
STATUTORY INSTRUMENTS

1976 No. 582

Solicitors (Northern Ireland) Order 1976

PART II

QUALIFICATION, ADMISSION, PRACTISING CERTIFICATES, ETC.

Practising certificates

Application for practising certificate and register of practising solicitors

10.—(1) Application by a solicitor for a practising certificate shall be made to the registrar in such form and in accordance with such requirements and shall be accompanied by a fee of such amount as may be prescribed.

(2) Where, on an application duly made to him under paragraph (1), the registrar is satisfied as to the matters specified in Article 11(1)(*a*), (*b*) and (*c*) and that no grounds exist under any other provision of this Order for refusing to issue a practising certificate, he shall cause to be entered in a register kept for that purpose the applicant's full name, his place or places of business and the date of his admission,^{F1}

[^{F1}(2A) The register may be kept by means of a computer.

(2B) If the register is kept by means of a computer, the Society shall make any entry available for inspection in legible form during office hours, without payment, by any person who applies to inspect it.

(2C) If the register is not kept by means of a computer, any person may inspect it during office hours without payment.]

(3) If in, or in relation to, an application under this Article any person makes any false statement material to the application, a complaint in respect of that statement may be made by or on behalf of the Society to the^{F1} Tribunal].

(4) Nothing in this Part shall affect the operation of any restriction in force under or by virtue of this Order whereby a solicitor is restricted from engaging in practice on his own account, whether in partnership or otherwise, for a specified period.

(5) While such a restriction as is mentioned in paragraph (4) is in force, the entry in the register relating to the solicitor who is subject to that restriction and every practising certificate issued under Article 11 to that solicitor shall bear a stamp marked “Restricted from practice on his own account until ” (being the date on which the relevant restriction ends).

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Issue, date and expiry of practising certificate

11.—(1) Subject to the provisions of Articles 12 and 13, the registrar on being satisfied that—

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- (a) the name of the applicant is on the roll;
- (b) he is not for the time being suspended from practice; and
- (c) the application referred to in Article 10 complies with the provisions of that Article and of regulations;

shall within three weeks of the receipt of such application, issue to the applicant a practising certificate in accordance with regulations, and in such form as may be prescribed.

(2) Every practising certificate issued after 5th January in any year and before 6th February next following shall bear the date of 6th January in that year, and every other practising certificate shall bear the date of the day on which it is issued.

(3) Every practising certificate shall have effect from the beginning of the day of which it bears the date, and that date shall be entered by the Society on the register.

(4) Every practising certificate shall expire at the end of 5th January next after it is issued except that, where the name of a solicitor is removed from or struck off the roll, the practising certificate (if any) of that solicitor shall expire forthwith and the date of such expiration shall be entered on the register.

Absence of solicitor from Northern Ireland

12.—(1) If a solicitor—

- (a) has been absent from Northern Ireland for a period of, or periods exceeding in the aggregate, six months in any period of twelve consecutive months; and
- (b) without reasonable excuse, has been so absent without the consent of the Society or without complying with such terms and conditions as may be fixed by the Society in relation to such absence;

the Society may direct the registrar to refuse to issue a practising certificate to the solicitor, or, where such a certificate has been issued to the solicitor, the Society may apply to the Lord Chief Justice to recall that certificate.

(2) Where a direction is given, or an application is made, under this Article then in the former case the registrar shall refuse to issue the practising certificate and in the latter case the Lord Chief Justice may recall a practising certificate which has been issued.

(3) Where the registrar, by direction of the Society under the provisions of this Article, refuses to issue to a solicitor a practising certificate, the solicitor may on serving ten days' notice on the Society, apply for a certificate to the Lord Chief Justice who may make such order in the matter as he thinks fit.

(4) This Article shall not apply in the case of a solicitor who has been absent from Northern Ireland for any such period or periods as are specified in paragraph (1), if that solicitor during the said period or periods was resident in the Republic of Ireland.

