



# Solicitors Act 1974

## 1974 CHAPTER 47

### PART IV

#### MISCELLANEOUS AND GENERAL

##### *Supplementary*

#### **87 Interpretation**

(1) In this Act, except where the context otherwise requires,—

" articles " means written articles of clerkship binding a person to serve a solicitor as an articulated clerk;

" authorised insurers " means a person permitted under the Insurance Companies Act 1974 to carry on liability insurance business or pecuniary loss insurance business;

" bank " means—

(a) the Bank of England ; and

(b) a company as to which the Secretary of State is satisfied that it ought to be treated as a banking company or as a discount company for the purposes of the Protection of Depositors Act 1963 ;

" the Charter " means the Royal Charter dated 26th February 1845, whereby the Society was incorporated, together with the Royal Charters supplemental to it dated respectively 26th November 1872, 4th June 1903, 2nd June 1909 and 10th March 1954 ;

" client " includes—

(a) in relation to contentious business, any person who as principal or on behalf of another person retains or employs, or is about to retain or employ, a solicitor, and any person who is or may be liable to pay a solicitor's costs;

(b) in relation to non-contentious business, any person who, as a principal or on behalf of another, or as a trustee or executor, or in any other capacity, has power, express or implied, to retain or employ, and retains

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- or employs or is about to retain or employ, a solicitor, and any person for the time being liable to pay to a solicitor for his services any costs;
- " client account " means an account in the title of which the word " client " is required by rules under section 32;
- " contentious business " means business done, whether as solicitor or advocate, in or for the purposes of proceedings begun before a court or before an arbitrator appointed under the Arbitration Act 1950, not being business which falls within the definition of non-contentious or common form probate business contained in section 175(1) of the Supreme Court of Judicature (Consolidation) Act 1925 ;
- " contentious business agreement " means an agreement made in pursuance of section 59 ;
- " controlled trust ", in relation to a solicitor, means a trust of which he is a sole trustee or co-trustee only with one or more of his partners or employees;
- " costs " includes fees, charges, disbursements, expenses and remuneration;
- " the Council " means the Council of the Society elected in accordance with the provisions of the Charter and this Act;
- " duly certificated notary public " means a notary public who either—
- (a) has in force a practising certificate as a solicitor issued under this Act, and duly entered in the court of faculties of the Archbishop of Canterbury in accordance with rules made by the master of faculties; or
  - (b) has in force a practising certificate as a notary public issued by the said court of faculties in accordance with rules so made ;
- " employee " includes an articulated clerk ;
- " indemnity conditions " has the meaning assigned to it by section 28(2)(b) ;
- " indemnity rules " means rules under section 37 ;
- " liability insurance business " has the meaning given in section 83(3) of the Insurance Companies Act 1974;
- " local law society " means a society which is for the time being recognised by the Council as representative of solicitors in some particular part of England and Wales;
- " non-contentious business " means any business done as a solicitor which is not contentious business as defined by this subsection;
- " pecuniary loss insurance business " has the meaning given in section 83(6) of the Insurance Companies Act 1974 ;
- " practising certificate " has the meaning assigned to it by section 1;
- " the roll " means the list of solicitors of the Supreme Court kept by the Society under section 6 ;
- " Secretary " of the Society includes any deputy or person appointed temporarily to perform the duties of that office;
- " the Society " means the Law Society, that is to say, the Society incorporated and regulated by the Charter;
- " sole solicitor " means a solicitor who is the sole principal in a practice;
- " solicitor " means solicitor of the Supreme Court;
- " solicitor in Scotland " means a person enrolled or deemed to have been enrolled as a solicitor in pursuance of the Solicitors (Scotland) Act 1933 ;
- " training conditions " has the meaning assigned to it by section 28(2)(a);
- " training regulations " means regulations under section 2;

" the Tribunal " means the Solicitors Disciplinary Tribunal;

" trust " includes an implied or constructive trust and a trust where the trustee has a beneficial interest in the trust property, and also includes the duties incident to the office of a personal representative, and " trustee " shall be construed accordingly;

" unqualified person " means a person who is not qualified under section 1 to act as a solicitor.

(2) In this Act—

- (a) references to the removal of a solicitor's name from the roll are references to its removal at his own request;
- (b) references to striking a solicitor's name off the roll are references to striking it off otherwise than at his own request; and
- (c) references to removal or striking off include references to deleting an entry made by means of a computer by whatever means are appropriate.

