

SCHEDULES

SCHEDULE 18

CONSEQUENTIAL AMENDMENTS

The Solicitors Act 1974 (c. 47)

- 7 In section 7 of the Solicitors Act 1974 (entry of names in the roll and restoration of names struck off), the following shall be inserted at the end of paragraph (b)—
- “or
- (c) of an order under section 47(2)(h) for the restoration of a person’s name to the roll.”
- 8 In section 8 of that Act (removal or restoration of name at solicitor’s request), the following subsection shall be inserted after subsection (2)—
- “(2A) Subsection (2) does not apply to a former solicitor with respect to whom a direction has been given under section 47(2)(g).”
- 9 In section 12 of that Act (discretion of Society with respect to issue of practising certificates in special cases), in subsection (1)(c), for the words “when on the first day of the period to which the practising certificate would, if granted, relate” there shall be substituted “when, on what would be the commencement date for the certificate, if it were granted”.
- 10 (1) Section 16 of that Act (duration of suspension of practising certificates) shall be amended as follows.
- (2) For subsection (1) there shall be substituted—
- “(1) Where, on the replacement date for a practising certificate, the certificate is suspended it shall expire on that date.”
- (3) In subsection (3) for the words “date of expiry”, in paragraph (c), there shall be substituted “replacement date”.
- 11 In section 20 of that Act (unqualified person not to act as solicitor) the following subsections shall be added at the end—
- “(3) A person exempted from the provisions of section 23(1) by virtue of section 23(2) or (3) of this Act or section 55 of the Courts and Legal Services Act 1990 may, in any non-contentious or common form probate business, apply for a grant of probate or for letters of administration or oppose such an application without committing an offence under this section.
- (4) In subsection (3) “non-contentious or common form probate business” has the same meaning as in section 128 of the Supreme Court Act 1981.”
- 12 In section 25 of that Act (costs where unqualified person acts as solicitor) the following subsection shall be added at the end—

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- “(3) For the avoidance of doubt, where a person does an act which would be an offence under section 23 were it not for the provisions of section 54 or 55 of the Courts and Legal Services Act 1990, this section does not apply in relation to that act.”
- 13 In section 32 of that Act (accounts rules and trust account rules), the following subsection shall be inserted after subsection (5)—
- “(6) For the purposes of this section and section 33 references to clients' money and money of a kind mentioned in subsection (1)(b) of this section or (1)(a) of section 33 include references to money held by a solicitor as a stakeholder (whether or not paid by a client of his).”
- 14 In section 41 of that Act (employment by solicitor of person struck off or suspended), the following subsection shall be inserted after subsection (1)—
- “(1A) No solicitor shall, except in accordance with a written permission granted under this section, employ or remunerate in connection with his practice as a solicitor any person if, to his knowledge, there is a direction in force under section 47(2)(g) in relation to that person.”
- 15 In section 42 of that Act (failure to disclose certain facts to solicitor employer), the following subsection shall be inserted after subsection (1)—
- “(1A) Any person—
- (a) with respect to whom a direction is in force under section 47(2)(g); and
 - (b) who seeks or accepts employment by a solicitor in connection with that solicitor's practice without previously informing him of the direction,
- shall be guilty of an offence and liable on summary conviction to a fine not exceeding level three on the standard scale.”
- 16 (1) Section 80 of that Act (powers to act on behalf of Society) shall be amended as follows.
- (2) In subsection (1) for the words “to committees conferred on the Council” there shall be substituted “conferred”.
- (3) In subsection (3)—
- (a) after the word “Council”, in the second place where it occurs, there shall be inserted “or sub-committee”; and
 - (b) for the words “or the committee” there shall be substituted “, committee or sub-committee”.
- 17 In section 87(1) of that Act (interpretation) after the definition of “practising certificate” there shall be inserted—
- ““replacement date”, in relation to a practising certificate, means the date prescribed under section 14(2)(a) or specified by the Society under any regulation made by virtue of section 14(4)(b);”.
- 18 In Schedule 2 to that Act after sub-paragraph (3) of paragraph 2 there shall be inserted—
- “(3A) The Council may require a solicitor to pay an annual contribution of a reduced amount where that payment is made with respect to a practising

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certificate which has a replacement date which is less than 12 months after the replacement date of the solicitor's previous practising certificate.

- (3B) Where it appears from his application for a practising certificate that a solicitor has not held or received clients' money at any time during the period specified in the application, the Council may require him—
- (a) to pay an annual contribution of a specified reduced amount on that application, or
 - (b) to pay no annual contribution on that application.”