Discretion of registrar to refuse certificate in special cases

13.—(1) This Article shall have effect in relation to a solicitor's application for a practising certificate in any of the following circumstances:—

- (a) where he applies for a first practising certificate after the expiration of five years from the passing of his final examination; or
- (b) where he applies for a practising certificate, having neglected so to do for twelve months after the expiration of the last practising certificate issued to him; or
- (c) where he applies for a practising certificate while he is an undischarged bankrupt; or

- [^{F2}(cc) where he applies for a practising certificate after a finding by the Tribunal on a complaint under Article 10(3) that he made a false statement material to an application for a previous practising certificate; or]
- (d) where, having been suspended from practice or having had his name struck off the roll, he first applies for a practising certificate after the expiration[^{F2} or termination of his suspension or the replacement of his name on] the roll, as the case may be; or
- [^{F2}(dd) where, having had a practising certificate suspended under Article 15(2), he first applies for a practising certificate after the expiration of the suspended practising certificate; or]
- (e) where he applies for a practising certificate while any fine, penalty or costs imposed upon or ordered to be paid by him under this Order remain unpaid; or
- (f) where he applies for a practising certificate while—
- [^{F3}(i) any power is being exercised in relation to his property or affairs under Part VIII of the Mental Health (Northern Ireland) Order 1986; or
- (ii) he is a patient for the time being detained in hospital for treatment or subject to guardianship under Part II of that Order; or]
- (g) where, having more than one office or place of business at any one time (disregarding, where he has a Belfast agent, the office or place of business of such agent), he has been invited by the Society to satisfy them that he exercises adequate personal supervision over each such office or place of business and, having failed so to satisfy the Society, has been notified in writing by the Society that he has so failed; or
- [^{F2}(gg) where he has been invited by the Society to satisfy them that he has complied with any regulations made under Article 6 in relation to education or training, and, having failed so to satisfy the Society, has been notified in writing by the Society that he has so failed;]
- (h) where, having been invited by the Society to give an explanation in respect of any matter[^{F2} relating to] his conduct and having failed to give the Society such an explanation as appears to them to be satisfactory, he has been notified in writing by the Society that he has so failed; or
- [^{F2}(hh) where, having been required by Article 35(1) to deliver an accountant's report to the Society—
- (a) he has not delivered that report within the period allowed by Article 35(2); or
- (b) he has been invited by the Society to satisfy them that, in relation to any report delivered to the Society, he has complied with regulations made under Article 35, and, having failed so to satisfy the Society, has been notified in writing by the Society that he has so failed;]
- (i) where he has had an order of attachment made against him which has not been discharged; or
- (j) where he has had a judgment or decree made against him which—
- (i) involves the payment by him of a sum of money other than costs; and
- (ii) is not a judgment or decree in relation to which he is entitled, as respects the whole effect of the judgment or decree upon him, to indemnity or relief from any other person;
- and has not produced to the registrar evidence of the satisfaction of such judgment or decree or of his intention to appeal against such judgment or decree; or
- (k) where he has been[^{F4} adjudged a bankrupt and discharged] or has entered into a composition with his creditors or a deed of arrangement for their benefit.

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(2) The solicitor shall, unless the registrar or the Lord Chief Justice otherwise orders, give to the registrar, at least three weeks before the application for a practising certificate is made, notice of his intention to make the application.

(3) Subject to paragraph (4), the registrar may in his discretion refuse the application.

(4) Where a solicitor applies for a practising certificate in a case in which paragraph (1) has effect by virtue only of an order, judgment or decree such as is mentioned in sub-paragraph (i) or (j) of that paragraph and an appeal has been made to the appropriate court against that order, judgment or decree, the registrar shall not refuse the application before the determination of that appeal unless he is of the opinion that the proceedings on that appeal have been unduly protracted by the appellant or are unlikely to be successful.

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[^{F5} Appeals in connection with issue of practising certificates

14.—(1) A solicitor who has been refused a practising certificate under Article 13(3) may, within one month from the date on which notice of such refusal is served on him, apply to the Council to review the refusal; and on such application the Council may in their discretion direct the registrar—

- (a) to grant or refuse the application;
- (b) to issue—
 - (i) the certificate; or
 - (ii) the certificate and any subsequent practising certificate issued to the solicitor, subject to such terms and conditions as the Council think fit.

(2) A solicitor aggrieved by a decision of the Council under paragraph (1) may, within one month from the date on which notice of that decision is served on him, appeal to the Lord Chief Justice who may—

- (a) affirm the decision; or
- (b) give to the registrar any direction which could have been given to him by the Council under paragraph (1).

(3) For the purposes of this Article a solicitor who has not received a practising certificate within three weeks after he applied to the registrar for it or, as the case may be, applied to the Council to review the refusal of a practising certificate, shall be deemed to have received notice at the expiration of that period that the certificate has been refused.

