



Economic Crime and Corporate Transparency Act 2023

2023 CHAPTER 56

PART 5

MISCELLANEOUS

Regulatory and investigatory powers

207 Law Society: powers to fine in cases relating to economic crime

(1) In section 44D of the Solicitors Act 1974 (disciplinary powers of Law Society), after subsection (2) insert—

“(2A) In a case where this subsection applies, subsection (2)(b) has effect as if the words after “penalty” (which set a limit on the amount of the penalty a person may be directed to pay) were omitted.

(2B) Subsection (2A) applies where the Society takes action against a person under subsection (2)(b)—

- (a) for failure to comply with a requirement or rule referred to in subsection (1)(a), where—
 - (i) the requirement or rule applies only for purposes relating to the prevention or detection of economic crime, or
 - (ii) the failure consisted of an act or omission which had the effect of inhibiting the prevention or detection of economic crime, or
- (b) for professional misconduct as referred to in subsection (1)(b), where the misconduct consisted of an act or omission which had the effect of inhibiting the prevention or detection of economic crime.

(2C) In subsection (2B) “economic crime” has the meaning given by section 193(1) of the Economic Crime and Corporate Transparency Act 2023.”

(2) In paragraph 14B of Schedule 2 to the Administration of Justice Act 1985 (disciplinary powers of Law Society), after sub-paragraph (2) insert—

“(2A) In a case where this sub-paragraph applies, sub-paragraph (2)(b) has effect as if the words after “penalty” (which set a limit on the amount of the penalty a person may be directed to pay) were omitted.

(2B) Sub-paragraph (2A) applies where the Society takes action against a person under sub-paragraph (2)(b) for failure to comply with a requirement or rule referred to in sub-paragraph (1) where—

- (a) the requirement or rule applies only for purposes relating to the prevention or detection of economic crime, or
- (b) the failure consisted of an act or omission which had the effect of inhibiting the prevention or detection of economic crime.

(2C) In sub-paragraph (2B) “economic crime” has the meaning given by section 193(1) of the Economic Crime and Corporate Transparency Act 2023.”

(3) The amendments made by this section do not apply in relation to any act or omission occurring before the day on which this section comes into force.

208 Scottish Solicitors’ Discipline Tribunal: powers to fine in cases relating to economic crime

(1) Section 53 of the Solicitors (Scotland) Act 1980 (powers of tribunal) is amended as follows.

(2) In subsection (1)—

(a) in paragraph (b)—

- (i) after “dishonesty” insert “(other than a conviction for an economic crime offence)”;
- (ii) after “or has” insert “(other than in relation to a conviction for an economic crime offence)”;

(b) after paragraph (b) insert—

“(ba) a solicitor has (whether before or after enrolment as a solicitor) been convicted by any court of an economic crime offence, or”;

(c) in paragraph (c), after “offence” insert “(other than a conviction for an economic crime offence)”;

(d) after paragraph (c) insert—

“(ca) an incorporated practice has been convicted by any court of an economic crime offence, which conviction the Tribunal is satisfied renders it unsuitable to continue to be recognised under section 34(1A), or”.

(3) In subsection (2), after paragraph (c), insert—

“(ca) where the Tribunal is proceeding on the ground in subsection (1)(ba) or (1)(ca), or where subsection (2A) or (2B) applies, impose on the solicitor or, as the case may be, the incorporated practice, a fine of any amount.”

(4) After subsection (2) insert—

“(2A) This subsection applies where the Tribunal is proceeding on the ground referred to in subsection (1)(a) and —

- (a) the solicitor has, in relation to the subject matter of the Tribunal’s inquiry, been convicted by any court of an economic crime offence, or
- (b) the misconduct referred to in subsection (1)(a) consisted of an act or omission which had the effect of inhibiting the prevention or detection of an economic crime offence.

