h)(i)(viii)(ee) (with art. 9)

Status:

Point in time view as at 01/01/2010. This version of this part contains provisions that are prospective.

Changes to legislation:

Courts and Legal Services Act 1990, Part II is up to date with all changes known to be in force on or before 09 May 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.