F5 1989 NI 14

Imposition of terms and conditions on current and subsequent practising certificates

14A.—(1) Subject to the provisions of this Article, the Council may in the case of any solicitor direct that—

- (a) his practising certificate for the time being in force (his “current certificate”); or
- (b) his current certificate and any subsequent practising certificate issued by the registrar to the solicitor,

shall have effect subject to such terms and conditions as the Council think fit.

(2) The power to give a direction under this Article in the case of any solicitor shall be exercisable by the Society at any time during the period for which his current certificate is in force if—

- (a) in the event of an application for a practising certificate being made by him at that time, Article 13 would have effect in relation to him by reason of any such circumstances as are mentioned in subparagraph (e), (g), (h), (hh), (i) or (j) of paragraph (1) of that Article;
- (b) he has entered into a composition with his creditors or a deed of arrangement for their benefit; or
- (c) Schedule 1 applies in relation to him, by virtue of any provision of this Order.

(3) Subject to paragraph (4), the terms and conditions specified in a direction under this Article shall have effect as from the time when the solicitor concerned is notified of the Council's decision to give the direction.

(4) The Council may, if they think fit, provide in a direction under this Article that the terms and conditions specified in the direction shall not have effect pending the hearing and determination of any appeal under paragraph (6).

(5) Where there is pending against any judgment, order or decree an appeal by a solicitor which, if successful, would result in paragraph (2) no longer being applicable to him, the Council shall not give a direction under this Article in his case so long as the appeal is pending, unless in the opinion of the Council the proceedings on that appeal have been unduly protracted by him or are unlikely to be successful.

(6) A solicitor aggrieved by a decision of the Council under paragraph (1) may, within one month from the date on which notice of that decision is served on him, appeal to the Lord Chief Justice who may—

- (a) affirm or revoke the decision;
- (b) give any direction which could have been given by the Council under paragraph (1).

F5 1989 NI 14

Suspension of practising certificate

15.—(1) The making of an order suspending a solicitor from practice and the adjudication of bankruptcy of a solicitor shall operate to suspend any practising certificate of that solicitor for the time being in force.

(2) Where, under any provision of this Order, Schedule 1 applies in relation to a solicitor, the Council may in their discretion suspend any practising certificate of that solicitor for the time being in force.

(3) For the purposes of this Order a practising certificate shall be deemed not to be in force at any time while it is suspended.

(4) A solicitor aggrieved by a decision of the Council under paragraph (2) suspending his practising certificate may, within one month from the date on which notice of that decision is served on him, appeal to the Lord Chief Justice who may—

- (a) affirm or revoke the decision;
- (b) direct that—
 - (i) the certificate; or
 - (ii) the certificate and any subsequent certificate issued by the registrar to the solicitor, shall have effect subject to such terms and conditions as the Lord Chief Justice thinks fit.

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(5) The registrar shall be entitled without payment of any fee to inspect the file of proceedings in bankruptcy relating to any solicitor against whom proceedings in bankruptcy have been taken and to be supplied with office copies of those proceedings on payment of the usual charges for the copies.

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Duration of suspension of practising certificate

16.—(1) Subject to the provisions of this Article, the suspension of a practising certificate by virtue of Article 15 shall continue until the certificate expires.

(2) The suspension of a practising certificate by virtue of Article 15(1) by reason of an adjudication in bankruptcy shall terminate if—

- (a) the adjudication is annulled; and
- (b) an office copy of the order annulling the adjudication has been served on the Society.
- (3) Where a solicitor's practising certificate is suspended—
 - (a) by virtue of Article 15(1) by reason of his adjudication in bankruptcy;
 - (b) by virtue of Article 15(1) by reason of his suspension from practice and the period of his suspension from practice expires or is terminated under Article 51(1)(f) before the date of expiry of the certificate; or
 - (c) under Article 15(2),

the solicitor may at any time before the certificate expires (and, in the case of adjudication in bankruptcy, while the adjudication remains unannulled) apply to the Council to terminate the suspension.

(4) On an application under paragraph (3) the Council may in their discretion—

- (a) refuse the application;
- (b) by order terminate the suspension; or
- (c) by order terminate the suspension and direct that—
 - (i) the practising certificate of the solicitor; or
 - (ii) the practising certificate of the solicitor and any subsequent practising certificate issued by the registrar to the solicitor,

shall have effect subject to such terms and conditions as the Council think fit.