(2B) This subsection applies where the Tribunal is proceeding on the ground referred to in subsection (1)(d) and the incorporated practice has —

- (a) in relation to the subject matter of the Tribunal’s inquiry, been convicted by any court of an economic crime offence, or
- (b) failed to comply with a provision or rule as referred to in subsection (1)(d) and—
 - (i) the failure consisted of an act or omission which had the effect of inhibiting the prevention or detection of an economic crime offence, or
 - (ii) the provision or rule applies only for purposes relating to the prevention or detection of an economic crime offence.”

(5) In subsection (3ZA)—

- (a) in paragraph (a), after “dishonesty” insert “(not being an economic crime offence)”;
- (b) in paragraph (b), at the end insert “, (1)(ba) or (1)(ca)”;
- (c) after paragraph (b), insert—

“(c) where subsection (2A) or (3A) applies.”

(6) In subsection (3A)—

- (a) in paragraph (a), for “(1)(a) or (b)” substitute “(1)(a), (b) or (ba)”;
- (b) in paragraph (b), for “(1)(c) or (d)” substitute “(1)(c), (ca) or (d)”.

(7) After subsection (9) insert—

“(9A) In this section, an economic crime offence means an economic crime within the meaning given by section 193(1) of the Economic Crime and Corporate Transparency Act 2023.”

(8) The amendments made by this section do not apply in relation to any act or omission occurring before the day on which this section comes into force.

209 Regulators of legal services: objective relating to economic crime

(1) Section 1 of the Legal Services Act 2007 (regulatory objectives) is amended as follows.

(2) In subsection (1), after paragraph (h) insert—

- “(i) promoting the prevention and detection of economic crime.”

(3) After subsection (4) insert—

“(5) In subsection (1)(i) “economic crime” has the meaning given by section 193(1) of the Economic Crime and Corporate Transparency Act 2023”.

210 Approved regulators: information powers relating to economic crime

- (1) The Legal Services Act 2007 is amended as follows.
- (2) After section 111 insert—

“PART 5A

APPROVED REGULATORS: INFORMATION POWERS

The Law Society’s information powers relating to economic crime

111A The Law Society’s information powers relating to economic crime

- (1) The Law Society may, by notice, require a person falling within subsection (3) to—
 - (a) provide information, or information of a description, specified in the notice;
 - (b) produce documents, or documents of a description, specified in the notice.
- (2) The Law Society may only exercise the power in subsection (1) in relation to information or documents which the Law Society considers it necessary or expedient to have for the purposes of, or in connection with, the performance of its regulatory functions for purposes relating to the prevention or detection of economic crime.
- (3) The persons are—
 - (a) a solicitor;
 - (b) an employee of a solicitor;
 - (c) a body recognised under section 9 of the Administration of Justice Act 1985;
 - (d) an employee or manager of, or person with an interest in, such a body;
 - (e) a licensed body;
 - (f) a manager or employee of a licensed body;
 - (g) a non-authorised person who has an interest or an indirect interest, or holds a material interest (within the meaning of Part 5 of this Act), in a licensed body;
 - (h) a person who was, but is no longer, of a description mentioned within any of paragraphs (a) to (g).
- (4) A notice under subsection (1)—
 - (a) may specify the manner and form in which the information is to be provided or document produced;
 - (b) must specify the period within which the information is to be provided or document produced;

Status: This is the original version (as it was originally enacted).

- (c) may require the information to be provided, or document to be produced, to the Law Society or to a person specified in the notice.
- (5) The Law Society may pay to any person such reasonable costs as may be incurred by that person in connection with the provision of any information, or production of any document, by that person pursuant to a notice under subsection (1).
- (6) The Law Society, or a person specified under subsection (4)(c) in a notice, may take copies of or extracts from a document produced pursuant to a notice under subsection (1).
- (7) In this section “economic crime” has the meaning given by section 193(1) of the Economic Crime and Corporate Transparency Act 2023.

