
Changes to legislation: There are currently no known outstanding effects for the Administration of Justice Act 1985, Cross Heading: Money. (See end of Document for details)

SCHEDULES

SCHEDULE 5

INTERVENTION IN LICENSED CONVEYANCER'S PRACTICE

PART II

POWERS EXERCISABLE ON INTERVENTION

Modifications etc. (not altering text)

- C1** Powers conferred by Sch. 5 Pt. II (paras. 5-12) extended (1. 4. 1991 for certain purposes, otherwise 7.12.2004) by [Courts and Legal Services Act 1990 \(c. 41, SIF 76:1\)](#), ss. 53, 59(1), Sch. 8 para.13(1)(2); [S.I. 1991/608, art. 2, Sch](#); [S.I. 2004/2950, art. 2\(a\)](#)
- C1** Powers conferred by Sch. 5 Pt. II (paras. 5-12) restricted (1. 4. 1991 for certain purposes, otherwise 7.12.2004) by [Courts and Legal Services Act 1990 \(c. 41, SIF 76:1\)](#), ss. 53, 59(1), Sch. 8 para. 13(2); [S.I. 1991/608, art. 2, Sch](#); [S.I. 2004/2950, art. 2\(a\)](#)

Money

- 5 (1) The High Court, on the application of the Council, may order that no payment shall be made without the leave of the court by any person (whether or not named in the order) of any money held by him (in whatever manner and whether it was received before or after the making of the order) on behalf of the licensed conveyancer or his firm.
- (2) No order under this paragraph shall take effect in relation to any person to whom it applies unless the Council has served a copy of the order on him (whether or not he is named in it) and, in the case of a bank or other financial institution, has indicated at which of its branches the Council believes that the money to which the order relates is held.
- (3) A person shall not be treated as having disobeyed an order under this paragraph by making a payment of money if he satisfies the court that he exercised due diligence to ascertain whether it was money to which the order related but nevertheless failed to ascertain that the order related to it.
- (4) This paragraph does not apply where the powers conferred by this Part of this Schedule are exercisable by virtue of paragraph 3.
- 6 (1) Without prejudice to paragraph 5, if the Council passes a resolution to the effect that any sums of money to which this paragraph applies, and the right to recover or receive them, shall vest in the Council, all such sums shall vest accordingly (whether they were received by the person holding them before or after the Council's resolution) and shall be held by the Council on trust to exercise in relation to them the powers

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conferred by this Part of this Schedule and subject thereto [^{F1}and to rules under paragraph 6B] upon trust for the persons beneficially entitled to them.

- (2) This paragraph applies—
- (a) where the powers conferred by this paragraph are exercisable by virtue of paragraph 1, to all sums of money held by or on behalf of the licensed conveyancer or his firm in connection with his practice [^{F2}or former practice or with any trust of which he is or was a trustee],
 - (b) where they are exercisable by virtue of paragraph 2, to all sums of money in any client account; and
 - (c) where they are exercisable by virtue of paragraph 3, to all sums of money held by or on behalf of the licensed conveyancer or his firm in connection with the matter to which the complaint relates.
- (3) The Council shall serve on the licensed conveyancer or his firm and on any other person having possession of sums of money to which this paragraph applies a certified copy of the Council’s resolution and a notice prohibiting the payment out of any such sums of money.
- (4) Within eight days of the service of a notice under sub-paragraph (3), the person on whom it was served, on giving not less than 48 hours’ notice in writing to the Council and (if the notice gives the name of the solicitor instructed by the Council) to that solicitor, may apply to the High court for an order directing the Council to withdraw the notice.
- (5) If the court makes such an order, it shall have power also to make such other order with respect to the matter as it may think fit.
- (6) If any person on whom a notice has been served under sub-paragraph (3) pays out sums of money at a time when such payment is prohibited by the notice, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding the third level on the standard scale.

Textual Amendments

F1 Words in *Sch. 5 para. 6(1)* inserted (31.3.2009) by *Legal Services Act 2007 (c. 29)*, ss. 182, 211, *Sch. 17 para. 31(5)(a)*, (with ss. 29, 192, 193); *S.I. 2009/503*, **art. 2(c)(i)**

F2 Words in *Sch. 5 para. 6(2)* inserted (31.3.2009) by *Legal Services Act 2007 (c. 29)*, ss. 182, 211, *Sch. 17 para. 31(5)(b)*, (with ss. 29, 192, 193); *S.I. 2009/503*, **art. 2(c)(i)**

- [^{F3}6A (1) Without prejudice to paragraph 5, if the Council passes a resolution to the effect that any rights to which this paragraph applies shall vest in the Council, those rights shall vest accordingly.
- (2) This paragraph applies to any right to recover or receive debts due to the licensed conveyancer or his firm in connection with his practice or former practice.
- (3) Any sums recovered by the Council by virtue of the exercise of rights vested under sub-paragraph (1) shall vest in the Council and shall be held by it on trust to exercise in relation to them the powers conferred by this Part of this Schedule and, subject to those powers and to rules under paragraph 6B, upon trust for the persons beneficially entitled to them.

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- (4) The Council shall serve on the licensed conveyancer or his firm, and any person who owes a debt to which the order applies a certified copy of the Council's resolution.

Textual Amendments

F3 Sch. 5 paras. 6A, 6B inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, Sch. 17 para. 31(6), (with ss. 29, 192, 193); S.I. 2009/503, art. 2(c)(i)

- 6B (1) The Council may make rules governing its treatment of sums vested in it under paragraph 6 or 6A(3).
- (2) The rules may, in particular, make provision in respect of cases where the Council, having taken such steps to do so as are reasonable in all the circumstances of the case, is unable to trace the person or persons beneficially entitled to any sum vested in the Council under paragraph 6 or 6A(3) (including provision which requires amounts to be paid into or out of a fund maintained under section 21).]

Textual Amendments

F3 Sch. 5 paras. 6A, 6B inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, Sch. 17 para. 31(6), (with ss. 29, 192, 193); S.I. 2009/503, art. 2(c)(i)

- 7 (1) If the Council takes possession of any sum of money to which paragraph 6 applies, the Council shall pay it into a special account in the name of the Council or of a person nominated on behalf of the Council; and any such person shall hold that sum on trust to permit the Council to exercise in relation to it the powers conferred by this Part of this Schedule and subject thereto [^{F4}and to rules under paragraph 6B], on trust for the persons beneficially entitled to it.
- (2) A bank or other financial institution at which a special account is kept shall be under no obligation to ascertain whether it is being dealt with properly.

Textual Amendments

F4 Words in Sch. 5 para. 7(1) inserted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, Sch. 17 para. 31(7), (with ss. 29, 192, 193); S.I. 2009/503, art. 2(c)(i)

- 8 Without prejudice to paragraphs 5 to 7, if the High Court is satisfied, on an application by the Council, that there is reason to suspect that any person [^{F5}(a) holds money on behalf of the licensed conveyancer or his firm, or (b) has information which is relevant to identifying any money held by or on behalf of the licensed conveyancer or his firm, the court may require that person to give the Council information as to any such money and the accounts in which it is held.]

Textual Amendments

F5 Words in Sch. 5 para. 8 substituted (31.3.2009) by Legal Services Act 2007 (c. 29), ss. 182, 211, Sch. 17 para. 31(8), (with ss. 29, 192, 193); S.I. 2009/503, art. 2(c)(i)

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