(5) Subject to paragraph (6), the terms and conditions specified in a direction under paragraph (4) (c) shall have effect as from the time when the solicitor concerned is notified of the Council's decision to give the direction.

(6) The Council may, if they think fit, provide in a direction under paragraph (4)(c) that the terms and conditions specified in the direction shall not have effect pending the hearing and determination of any appeal under paragraph (7).

(7) A solicitor aggrieved by a decision of the Council under paragraph (4) may, within one month from the date on which notice of that decision is served on him, appeal to the Lord Chief Justice who may—

- (a) affirm the decision; or
- (b) make any order and give any direction which could have been made or given by the Council under paragraph (4).

(8) For the purposes of paragraph (7) a solicitor who has not received notification of the termination of the suspension of his practising certificate within three weeks after he made

application for such termination shall be deemed to have received notice at the expiration of that period that the application has been refused.

(9) Where a solicitor's practising certificate is suspended by virtue of Article 15(1) by reason of his suspension from practice and the suspension of his practising certificate is terminated under paragraph (4) or (7) without any direction mentioned in paragraph (4)(c) being made, then, notwithstanding Article 13(1)(d), that Article shall not thereafter have effect in relation to that solicitor by virtue of that suspension from practice.

F5 1989 NI 14

Publication of suspension or termination of suspension of practising certificate

17.—(1) Where a solicitor's practising certificate is suspended the Society shall forthwith cause—

- (a) notice of that suspension to be published in the Belfast Gazette;
- (b) a note thereof to be entered against the name of the solicitor in the roll.

(2) Where the suspension of a practising certificate is terminated the Society shall forthwith—

- (a) cause a note of that termination to be entered against the name of the solicitor in the roll; and
- (b) if so requested in writing by the solicitor, cause notice thereof to be published in the Belfast Gazette.

F5 1989 NI 14

Application for issue of practising certificate freed from terms and conditions

17A.—(1) Where, in accordance with a direction given under Article 14, 14A, 15, 16 or this Article, a subsequent practising certificate is issued to a solicitor subject to any terms and conditions, the solicitor may, within one month from the date on which the certificate is issued, apply to the Council for the issue of the certificate free from those terms and conditions; and on such an application the Council may in their discretion—

- (a) grant or refuse the application;
- (b) direct the registrar to issue—
 - (i) the certificate; or
 - (ii) the certificate and any subsequent practising certificate issued to the solicitor, subject to such other terms and conditions as the Council may think fit.

(2) A solicitor aggrieved by a decision of the Council under paragraph (1) may, within one month from the date on which notice of that decision is served on him, appeal to the Lord Chief Justice who may—

- (a) affirm the decision; or
- (b) give to the registrar any direction which could have been given to him by the Council under paragraph (1).

(3) For the purposes of this Article a solicitor who has not received a practising certificate free from terms and conditions within three weeks after he applied to the Council for it shall be deemed to have received notice at the expiration of that period that the application has been refused.

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Terms and conditions in practising certificates

17B.—(1) Any power of the Council or the Lord Chief Justice under Article 14, 14A, 15, 16 or 17A to direct that a practising certificate shall have effect or shall be issued subject to terms and conditions, includes (without prejudice to the generality of that power) power to direct that the certificate shall have effect or shall be issued subject to terms and conditions—

- (a) requiring the solicitor to take any specified steps that will in the opinion of the Council or the Lord Chief Justice (as the case may be) be conducive to his carrying on an efficient practice as a solicitor; and
- (b) notwithstanding that they may result in expenditure being incurred by the solicitor.

(2) If a solicitor contravenes any of the terms and conditions subject to which a practising certificate has effect or is issued in accordance with a direction under Article 14, 14A, 15, 16 or 17A any person may make a complaint in respect of the contravention to the Tribunal.]

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Evidence of holding or not holding practising certificate

18.—(1) Any list purporting to be published by the authority of the Society and to contain the names of solicitors who have obtained practising certificates for the year referred to in the list shall, unless the contrary is proved, be evidence that the persons named in that list are solicitors holding those certificates.

(2) The absence from such list of the name of any person shall, unless the contrary is proved, be evidence that that person is not qualified to practise as a solicitor during the year referred to in the list, and, as respects any such person, an extract from the roll, certified as correct by the registrar, shall be evidence of the facts appearing in the extract.

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