111B Enforcement of information powers relating to economic crime

- (1) If a person refuses or otherwise fails to comply with a notice under section 111A(1), the Law Society may apply to the High Court for an order requiring the person to comply with the notice or with such directions for the like purpose as may be contained in the order.
- (2) On an application under subsection (1), the High Court may order a person other than the person to whom the notice was given to provide information or produce documents specified in the notice, if the High Court is satisfied that there is reason to suspect that the information or documents have come into the possession or custody or under the control of that other person.
- (3) Section 111A(4) applies in relation to an order under subsection (2) as it applies in relation to a notice under section 111A(1).
- (4) An order under this section may direct the Law Society to pay such reasonable costs as may be incurred by a person in connection with the provision of any information, or production of any document, by that person pursuant to the order.
- (5) A person may take copies of or extracts from a document produced to them pursuant to an order under this section.

111C Provision of information relating to economic crime by other persons

- (1) The Law Society may apply to the High Court for an order requiring a person who does not fall within section 111A(3) to—
 - (a) provide information, or information of a description, specified in the order, or
 - (b) produce documents, or documents of a description, specified in the order.
- (2) The High Court may make an order under this section only if it is satisfied—
 - (a) that it is likely that the information or document is in the possession or custody of, or under the control of, the person, and
 - (b) that it is necessary or expedient for the Law Society to have the information or document for the purposes of, or in connection with,

Status: This is the original version (as it was originally enacted).

the performance of its regulatory functions for purposes relating to the prevention or detection of economic crime.

- (3) Section 111A(4) applies in relation to an order under this section as it applies in relation to a notice under section 111A(1).
- (4) An order under this section may direct the Law Society to pay such reasonable costs as may be incurred by a person in connection with the provision of any information, or production of any document, by that person pursuant to the order.
- (5) A person may take copies of or extracts from a document produced to them pursuant to an order under this section.
- (6) In this section “economic crime” has the meaning given by section 193(1) of the Economic Crime and Corporate Transparency Act 2023.

Other approved regulators: information powers relating to economic crime

111D Order to confer information powers on other approved regulators

- (1) The Lord Chancellor may by order amend this Part so as to—
 - (a) provide for sections 111A to 111C to apply in relation to an approved regulator other than the Law Society as they apply in relation to the Law Society, and
 - (b) specify the persons to whom notices under section 111A(1) may be given by that approved regulator.
- (2) The Lord Chancellor may make an order under this section in relation to an approved regulator only if—
 - (a) the Board has made a recommendation in accordance with section 111E in relation to that approved regulator, and
 - (b) the persons specified in the order to whom notices under section 111A(1) may be given by that approved regulator are the same as those persons specified in the recommendation.

111E The Board’s power to recommend orders under section 111D

- (1) The Board may recommend to the Lord Chancellor that the Lord Chancellor make an order under section 111D in relation to an approved regulator.
- (2) A recommendation must specify the persons to whom the approved regulator should be able to give notices under section 111A(1).
- (3) A recommendation may only be made with the consent of the approved regulator.
- (4) Before making a recommendation under this section, the Board must publish a draft of the proposed recommendation.
- (5) The draft must be accompanied by a notice which states that representations about the proposed recommendation may be made to the Board within a specified period.

- (6) Before making the recommendation, the Board must have regard to any representations duly made.”
- (3) In section 206 (parliamentary control of orders and regulations), in subsection (4), after paragraph (n) insert—
 - “(na) section 111D (order to confer information powers on other approved regulators);”.

211 Serious Fraud Office: pre-investigation powers

- (1) In section 2A of the Criminal Justice Act 1987 (Director’s pre-investigation powers in relation to bribery and corruption: foreign officers etc), omit the following—
 - (a) in the heading, the words from “in relation to” to the end;
 - (b) in subsection (1), the words from “in a case” to the end;
 - (c) subsection (5).
- (2) In Schedule 1 to the Bribery Act 2010 (consequential amendments), omit paragraph 2 and the preceding italic heading.