(3) In this Act, except where otherwise indicated—

- (a) a reference to a numbered Part, section or Schedule is a reference to the Part or section of, or the Schedule to, this Act so numbered ;
- (b) a reference in a section to a numbered subsection is a reference to the subsection of that section so numbered ;
- (c) a reference in a section, subsection or Schedule to a numbered paragraph is a reference to the paragraph of that section, subsection or Schedule so numbered; and
- (d) a reference in a paragraph to a numbered sub-paragraph is a reference to the sub-paragraph of that paragraph so numbered.

(4) Except where the context otherwise requires, references in this Act to any enactment shall be construed as references to that enactment as amended or applied by or under any other enactment, including this Act.

**88 Saving for solicitors to public departments and City of London**

- (1) Nothing in this Act shall prejudice or affect any rights or privileges of the solicitor to the Treasury, any other public department, the Church Commissioners or the Duchy of Cornwall, or require any such officer or any clerk or officer appointed to act for him to be admitted or enrolled or to hold a practising certificate in any case where it would not have been necessary for him to be admitted or enrolled or to hold such a certificate if this Act had not been passed.
- (2) Sections 31 and 32(1) shall not apply to, and nothing in this Act shall prejudice or affect any rights or privileges which immediately before the commencement of this Act attached to the office of, the Solicitor of the City of London.

**89 Consequential amendments, repeals, savings, etc.**

- (1) The enactments specified in Schedule 3 shall have effect subject to the amendments there specified, being amendments consequential upon the provisions of this Act.
- (2) The enactments specified in Schedule 4 are hereby repealed to the extent specified in the third column of that Schedule.

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- (3) In so far as any instrument or other document made, issued, served or kept or treated as having been or having effect as if made, issued, served or kept, or other thing done or treated as having been or having effect as if done, under or for the purposes of any of the enactments repealed by this Act (in this section referred to as "the repealed enactments") could have been made, issued, served, kept or done under or for the purposes of a corresponding provision of this Act, it shall not be invalidated by the repeal but shall have effect as if made, issued, served, kept or done under or for the purposes of that corresponding provision; and anything begun under any of the repealed enactments may be continued under any corresponding provision of this Act as if begun under that provision.
- (4) Any enactment or other document referring to any of the repealed enactments shall, so far as may be necessary for preserving its effect, be construed as referring to this Act or to the corresponding provision of this Act.
- (5) References in any enactment or instrument to the disciplinary committee constituted under section 46 of the Solicitors Act 1957 shall be construed as references to the Tribunal.
- (6) References in any enactment to solicitors, attorneys or proctors, or to the registrar of attorneys and solicitors or the registrar of solicitors, shall be construed as references to solicitors and to the Society respectively.
- (7) References in any enactment to a duly certificated notary public shall be construed as references to a duly certificated notary public within the meaning of this Act.
- (8) Nothing in this Act shall be taken as prejudicing the operation of section 38 of the Interpretation Act 1889 (which relates to the effect of repeals).

## **90 Short title, commencement and extent**

- (1) This Act may be cited as the Solicitors Act 1974.
- (2) This Act shall come into force on such day as the Lord Chancellor may by order made by statutory instrument appoint, not being earlier than the first day on which all the provisions of the Solicitors (Amendment) Act 1974 are in force.
- (3) If any order made under section 19(7) of the Solicitors (Amendment) Act 1974 makes any savings from the effect of any provision of that Act which it brings into force, the order under subsection (2) may make corresponding savings from the effect of the corresponding provision of this Act.
- (4) The provisions of this Act extend to England and Wales only, with the exception of—
  - (a) section 4(4) and the repeal of section 5(3) of the Solicitors Act 1957, which extend to Scotland ;
  - (b) section 29 and the repeal of section 1 of the Solicitors (Amendment) Act 1974, which extend to Northern Ireland;
  - (c) sections 5(3) and 86, paragraph 5 of Schedule 3 and the repeals of section 5(2) of the Solicitors Act 1957 and paragraphs 1 and 5 of Schedule 2 to the Solicitors (Amendment) Act 1974, all of which extend both to Scotland and to Northern Ireland.