

SCHEDULES

[^{F1}SCHEDULE 1A

INCORPORATED PRACTICES: SUPPLEMENTARY PROVISIONS

F1 1989 NI 14

Control of recognised body's property in certain cases

12.—(1) Where the Council have reasonable cause to believe and have passed a resolution stating that they have reasonable cause to believe, that—

- (a) an officer or employee of a recognised body has been guilty of dishonesty in connection with that body's business or in connection with any trust of which that body is a trustee; or
- (b) in consequence of the act on default of an officer or employee of a recognised body—
 - (i) there has been undue delay in connection with any matter in which the recognised body has been instructed on behalf of a client or any matter which relates to the administration of a controlled trust; or
 - (ii) any sum of money due from the recognised body to, or held by it on behalf of, its clients or subject to any controlled trust is in jeopardy while in the control or possession of that body,

the provisions of Schedule 1 shall apply in relation to the recognised body and its business in like manner as they apply in relation to a solicitor and his practice.

(2) Subject to sub#paragraph (3), where—

- (a) the Council are satisfied that a recognised body has failed to comply with any regulations applicable to it by virtue of Article 26A; or
- (b) a person has been appointed receiver or manager of property of a recognised body; or
- (c) a winding-up order has been made with respect to a recognised body, or a resolution for voluntary winding-up has been passed with respect to a recognised body (other than a resolution passed solely for the purposes of its reconstruction or of its amalgamation with another body corporate),

the provisions of Schedule 1 shall apply in relation to the recognised body and its business in like manner as they apply in relation to a solicitor and his practice.

(3) Those powers shall only be exercisable by virtue of sub#paragraph (2)(a) if the Society have given the recognised body notice in writing that the Council are satisfied that the body has failed to comply with the regulations specified in the notice and also (at the same or any later time) notice that those powers are accordingly exercisable in its case by virtue of sub#paragraph (2)(a).

(4) Where the Council have passed a resolution to the effect that they are satisfied that a recognised body—

- (a) has failed to comply with—
 - (i) any provision respecting the keeping of accounts contained in regulations made under Article 33 and applied to recognised bodies in accordance with Article 26A(2)

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(f) or with any requirement made in pursuance of any such regulations so applied for the production of books of account or other documents; or

(ii) the provisions of Article 35 or of any regulations made thereunder and applied to recognised bodies in accordance with Article 26A(2)(f); and

(b) has been informed that such failure will have the consequence that the provisions of Schedule 1 shall apply in relation to the body and its business,

the provisions of Schedule 1 shall apply in relation to the recognised body and its business in like manner as they apply in relation to a solicitor and his practice.

(5) Where a recognised body—

(a) having more than one office or place of business at any one time (disregarding, where it has a Belfast agent, the office or place of business of such agent) has been invited by the Society to satisfy them that its officers and employees who are solicitors exercise 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 it has so failed; or

(b) having been invited by the Society to give an explanation in respect of any matter relating to the conduct of a director of the body and having failed to give the Society such an explanation as appears to them to be satisfactory, has been notified in writing by the Society that it has so failed,

the Council may direct that the provisions of Schedule 1 shall apply in relation to the recognised body and its business in like manner as they apply in relation to a solicitor and his practice.

(6) Where the Tribunal have made a recommendation to the Council under paragraph 24 in respect of any recognised body the Council may direct that the provisions of Schedule 1 shall apply in relation to the recognised body and its business in like manner as they apply in relation to a solicitor and his practice.

13.—(1) Where the recognition of a body corporate under Article 26A—

(a) has been revoked under regulations made under Article 26A(2)(d) or by an order of the Tribunal under this Schedule; or

(b) has expired and no further recognition of that body has been granted under that Article, that body shall within three weeks from the material date satisfy the Council that it has made suitable arrangements for making available to its clients or to some other recognised body or solicitor instructed by his clients or, with the approval of the Council, instructed by itself—

(i) all deeds, wills, documents constituting or evidencing title to any property, papers, books of accounts, records, vouchers or other documents in its possession or control, or relating to any controlled trust; and

(ii) all sums of money due from it to, or held by it on behalf of, its clients or subject to any controlled trust,

and if it fails so to satisfy the Council, the provisions of Schedule 1 shall apply in relation to the body and its former business in like manner as they apply in relation to a solicitor and his practice.

(2) In sub-paragraph (1) “the material date” means whichever is the latest of the following dates, that is to say—

(a) the date on which the recognition of the body corporate under Article 26A expires;

(b) where an application for further recognition of the body corporate under Article 26A has been made before the date specified in head (a), the last date on which an appeal against the decision not to grant further recognition of the body corporate may be lodged;

(c) the last date on which an appeal against the decision or order revoking the recognition may be lodged;

(d) the date on which any appeal mentioned in head (b) or (c) is dismissed or abandoned.

(3) Where the powers conferred by Schedule 1 are exercisable in relation to a recognised body in accordance with paragraph 12 or 14 they shall continue to be so exercisable after that body's recognition under Article 26A has been revoked or has otherwise ceased to be in force.

14. Where—

- (a) a complaint is made to the Council that there has been undue delay on the part of a recognised body in connection with any matter in which it has been instructed on behalf of a client or any matter which relates to the administration of a controlled trust or in complying with an order of the Tribunal under paragraph 21(2)(c), (d) or (e) or (3) or Article 51A; and
- (b) the Council have by notice invited the body to give an explanation in respect of the matter; and
- (c) the body has, within a period of not less than fourteen days specified in the said notice or such longer period as the Council may determine failed to give an explanation in respect of that matter which the Council regard as sufficient and satisfactory; and
- (d) the body has been notified in writing by the Society that it has so failed,

the provisions of Schedule 1 shall apply in relation to the recognised body and its business in like manner as they apply in relation to a solicitor and his practice; but as regards the documents specified in paragraph 2 and the sums of money specified in paragraph 10 of Part I of that Schedule only in so far as they relate to the matter of the complaint.

15. In connection with the application of Schedule 1 for the purposes of this Schedule, in Schedule 1 any reference to the solicitor or to his practice shall be construed as including a reference to the body corporate in relation to which the powers conferred by that Schedule are exercisable by virtue of paragraph 12, 13 or 14 of this Schedule or to its business (or former business) as a recognised body.]

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Changes and effects yet to be applied to the whole Order associated Parts and Chapters:

Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- art. 6(1A) inserted by [2011 c. 24 \(N.I.\) s. 88\(2\)](#)
- art. 10(2D) inserted by [2011 c. 24 \(N.I.\) s. 88\(4\)](#)
- art. 51(11A) inserted by [2016 c. 14 \(N.I.\) s. 3\(4\)](#)
- art. 71H(3) revoked by [1996 c. 23 s. 107\(2\)Sch.4](#)
- art. 75(1A) inserted by [2016 c. 14 \(N.I.\) s. 3\(6\)](#)
- art. 75(2A)(2B) inserted by [2011 c. 24 \(N.I.\) s. 90\(1\)](#)